

DIGITAL CONSTITUTIONALISM IN PRACTICE: THE LEGISLATIVE EVOLUTION OF BRAZIL'S MARCO CIVIL DA INTERNET (2014-2025)

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Abstract: This paper investigates the legislative trajectory of Brazil's Marco Civil da Internet (Law No. 12.965/2014) from its inception through its subsequent amendments and related bills up to 2025. It offers a comprehensive analysis of how Brazil's foundational internet law has evolved in response to new regulatory demands in areas such as data protection, platform accountability, and algorithmic discrimination. Despite the centrality of the Marco Civil to global internet governance debates, little scholarship has examined its full legislative development or the interplay between its original principles and emerging regulatory reforms. This paper addresses that gap by employing a legislative historiography methodology, systematically examining laws, decrees, bills, and official parliamentary records. It makes three key contributions to existing literature: first, it reconstructs the legislative chronology of the Marco Civil and its related instruments; second, it analyses how the original normative structure has absorbed new legal obligations without losing coherence; and third, it provides a conceptual framework for understanding how rights-based digital laws evolve over time. The main conclusion is that the Marco Civil has served as a resilient constitutional anchor capable of integrating reforms while maintaining its foundational democratic and rights-based character.

Keywords: digital constitutionalism; Marco Civil da Internet; internet governance; platform regulation; legislative historiography; data protection law; Brazil.

INTRODUCTION

This article examines the legislative process of Brazil's Civil Rights Framework for the Internet—Marco Civil da Internet (Law No. 12.965/2014)—from its inception in 2009 through its enactment in 2014 and subsequent regulatory and legislative developments up to 2025. The Marco Civil represents a foundational statute in Brazil's digital governance, articulating constitutional principles such as privacy, freedom of expression, and net neutrality within the online environment. Its legislative process was unprecedented in Brazilian legal history, marked by wide public consultation, cross-sector collaboration, and intense congressional debate.

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To uncover the law's normative foundations and institutional evolution, this article draws on a methodology grounded in legislative historiography. It systematically analyses original bills, public consultation records, parliamentary reports, and regulatory instruments. These materials were accessed via the Brazilian Federal Senate's legislative portal, using a relevance-sorted search for legislative proposals related to Law No. 12.965.¹ The study focuses on nine key bills, spanning from 2019 to 2025, which either amended, interpreted, or sought to reform the Marco Civil. Among the most significant legislative actions are Law No. 13.709/2018 (LGPD), Decree No. 8.771/2016, and proposed reforms such as Bill No. 2922/2020 and Bill No. 2821/2022.

The signing of the Decree on the Brazilian Civil Rights Framework for the Internet (Marco Civil da Internet) was one of the last acts of Dilma Rousseff as President of the country. While the nation watched the final vote on the opening of impeachment proceedings in the Federal Senate, the elected President signed Decree No. 8,771 of 11 May 2016,² which regulates Law No. 12,965 of 23 April 2014, establishing the Marco Civil da Internet (MCI). Its text specifically addresses the permitted instances of data packet discrimination on the internet and traffic degradation, outlines procedures for data retention and protection by connection and application providers, points to transparency measures regarding the public administration's requests for registration data, and establishes parameters for monitoring and investigating violations.³

The objective of this article is to contextualise the Marco Civil's core provisions—such as data protection, intermediary liability, and net neutrality—within the broader legislative ecosystem that shaped them. The article considers a plurality of legislative sources that reveal the dynamic interplay between civil society demands, political negotiations, and global regulatory influences. It highlights how contested concepts were resolved in law, how subsequent legal instruments such as the LGPD reshaped core

¹ Senado Federal (Brazil), *Portal do Senado Federal* (Web Page) <https://www6g.senado.leg.br/busca/> accessed 15 February 2025; Senado Federal (Brazil), 'Resultados da Busca: "12.965"' (Web Page) <https://www6g.senado.leg.br/busca/?portal=Atividade+Legislativa&q=12%2C965&p=2> accessed 15 February 2025.

² *Decreto n° 8.771, de 11 de maio de 2016 (Brazil)*, 'Regulamenta a Lei n° 12.965, de 23 de abril de 2014' (11 May 2016).

³ Maria Alejandra Nicolás et al, 'A Primeira Fase da Consulta Pública da Regulamentação do Marco Civil da Internet: Estrutura Comunicativa, Limites e Contribuições' (2017) 15(2) *contemporanea | comunicação e cultura* 485, 486; Soraia Herrador Costa Lima de Souza, *Internet Policy Framing in Emerging Economies: A Case Study of Marco Civil da Internet, A Brazilian Law for Internet Governance* (Social Science Research Network, 1 December 2016).

provisions, and how proposed bills signal Brazil's evolving stance on content regulation, platform accountability, and digital rights.

What this chapter contributes—and what has thus far been underdeveloped in Brazilian and comparative literature—is a chronological legislative reconstruction of how the *Marco Civil* has been interpreted, expanded, and challenged over time. This approach not only clarifies the internal legal coherence of the framework but also reveals how the *Marco Civil* has acted as a legislative “anchor,” absorbing new governance demands in areas such as data protection, algorithmic discrimination, content moderation, and digital commerce. By aligning statutory amendments (such as the LGPD) and recent legislative proposals with the *Marco Civil*'s foundational principles, the chapter demonstrates how a rights-based internet law can evolve without losing its normative core. By providing a detailed legislative chronology and legal analysis, the article contributes to a better understanding of how digital constitutionalism has been constructed in Brazil. It also serves as a reference for comparative legal scholars and policymakers navigating the challenges of internet regulation in democratic societies.

I. LAW NO. 12,965 OF APRIL 23, 2014 (*MARCO CIVIL DA INTERNET*)

Law No. 12,965 of April 23, 2014,⁴ commonly referred to as the *Marco Civil da Internet*, represents Brazil's foundational legal framework governing the use of the internet. Enacted by the National Congress and sanctioned by President Dilma Rousseff, the law establishes a comprehensive charter of rights and responsibilities applicable to users, internet service providers, content platforms, and public authorities. It is grounded in constitutional values, notably the protection of privacy, freedom of expression, and access to information.

Article 1 defines the scope of the law, affirming its applicability to all entities operating within the Brazilian digital environment, including foreign service providers that offer services to users located in Brazil. Articles 2 through 4 frame the internet as an essential tool for democratic participation, civic engagement, and the exercise of fundamental rights, underscoring its social function in contemporary society.

Adopting a rights-based regulatory approach, the *Marco Civil* articulates its guiding principles in Article 3. These include the preservation of network functionality, openness, pluralism, freedom of business models, human rights, consumer protection, and free competition. The law explicitly protects

⁴ Lei nº 12.965 de 23 de abril de 2014 (Brazil), ‘Estabelece princípios, garantias, direitos e deveres para o uso da internet no Brasil’ (24 April 2014) *Diário Oficial da União*.

internet users through Chapter II (Articles 7 and 8), which codifies a set of fundamental digital rights. These rights include the inviolability and confidentiality of communications, the protection of personal data, the right to prior, informed, and express consent for data processing, and the right to request the permanent deletion of personal data after termination of a service relationship.

Article 7, in particular, reflects a strong alignment with international standards of data protection, requiring that consent for data processing be free, informed, and clearly distinguishable from other contractual terms. Users must also be provided with transparent information about network management practices, including how their data will be handled and for what purposes.

One of the law's central provisions is the enshrinement of net neutrality under Article 9. It prohibits the discrimination or degradation of internet traffic based on content, origin, destination, service, or application. Exceptions are allowed only for essential technical requirements or prioritisation of emergency services, and such exceptions must be transparent, proportionate, and communicated to users in advance. This provision positions Brazil among a small group of jurisdictions that explicitly legislate net neutrality at the statutory level.

Data protection and data retention are further regulated under Articles 10 to 16. The law requires internet connection providers and application providers to store access logs under strict security conditions. Access to these records is permitted only under judicial order, except for basic registration information, which may be disclosed to administrative authorities under specific legal conditions. The law also adopts data minimisation principles, ensuring that providers collect and retain only the data strictly necessary for the provision of services [6].

With respect to intermediary liability, Articles 18 to 21 establish a regime of conditional exemption for internet application providers. These entities are generally not held liable for content generated by third parties unless they fail to comply with a specific court order requiring the removal of infringing material. This safe harbour approach reflects a balance between protecting platforms from overregulation and ensuring accountability for violations of rights, particularly in cases of defamation or copyright infringement.

Special provisions are made for violations of privacy and dignity, such as the unauthorised disclosure of intimate images. In such cases, providers may be held subsidiarily liable if they do not act expeditiously upon receiving appropriate notification.

Judicial access to personal data and logs is regulated under Articles 22 and 23, which impose stringent safeguards. Requests must be specific and justified within the context of civil or criminal proceedings, and judicial

orders must respect confidentiality and the principle of necessity. These safeguards reflect the legislature's intention to prevent abusive or disproportionate use of user data in litigation.

Finally, the law outlines the duties of the State in Articles 24 to 28, which include promoting digital inclusion, ensuring interoperability among public services, enhancing transparency in public data, and supporting the development of national technologies and content. Article 29 specifically addresses the protection of children and adolescents online, mandating the adoption of educational and parental control mechanisms. Article 30 enables judicial enforcement of rights, while Article 31 provides transitional provisions, particularly in relation to copyright liability, which remains governed by separate legal instruments.

Together, these provisions mark a significant advancement in the regulation of the digital sphere. The *Marco Civil da Internet* not only consolidates users' digital rights in Brazil but also introduces a principled framework for internet governance that balances constitutional protections, regulatory coherence, and technological innovation.

A. Senate Approval and Final Adoption

The legislative history reveals contentious discussions around critical provisions, notably net neutrality and intermediary liability.⁵ These debates were influenced heavily by international developments, particularly the European Union's e-Commerce Directive (2000/31/EC) and the U.S. Communications Decency Act of 1996 (Directive 2000/31/EC, OJ L178/1; Communications Decency Act, 47 USC §230).

The Brazilian Senate swiftly approved the bill in April 2014 (PLC 21/2014), following intense plenary discussions but ultimately refraining from major substantive changes. Senators emphasized the broad consensus already reached in the Chamber, recognizing the importance of swiftly enacting legislation to address urgent digital governance issues (Senado Federal, Ata da Sessão Deliberativa, 22 April 2014). The Senate's decision to uphold the text received from the Chamber reinforced the collaborative and consensus-driven nature of the legislative process. The bill was sanctioned by President Dilma Rousseff on 23 April 2014, as Law 12,965/2014, affirming Brazil's leadership in internet governance globally.

⁵ Moisés de Oliveira Nazário, 'Entenda o projeto de Marco Civil da Internet' (Web Page, 3 September 2013), https://www12.senado.leg.br/noticias/materias/2013/09/03/entenda-o-projeto-de-marco-civil-da-internet?utm_source=chatgpt.com

B. Explanatory Memoranda

The Exposição de Motivos nº 86/2011, jointly signed by Brazil's Ministries of Justice, Communications, Science and Technology, and Planning, offers invaluable interpretative guidance. It explicitly recognized the Marco Civil as foundational legislation designed to enable subsequent detailed regulations in areas such as personal data protection and cybersecurity (Ministério da Justiça, Exposição de Motivos Interministerial nº 86/2011).

C. Conclusion

The Marco Civil da Internet exemplifies how inclusive consultation and rigorous legislative scrutiny can produce robust, widely accepted legislation. Its legislative history, richly documented through original drafts, congressional records, and explanatory memoranda, continues to guide its interpretation, ensuring the law evolves consistently with its foundational democratic and rights-based principles.

Understanding this legislative history remains essential for interpreting and applying Brazil's internet framework, reinforcing its role as a reference model internationally.

II. EARLY LEGISLATIVE PROCESS

The legislative development of Brazil's *Marco Civil da Internet* (Law No. 12.965/2014) was unprecedented in the country's legal history due to its participatory methodology and emphasis on multistakeholder engagement. The process formally began in 2009, when the Federal Government—through the Ministry of Justice—launched a public consultation via an online platform to solicit input on the future of internet regulation in Brazil.⁶ This effort was coordinated in partnership with the Centre for Technology and Society at Fundação Getúlio Vargas (CTS-FGV) and drew heavily on the normative framework articulated in the “Principles for the Governance and Use of the Internet” by the Brazilian Internet Steering Committee (CGI.br).⁷

The process involved multiple stages, including public consultations,

⁶ Carlos Affonso Pereira de Souza, Fabro Steibel and Ronaldo Lemos, 'Notes on the Creation and Impacts of Brazil's Internet Bill of Rights' (2017) 5(1) *The Theory and Practice of Legislation* 73.

⁷ Moisés de Oliveira Nazário, 'Entenda o Projeto de Marco Civil da Internet' *Agência Senado* (online, 3 September 2013) <https://www12.senado.leg.br/noticias/materias/2013/09/03/entenda-o-projeto-de-marco-civil-da-internet> accessed 3 March 2025.

parliamentary debates, and negotiations between different sectors. The first phase of public consultation, held in 2009-2010, collected over 1,000 contributions from individuals and organisations, demonstrating a significant level of public engagement. However, participation was not without challenges, as the process was criticised for being overly dominated by specialised groups and lacking broader public awareness.⁸

On the basis of these initial contributions, the government introduced Draft Bill No. 2.126/2011 to the Chamber of Deputies in 2011. The bill—soon known as the *Marco Civil da Internet*—represented a rights-based approach to internet regulation, with explicit reference to the Federal Constitution. The bill recognised that internet access is essential to the exercise of citizenship and that its governance must be grounded in the protection of individual rights, including freedom of expression, the inviolability of private communications, and the participatory nature of the network.⁹

The draft outlined several objectives, notably the universalisation of internet access and the encouragement of technological innovation. Among the key rights guaranteed were: the inviolability and confidentiality of internet communications, except under judicial order; the right to uninterrupted access, save for non-payment; the assurance of service quality as contracted; transparency in contractual terms; and protection of access and usage data from third-party disclosure without the user's informed consent [5]. In addition, the bill established a conditional liability regime for internet intermediaries: platforms such as YouTube or Facebook would not be held liable for user-generated content unless they failed to comply with a specific court order for its removal.¹⁰

The second phase of consultation, which took place in 2012, was designed to deepen and structure the debate on core issues identified in the first phase. This stage saw a surge in civil society engagement and focused on refining provisions related to data protection, intermediary liability, and particularly net neutrality. Contributions during this phase often reflected libertarian perspectives that called for minimal state intervention and strong

⁸ Samuel Anderson Rocha Barros, 'Os desafios das consultas públicas online: lições do Marco Civil da Internet' (2016) 12(1) *Liinc em Revista* 72; Rachel Callai Bragatto, Rafael Cardoso Sampaio and Maria Alejandra Nicolás, 'Inovadora e democrática. Mas e aí? Uma análise da primeira fase da consulta online sobre o Marco Civil da Internet' (2015) 14(29) *Política & Sociedade* 125.

⁹ Moisés de Oliveira Nazário, 'Entenda o Projeto de Marco Civil da Internet' *Agência Senado* (online, 3 September 2013) <https://www12.senado.leg.br/noticias/materias/2013/09/03/entenda-o-projeto-de-marco-civil-da-internet> accessed 3 March 2025.

¹⁰ *Ibid.*

guarantees for digital freedoms.¹¹¹²

Parliamentary deliberation intensified thereafter. A Special Committee, chaired by Deputy Alessandro Molon, organised public hearings and debates across various regions of Brazil to gather geographically diverse input. Throughout this process, intense negotiation occurred between civil society, telecommunications companies, and government representatives, especially around contentious topics such as mandatory local data storage and the scope of liability exemptions.¹³¹⁴ Despite these disagreements, the legislative process maintained its participatory ethos and culminated in the approval of the bill in April 2014. The law was sanctioned by President Dilma Rousseff on 23 April 2014 and came into effect shortly before the *NetMundial Global Multistakeholder Meeting on the Future of Internet Governance*, held in São Paulo. This timing was symbolic, reflecting Brazil's commitment to open, democratic digital governance.¹⁵

III. LEGAL VALIDITY, AMENDMENTS AND LEGAL INTERPLAY IN THE *MARCO CIVIL DA INTERNET*

The Marco Civil da Internet (Law No. 12.965/2014) stands as a foundational statute for internet governance in Brazil, articulating a set of principles, rights, and obligations applicable to users, providers, and public authorities. As a legal framework, it affirms essential guarantees such as net neutrality, data protection, freedom of expression, and privacy in digital environments. Since its enactment, the law has undergone critical interpretative developments, influenced both by attempted reforms and by the incorporation of other legislative instruments—most notably, the Lei Geral de Proteção de Dados (LGPD).

One of the most significant valid amendments to the Marco Civil emerged with the Law No. 13.709/2018 (LGPD), which regulates the processing of personal data. This law introduced important clarifications and substantive

¹¹ Rachel Callai Bragatto, Rafael Cardoso Sampaio and Maria Alejandra Nicolás, 'Inovadora e democrática. Mas e aí? Uma análise da primeira fase da consulta online sobre o Marco Civil da Internet' (2015) 14(29) *Política & Sociedade* 125.

¹² Raphael Silveiras and Gilda Figueiredo Portugal Gouvea, 'A presença do Estado na rede: Marco Civil da Internet e reforma da Lei de Direito Autoral' (2016) 12(1) *Liinc em Revista* 132.

¹³ Guilherme Francisco Waterloo Radomsky and Fabrício Solagna, 'Marco Civil da Internet: Abrindo a Caixa-Preta da Agenda de uma Política Pública' (2016) 12(1) *Liinc em Revista* 154.

¹⁴ Laura Vilela Rodrigues Rezende and Meyrielle Rodrigues de Lima, 'Governança Na Internet: Um Estudo Sobre o Marco Civil Brasileiro' (2016) 19(1) 133 <<https://dialnet.unirioja.es/descarga/articulo/6499302.pdf>>.

¹⁵ Senado Federal, *Ata da Sessão Deliberativa do PLC 21/2014*, 22 April 2014.

modifications to Articles 7 and 16 of the Marco Civil. For instance, Article 7(X) was amended to ensure that the right to delete personal data must comply not only with the Marco Civil but also with the protective conditions set forth in the LGPD. Similarly, Article 16(II) was revised to permit the retention of personal data beyond the original purpose, provided that such retention aligns with the lawful bases and exceptions outlined under the LGPD. These modifications reflect a growing convergence between Brazil's general data protection regime and its internet regulation, positioning the Marco Civil as part of a broader legal ecosystem grounded in the constitutional rights to privacy, dignity, and informational self-determination.

In contrast, the attempted reforms introduced by Provisional Measure No. 1.068/2021 were explicitly rejected by the National Congress and thus lack legal force. The provisional measure aimed to recalibrate the regulatory landscape concerning content moderation and user rights on social media platforms. It proposed substantial alterations, including the introduction of new legal definitions for "social networks" and "moderation," and sought to establish detailed procedures under Articles 8-A to 8-D regarding users' rights to contest content removal and account suspension. It also introduced a new Chapter IV-A on sanctions against platforms that violated the proposed moderation rules. These changes were heavily criticized for curtailing the autonomy of platforms in regulating harmful content and for potentially enabling the spread of misinformation, especially during politically sensitive periods. The rejection of this measure reaffirmed the legislature's commitment to upholding the constitutional principles enshrined in the Marco Civil, such as freedom of expression and due process.

Beyond domestic statutory developments, the Marco Civil was originally drafted with strong influences from the Federal Constitution of 1988, particularly Article 5, which safeguards privacy, intimacy, and freedom of communication. It also engages with other legal instruments, including the Civil Code (Law No. 10.406/2002)—specifically, Article 927 on liability for damages—as well as the Consumer Protection Code (Law No. 8.078/1990) and the Statute of the Child and Adolescent (Law No. 8.069/1990). These cross-references serve not merely as ancillary support but as integral parts of a legal fabric that lends normative consistency to the application of the Marco Civil, especially in the areas of data processing, consumer rights, and child protection.

The law also establishes jurisdictional reach beyond national borders. Article 11 affirms that any internet-related activity involving data processing that occurs within Brazilian territory—or that targets Brazilian users—must comply with Brazilian law, even when the service is provided by a foreign entity. This extraterritorial application is of particular importance for

transnational data flows and platform liability. Notably, this provision was also targeted for revocation by MP No. 1.068/2021, but the proposal was rejected, preserving Brazil's ability to enforce its legal standards against multinational digital service providers.

In terms of enforcement and penalties, the Marco Civil contains a sanctions regime under Article 12 that enables administrative penalties, including warnings, fines of up to 10% of a company's gross revenue, and temporary or permanent suspension of activities. These provisions ensure that violations of data privacy and connection records are met with proportionate regulatory consequences. A parallel sanctions chapter introduced under MP No. 1.068/2021 (Chapter IV-A) was also rejected, meaning the original enforcement mechanisms remain in full effect.

The interpretation clause in Article 6 underscores the law's sui generis nature by requiring that legal interpretations consider not only normative principles but also the evolving customs and social functions of the internet. This interpretive approach reflects the drafters' awareness of the need for contextual, technology-sensitive readings that maintain normative coherence while embracing digital innovation.

In conclusion, the Marco Civil da Internet remains a robust, constitutionally anchored legal instrument that has evolved to incorporate principles from Brazil's broader legislative and regulatory framework. While attempts to modify it via Provisional Measure No. 1.068/2021 were ultimately unsuccessful, the law has shown resilience in balancing user rights, regulatory flexibility, and Brazil's sovereignty over digital governance. The integration of the LGPD has further consolidated the Marco Civil's role as a cornerstone in the country's data and internet law, making it a subject of continued relevance in both national and international legal scholarship.¹⁶

A. Decree No. 8,771, 11 May 2016

Decree No. 8,771/2016 serves as a critical implementing regulation for Brazil's Internet Bill of Rights (Law No. 12,965/2014).¹⁷ While the Marco Civil establishes fundamental principles and rights, this decree provides the necessary technical and procedural details to make those rights actionable and enforceable. It reflects the hierarchical structure of Brazilian administrative law, where primary legislation sets out general principles, and decrees clarify their practical application.

One of the central contributions of the decree is the detailed

¹⁶ *Projeto de Lei n° 3207, de 2023* (Brazil) Senado Federal, https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/lei/112965.htm

¹⁷ *Decree No 8.771 of 11 May 2016* (Brazil), 'Regulates Law No 12.965 of 23 April 2014' (11 May 2016) *Diário Oficial da União* 7.

implementation of the network neutrality principle set out in Article 9 of the Marco Civil. The decree specifies the technical criteria under which traffic management may be justified, emphasising that such practices must be essential, proportionate, transparent, and non-discriminatory. It mandates providers to inform users in contracts and through public channels when implementing network management practices that may affect data flow. Additionally, it defines the acceptable scenarios for traffic prioritisation, such as emergency communications, and strictly prohibits commercial arrangements that could undermine the open nature of the internet.

In the area of data protection and privacy, the decree elaborates on the obligations contained in Articles 7, 10, and 11 of the Marco Civil. It establishes rigorous security standards for the handling and storage of personal data and records, requiring the use of encryption, access control, and authentication mechanisms. Furthermore, it regulates the format and retention of user registration data and obliges public authorities to present a legal basis and justification when requesting such data from providers. The decree also introduces annual transparency obligations for administrative bodies, a measure absent from the primary law, thereby enhancing accountability regarding state access to personal information.

Institutionally, the decree assigns regulatory and enforcement responsibilities to specific agencies, such as Anatel, Senacon, and CADE, and clarifies their jurisdiction over issues such as technical compliance, consumer protection, and antitrust enforcement. It also affirms that Brazilian law applies extraterritorially in line with Article 11 of the Marco Civil, ensuring that foreign service providers targeting Brazilian users are equally bound by national data protection and neutrality standards.

While the Marco Civil is broad and principle-driven, the decree's role is to provide operational clarity. It translates legal guarantees into enforceable standards and introduces procedural mechanisms that align the implementation of digital rights with international best practices. In this way, the decree reinforces the normative aspirations of the Marco Civil by ensuring their technical and institutional viability in the evolving internet landscape.

This Decree main provisions include:

i) Network Neutrality (Chapter II)

- Internet data must be treated equally; discrimination or degradation of traffic is only allowed for technical reasons or prioritising emergency services [Decree No 8.771, Art 4]
- Technical traffic management is permitted only to maintain network stability, security, integrity, or functionality [Art 5, Art

6]

- Emergency communications can be prioritised, but must be non-commercial and related to public safety [Art 8]
- ISPs must disclose to users (in simple language and in contracts/websites) any data discrimination or degradation practices [Art 7]
- Deals that compromise the openness of the internet (e.g. commercial prioritisation) are prohibited [Art 9]
- Commercial offers must respect the unified, plural, and inclusive nature of the internet [Art 10]

ii) Protection of Personal Data and Privacy (Chapter III)

- Public authorities must state their legal basis and reason when requesting user registration data [Art 11]
- Providers must disclose if they don't collect the requested data [Art 11(1)]
- Registration data includes name, address, and personal qualifications [Art 11(2)]
- Generic/collective data requests are prohibited [Art 11(3)]
- Annual transparency reports must be published by public authorities regarding data requests [Art 12]
- Providers must follow security standards for access control, authentication, logging, and encryption [Art 13]
- Providers must retain the minimum amount of data necessary, and delete it after use or legal deadlines [Art 13(2)]
- Personal data and processing are defined in line with privacy principles [Art 14]
- Data must be kept in structured and accessible formats [Art 15]
- Providers must publish their adopted security standards clearly and accessibly [Art 16]

iii) Transparency & Oversight (Chapter IV)

- Anatel oversees technical aspects of the internet and enforces related infractions [Art 17]
- Senacon is responsible for consumer-related internet violations [Art 18]
- CADE investigates violations of economic competition [Art 19]
- Federal agencies must collaborate and can apply Brazilian law even to foreign entities [Art 20]
- Investigations can be initiated by authorities or at the request of

- any party [Art 21]
- The decree took effect 30 days after its publication [Art 22]

Decree No. 8,771/2016 is essential for implementing the Marco Civil. It translates the law's high-level principles into enforceable actions. By doing so, it strengthens net neutrality, enhances data protection and privacy, and establishes clear oversight mechanisms. This decree bridges the gap between the Marco Civil's broad legislative framework and the technical requirements needed for effective digital rights protection and governance.

*B. Amendments*¹⁸

1. Law No. 13,709, of 2018 (Validity)¹⁹

The General Data Protection Law (Lei Geral de Proteção de Dados Pessoais, LGPD), established by Law No. 13,709 of August 14, 2018, is Brazil's comprehensive framework for personal data protection. It was enacted to unify and enhance various data protection regulations, drawing significant inspiration from the European Union's General Data Protection Regulation (GDPR). The LGPD outlines principles, rights, and obligations concerning the processing of personal data, aiming to safeguard individual privacy and promote transparency in data handling practices.

The LGPD also amends Brazil's Internet Civil Framework (Marco Civil da Internet, Law No. 12,965/2014), a landmark law that sets out general rights and responsibilities for internet users and providers. While the Marco Civil broadly affirms user privacy and net neutrality, it lacked comprehensive rules on data processing. The LGPD fills this regulatory gap by refining concepts and imposing concrete obligations on data controllers and processors, both online and offline. Together, these laws form a complementary legal foundation: the Marco Civil articulates digital rights, while the LGPD operationalizes data protection standards within Brazil's evolving digital and administrative landscape.

Since its inception, the LGPD has undergone amendments to refine its provisions and establish enforcement mechanisms. A notable amendment is Law No. 13,853 of July 8, 2019, which introduced significant changes, including the creation of the National Data Protection Authority (Autoridade

¹⁸ *Lei nº 12.965 de 23 de abril de 2014* (Brazil), 'Estabelece princípios, garantias, direitos e deveres para o uso da internet no Brasil' (24 April 2014) *Diário Oficial da União* 1, <https://legislacao.presidencia.gov.br/atos/?tipo=LEI&numero=12965&ano=2014&ato=93eUTRE9ENVpWTdb6>

¹⁹ Lei No 13.709, de 14 de agosto de 2018, https://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2018/Lei/L13709.htm

Nacional de Proteção de Dados, ANPD). The ANPD is tasked with overseeing and enforcing compliance with the LGPD, providing guidelines, and promoting awareness about data protection. This amendment strengthened the institutional framework necessary for the effective application of the LGPD.

Relation to Law No. 12,965 of April 23, 2014 (Marco Civil da Internet)

The Marco Civil da Internet, established by Law No. 12,965 of April 23, 2014, serves as Brazil's "Internet Bill of Rights." It sets out principles, rights, and duties for internet users and service providers, emphasizing freedom of expression, privacy, and net neutrality. While the Marco Civil addresses broader internet governance and user rights, it also contains provisions related to the protection of personal data in the online environment.

The LGPD complements and builds upon the foundations laid by the Marco Civil by providing detailed regulations specifically focused on personal data protection across all sectors, not limited to the internet. In fact, the LGPD explicitly amends certain aspects of the Marco Civil to align Brazil's legal framework with comprehensive data protection standards. For instance, the LGPD enhances definitions and obligations concerning the processing of personal data, thereby extending and specifying the general principles outlined in the Marco Civil.

2. Law No. 13,853, of 2019²⁰

The enactment of Law No. 13.853/2019, which amends the General Personal Data Protection Law (LGPD), represents a decisive step in consolidating Brazil's normative framework for digital rights, data governance, and informational privacy. These developments have directly influenced the interpretation and application of Law No. 12.965/2014, commonly known as the *Marco Civil da Internet*, which initially laid the foundational legal principles for internet regulation in Brazil. While the *Marco Civil* established essential guarantees related to net neutrality, user privacy, and data processing obligations, the amendments introduced by Law No. 13.853/2019 significantly broadened the scope and enforceability of these protections by operationalizing key concepts through a more granular data protection regime.

One of the most consequential legal interactions between these two laws concerns the articulation of user rights and data processing obligations. Under Article 7 of the *Marco Civil*, users have the right to the deletion of personal

²⁰ Lei No 13.853, de 8 July of 2019, https://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2019/Lei/L13853.htm

data once the contractual relationship with a digital service ends. However, Law No. 13.853/2019, through its revision of the LGPD, reinforces this provision by conditioning such deletion on the lawful grounds and legitimate interests described in the LGPD. For instance, Article 16(II) of the *Marco Civil* was revised to align with the LGPD's provisions allowing for the retention of personal data when necessary for compliance with legal obligations or other lawful bases. Thus, the *Marco Civil's* privacy protections have been effectively strengthened by the LGPD amendments, enhancing legal clarity and coherence.

Additionally, Law No. 13.853/2019's establishment of the Autoridade Nacional de Proteção de Dados (ANPD)—a national data protection authority—created a new institutional architecture for overseeing and enforcing data rights in Brazil. Although the *Marco Civil* previously lacked an enforcement body with exclusive competence over data matters, the ANPD now fills that void, with a clearly defined mandate that includes issuing guidelines, applying sanctions, and conducting audits. Articles 55-A through 55-K of the LGPD, introduced by Law No. 13.853/2019, detail the ANPD's regulatory, investigative, and adjudicative functions, thereby institutionalizing the principles previously stated in the *Marco Civil* and providing concrete enforcement mechanisms.

Furthermore, the concept of data portability—recognized in Article 18 of the LGPD—was reinforced in the *Marco Civil* by these amendments, ensuring that individuals can transfer their personal data between service providers. This right is central to user autonomy and is closely aligned with the open and participatory ethos that underpins the *Marco Civil*. By enabling interoperability and consumer choice, the LGPD and its amendments support the broader digital citizenship objectives articulated in Articles 3 and 4 of the *Marco Civil*.

The influence of Law No. 13.853/2019 is also evident in the sanctions regime. While the *Marco Civil* provided for administrative penalties such as fines and suspension of services for non-compliance with data obligations (Article 12), the LGPD amendments expanded the range and specificity of available sanctions. The newly promulgated provisions under Article 52 of the LGPD—including partial database suspension and prohibition of data processing activities—are applicable not only to private actors but also to public entities, provided that procedural safeguards are met. This institutional parity reflects a unified approach to data governance across sectors and strengthens the normative weight of the *Marco Civil's* original data protection ethos.

In conclusion, Law No. 13.853/2019, by transforming the LGPD and establishing the ANPD, has substantially influenced the *Marco Civil da Internet*, both substantively and institutionally. It has elevated the protections

initially envisioned in the *Marco Civil* by introducing enforceable mechanisms, more defined concepts, and harmonized procedures aligned with global data protection standards. This legal synergy has advanced Brazil's trajectory toward a comprehensive, rights-based model of digital governance, integrating civil liberties, consumer protection, and regulatory accountability in the digital age.

Together, Laws No. 13,709 and 13,853 have transformed the *Marco Civil* into a more robust and enforceable legal framework. By aligning its provisions with the LGPD's detailed standards and establishing the ANPD's oversight role, these amendments have created a legal regime that is both comprehensive and coherent. They enhance the *Marco Civil*'s privacy and data protection principles, integrate it more firmly into Brazil's broader regulatory landscape, and reinforce its relevance in a global context.

3. Provisional Measure No. 1,068, of 2021²¹ (Rejected)

The *Exposição de Motivos Interministerial (EMI) nº 00072/2021*, dated 6 September 2021, sets out the justification for Provisional Measure (*Medida Provisória*) No. 1,068/2021, which sought to significantly amend Law No. 12,965/2014 (*Marco Civil da Internet*). The stated purpose of the proposed measure was to introduce explicit protections for users of social media platforms, particularly concerning content moderation practices. The document was signed by Ministers Gilson Machado (Tourism), Marcos Pontes (Science, Technology and Innovation), and Anderson Torres (Justice and Public Security), and addressed to the President of the Republic.

The EMI argues that although the *Marco Civil da Internet* already enshrines principles such as freedom of expression, privacy, and access to information (see *Law No. 12,965/2014, Articles 2–3*), these guarantees were formulated in general terms and were, in the government's view, insufficient to prevent arbitrary moderation of content by social media providers. The measure responds to increasing complaints about users being banned or content being removed without due process, including the absence of clear justification or an avenue for appeal.

To address this, the Provisional Measure proposed adding specific provisions to the *Marco Civil* that would:

1. Require just cause and proper motivation for the suspension or removal of accounts, content, or features by social media platforms;
2. Guarantee users the right to *contraditório* (*audi alteram partem*), broad defense, and access to an appeal process;
3. Oblige providers to notify users when taking moderation decisions,

²¹ *Medida Provisória nº 1.068, de 6 de setembro de 2021*, https://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2021/Mpv/mpv1068.htm#art1

with clear information on the measure adopted, the reason for the decision, and the procedures available for contestation;

4. Require platforms to restore content when moderation violates users' rights;
5. Amend the Copyright Law (Law No. 9,610/1998) to allow copyright holders to request administrative sanctions and content reinstatement in cases where moderation violated the user's legal guarantees.

The EMI underscores that these measures were motivated by the perceived mass violation of fundamental rights, especially freedom of expression and due process, exacerbated during the COVID-19 pandemic when social media platforms became primary venues for public discourse.

Legal and Political Impact

The Provisional Measure No. 1,068/2021, resulting from this EMI, effectively sought to create a regulatory regime for social media moderation, superimposing detailed due process obligations on private platforms. These included obligations similar to those imposed on state actors, such as procedural fairness, transparent reasoning, and accountability mechanisms for decisions affecting users' rights.

However, the measure was widely criticised by civil society, academia, and digital rights groups for potentially undermining platform autonomy, facilitating the spread of disinformation by limiting moderation capacity, and introducing a chilling effect on content control mechanisms. Critics argued it was a politically motivated intervention ahead of the 2022 election cycle.

Subsequently, the Provisional Measure No. 1,068/2021 was rejected by the President of the Senate on 14 September 2021, just days after its issuance, due to lack of urgency and constitutional concerns. As a result, the amendments proposed through the EMI were never incorporated into the Marco Civil da Internet. Nonetheless, the episode brought significant attention to the tensions between freedom of expression and content moderation, and sparked ongoing debate over the role of platforms in democratic discourse.

In sum, EMI n° 00072/2021 reflects a legislative attempt to shift the interpretation and application of the Marco Civil towards greater formal control of private moderation practices. Although ultimately unsuccessful, it highlighted the growing regulatory interest in social media governance and laid the groundwork for future legislative proposals seeking to balance platform responsibilities with user rights in Brazil's digital legal landscape.

IV. RELEVANT BILLS (FROM 2019 TO 2025)²²

A. Bill No. 4807, 2019

1. Overview and Legislative Background

Bill No. 4807 of 2019, authored by Senator Soraya Thronicke (PSL/MS), seeks to enhance transparency and accountability in Brazil's digital consumer marketplace by addressing misleading advertising practices in e-commerce. The bill introduces amendments to the Consumer Protection Code (Law No. 8,078/1990), with the express objective of mandating disclosure when products offered online are not physically located within Brazilian national territory at the time of the offer. The legislative proposal responds directly to the proliferation of transnational digital transactions, particularly those involving platforms such as Facebook, Instagram, and other online marketplaces where consumers often unknowingly purchase goods from abroad. Such transactions frequently lead to delayed deliveries, unexpected import charges, or failures in fulfilment due to the lack of adequate information at the point of sale.

The bill arises within a broader legislative context in which Brazilian law is adapting to the realities of digital platformisation and cross-border commerce. It reflects growing political concern over the asymmetries of information that place consumers at a disadvantage in online environments, where geographic and legal distances hinder effective redress and undermine confidence in the digital economy.

Status and Legislative Process

Introduced on 27 August 2019, the bill was referred to the Commission for Transparency, Governance, Oversight and Consumer Protection (CTFC) for substantive examination. As of 2 February 2023, it remains pending within the CTFC and has yet to advance due to the absence of an appointed rapporteur. The bill is therefore in a preliminary stage of legislative scrutiny, awaiting deliberation and committee approval before it may proceed to plenary debate and voting in the Federal Senate.

²² The methodology of this paper involves a systematic review of relevant bills related to Brazil's Marco Civil da Internet (Law No. 12.965/2014) by utilizing the Brazilian Senate's legislative activity webpage. First, I searched for the law number "12965" within the website's search function. Then, I sorted the results by relevance to ensure that the most pertinent bills were identified. This approach enables a focused selection of bills that align closely with the key principles of the Marco Civil da Internet, ensuring a comprehensive analysis of legislative proposals that may influence the law's application and development.

2. Provisions and Legislative Innovations

The bill introduces two substantive legal amendments to the Consumer Protection Code. First, it proposes the addition of a requirement that suppliers operating in online marketplaces must clearly and prominently disclose all essential offer conditions. These include, *inter alia*, the terms of payment, delivery timelines, product availability, and crucially, whether the product is not located in Brazil at the time of the offer. The omission of such information is to be deemed deceptive advertising under Article 37, paragraph 3 of the CDC, which prohibits omissions capable of misleading the consumer about essential characteristics of the product or service.

Second, the bill sets out the legal consequences of non-compliance through the application of existing administrative sanctions available under the CDC. These include monetary fines, the temporary suspension or cancellation of business licenses, and the requirement to issue corrective advertising. The proposed changes clarify that suppliers engaging in cross-border e-commerce shall be treated as “suppliers” for the purpose of these liabilities, thereby ensuring that foreign-based actors operating within Brazilian digital markets are held to the same standards as domestic vendors.

The bill thus offers a novel response to the regulatory challenges posed by transnational e-commerce. It aims to reduce ambiguity in online transactions by aligning the obligations of digital suppliers with the traditional transparency standards of consumer protection law. This innovation is particularly significant given the proliferation of informal or unverified vendors on social media platforms who frequently obscure the origin and logistics of their goods.

3. Relation to the *Marco Civil da Internet*

While the bill does not propose a direct amendment to the Marco Civil da Internet (Law No. 12,965/2014), it is framed within its normative ecosystem. Article 2(V) of the Marco Civil enshrines consumer protection as a guiding principle of Brazilian internet governance, and Article 7(XIII) explicitly guarantees internet users the right to the application of consumer protection norms in digital commerce. Bill No. 4807/2019 operationalises these provisions by introducing concrete disclosure obligations that target the emerging risks of transnational online retail.

In this sense, the bill is best understood as a legislative complement to the Marco Civil, extending its rights-based framework into the field of commercial regulation. It reflects a convergence of public and private law principles, whereby civil internet rights are interpreted in light of evolving

consumer dynamics. Importantly, the bill also reinforces the notion that digital rights are not limited to privacy or expression but must include transparency and informational integrity in commercial relations.

4. Potential Legal and Social Impact

If enacted, Bill No. 4807/2019 would significantly enhance transparency and accountability within Brazil's digital economy. By compelling suppliers to disclose the geographic location of goods, the bill provides consumers with the necessary information to make informed decisions and avoid unintended consequences arising from cross-border transactions. It would reduce the incidence of disputes related to shipping delays, hidden fees, and delivery failures—issues that disproportionately affect low-income and first-time digital consumers.

The bill would also contribute to the formalisation and professionalisation of online commerce, encouraging social media vendors and digital platforms to adopt compliance mechanisms consistent with consumer protection law. From a regulatory standpoint, the measure exemplifies the harmonisation of internet governance with sector-specific legal instruments, thereby reinforcing Brazil's international reputation as a jurisdiction committed to responsible digital regulation.

Furthermore, the proposed amendments carry normative weight. They affirm that the expansion of global e-commerce must not come at the expense of local consumer rights, and that market participation in digital environments must be conditioned by transparency, fairness, and accountability. The bill therefore plays a pivotal role in bridging gaps between internet law and consumer protection, and in adapting the national legal order to the realities of platform capitalism.

In conclusion, Bill No. 4807/2019 offers a pragmatic and principled legal response to the regulatory void in Brazil's cross-border e-commerce landscape. It builds upon the foundational values of the Marco Civil da Internet while introducing precise obligations tailored to the digital economy, thereby reinforcing the legal architecture required for a transparent and equitable online marketplace.

B. Bill No. 2922, 2020²³

1. Overview and Legislative Background

Bill No. 2922 of 2020, introduced by Senator Fabiano Contarato

²³ Bill No. 2922, 2020 (Brazil), <https://www25.senado.leg.br/web/atividade/materias/-/materia/142129>

(REDE/ES), represents a notable attempt to recalibrate Brazil’s digital legal framework by targeting the financial mechanisms that sustain disinformation and hate speech online. The bill seeks to amend Law No. 12,965/2014 (Marco Civil da Internet) by inserting a new provision—Article 19-A—prohibiting both national and foreign companies offering programmatic advertising services from placing advertisements on internet pages identified as disseminating false or hateful content. The legislative motivation stems from growing recognition of the economic infrastructure underpinning the virality of harmful online speech, particularly where automated advertising technologies incentivize the creation and circulation of polarizing, misleading, or violent content.

Status and Legislative Process

As of April 2025, the bill remains pending before the Communication and Digital Law Commission (CCDD) of the Federal Senate. Since 27 August 2024, it has been under the rapporteurship of Senator Esperidião Amin and has yet to proceed to plenary debate. The bill is part of a broader normative shift observed in both national and comparative legal systems, where financial regulation is increasingly seen as a tool for mitigating systemic risks in the digital public sphere. Senator Contarato, a leading proponent of civil rights, environmental integrity, and digital transparency, has framed this initiative as essential for preserving democratic values in the age of algorithmically amplified misinformation.

2. Provisions and Legislative Innovations

The central innovation of Bill No. 2922/2020 lies in its insertion of Article 19-A into the Marco Civil da Internet. This article would impose a legal prohibition on the placement of advertisements—via programmatic media services—on websites or digital platforms that are found to promote either verified disinformation or hate speech. Unlike traditional content moderation approaches, this mechanism does not directly address the legality of the content itself but instead interrupts the economic incentives that make such content profitable. The bill draws on comparative models such as the European Union’s Code of Practice on Disinformation, which guides its definitions of “disinformation” and “hate speech.” The latter is further grounded in well-established constitutional jurisprudence concerning incitement to violence or discrimination based on identity markers such as race, ethnicity, religion, gender, or sexual orientation.

In terms of enforcement, the bill empowers regulatory authorities to issue formal warnings and to levy administrative fines of up to 10 percent of the

total value of the non-compliant advertising placement. These sanctions are notable not only for their potential scale but also for their scope, as they are applicable to advertising intermediaries, including ad networks and digital platforms. This regulatory focus on intermediaries departs from conventional liability regimes that centre primarily on content producers or hosts, and instead holds accountable those entities that enable the monetization of harmful material.

3. Relation to the Marco Civil da Internet

The proposed amendment marks a substantial departure from the foundational liability regime enshrined in the Marco Civil da Internet. Articles 3 and 19 of the existing law affirm freedom of expression, platform neutrality, and a limited liability model, under which intermediaries are not held accountable for third-party content unless they fail to comply with a specific court order. In contrast, Bill No. 2922/2020 introduces an affirmative duty of care for advertising intermediaries, predicated on their role in sustaining online ecosystems of misinformation. Rather than focusing on the legality of user-generated content *per se*, the bill reflects a broader turn toward economic accountability, requiring companies to assess and mitigate the advertising-related risks associated with platform monetization. This shift is emblematic of a post-2018 evolution in global internet governance, which increasingly views financial structures—not just legal speech doctrines—as critical levers for addressing online harm.

4. Potential Legal and Social Impact

Should it be enacted, Bill No. 2922/2020 would introduce a novel form of intermediary liability into Brazilian internet law, targeting the programmatic advertising infrastructure that underwrites the proliferation of harmful digital content. The bill's regulatory strategy—economic disincentivization—has the potential to dislodge the financial logic that fuels the production and circulation of disinformation and hate speech. In doing so, it may enhance transparency and accountability in the digital advertising market while reinforcing constitutional commitments to dignity, pluralism, and the integrity of democratic discourse.

From a doctrinal perspective, the bill could catalyse significant jurisprudential debates concerning the boundaries of commercial freedom, the scope of intermediary responsibility, and the permissible limitations on platform-based economic activities. By holding advertising networks and platforms accountable for the environments in which their ads appear, the law introduces a differentiated liability framework that moves beyond user-

centric notions of rights and instead focuses on the structural conditions that shape online speech and access to information. Furthermore, the proposed regime may serve as a comparative reference point for jurisdictions exploring non-censorship-based approaches to disinformation control. In linking platform responsibility to financial gain, Brazil would position itself at the forefront of an emerging global movement toward normative alignment between economic activity and digital public ethics.

Ultimately, Bill No. 2922/2020 represents a paradigmatic shift in Brazilian digital regulation: from the reactive enforcement of content takedown orders to the proactive deterrence of monetized misinformation. It supplements the foundational values of the Marco Civil da Internet by operationalising them through mechanisms of financial accountability and economic restraint, offering a structural complement to Brazil's ongoing efforts to balance digital freedoms with democratic resilience.

C. Bill No. 2184, 2022²⁴

1. Overview and Legislative Background

Bill No. 2184 of 2022, authored by Senator Telmário Mota (PROS/RR), proposes amendments to Brazil's Marco Civil da Internet (Law No. 12,965/2014), with the objective of strengthening platform obligations to address harmful content online. The legislative initiative responds to the growing concern over digital environments that expose users—particularly children and adolescents—to content inciting physical or psychological harm. The bill explicitly targets platforms that host, disseminate, or fail to address materials that induce, instigate, or coerce individuals into actions posing a risk to their safety or well-being. This initiative reflects a broader societal and regulatory shift toward prioritising user protection over the more traditionally dominant principle of intermediary neutrality. It recognises that the structure of digital communication, especially on social media platforms, facilitates the rapid spread of dangerous content and calls for a more proactive regulatory posture.

Status and Legislative Process

The bill was officially read in the Senate on 9 August 2022 and initially assigned to the Committee on Science, Technology, Innovation and Information Technology (CCT). However, following Resolution No. 14 of 2023, the matter was reassigned to the Communication and Digital Law

²⁴ Bill No. 2184, 2022 (Brazil), <https://www25.senado.leg.br/web/atividade/materias/-/materia/154315>

Commission (CCDD), which is now responsible for its analysis. As of April 2025, the bill remains pending within the CCDD and is currently under the rapporteurship of Senator Zenaide Maia. It has been designated “Matter with the Report,” but has not advanced to plenary discussion or voting. The last recorded legislative update, dated 29 October 2024, indicates that deliberations remain ongoing and that the bill is still in the early stages of the Senate legislative process.

2. Provisions and Legislative Innovations

The bill introduces two key modifications to the Marco Civil da Internet. First, it expands the scope of Article 21 to include not only content that violates sexual privacy—already addressed under the existing legal framework—but also content that induces, instigates, or coerces users to inflict harm upon themselves or others, whether physically or psychologically. This amendment extends platform liability by establishing a standard of “diligent” response: failure to act upon notice of such content may trigger subsidiary liability for providers. Second, the bill introduces a new Article 23-A, which imposes proactive duties on social media platforms. Under this provision, platforms must deploy technological tools capable of detecting and blocking access to the specified harmful content before receiving a formal complaint or notification, provided such preemptive action is technologically feasible. The combined effect of these amendments is to shift the existing legal regime away from a purely reactive liability model toward one characterised by affirmative monitoring and prevention obligations.

3. Relation to the Marco Civil da Internet

The Marco Civil da Internet, in its original conception, embodies a cautious approach to platform liability, affirming freedom of expression, net neutrality, and privacy as cornerstones of Brazilian digital regulation. Article 19 of the law, in particular, establishes that providers are not liable for third-party content unless they fail to comply with a court order. The present bill challenges and expands this model by mandating liability in cases where platforms do not act “diligently” upon extrajudicial notice and by introducing, through Article 23-A, a duty of prior detection. This represents a significant reconfiguration of the Marco Civil’s core balance between safeguarding digital freedoms and addressing harms. It reflects an evolving recognition that the traditional intermediary safe harbour may be insufficient in cases involving vulnerable users or where the harm results from inaction in the face of egregious threats to public health and safety. While not entirely

repudiating the principle of limited liability, the bill marks a definitive shift toward a duty-of-care framework, particularly in high-risk digital environments.

4. Potential Legal and Social Impact

If enacted, Bill No. 2184 of 2022 would mark a notable evolution in Brazilian platform regulation, bringing with it considerable legal and social consequences. It would compel internet application providers, especially social media companies, to invest in content moderation technologies and human oversight systems capable of meeting the new standards of diligence and preemptive detection. This could place a disproportionate burden on smaller platforms, raising questions about regulatory asymmetry and the potential chilling effects on market entry. At the same time, the bill promises substantial benefits in protecting users—particularly minors and psychologically vulnerable individuals—from exposure to manipulative or coercive digital content. It would further solidify Brazil’s emerging role as a jurisdiction at the forefront of regulatory experimentation in platform governance, aligning in part with international trends such as the European Union’s Digital Services Act. However, the introduction of ambiguous concepts such as “psychological coercion” and the requirement of pre-notice removal may also generate constitutional and jurisprudential debates regarding proportionality, due process, and freedom of expression. To mitigate risks of overreach and arbitrary enforcement, any future implementation would need to be accompanied by clear regulatory guidance and judicial oversight mechanisms.

D. Bill No. 2821, 2022²⁵

1. Overview and Legislative Background

Bill No. 2821 of 2022, introduced by Senator Fabiano Contarato (PT/ES) and filed on 21 November 2022 in the Plenary of the Federal Senate, emerged in response to growing concern about the systemic spread of hate speech, discrimination, and prejudice across social networks and search platforms in Brazil. The proposal addresses the disproportionate harm faced by vulnerable groups—such as those targeted on the basis of race, gender, disability, religion, sexual orientation, and nationality—and seeks to reform Brazil’s digital governance architecture to respond more effectively to structural

²⁵ Projeto de Lei n° 2821/2022 (Brazil), Senado Federal, 21 November 2022, https://www25.senado.leg.br/web/atividade/materias/-/materia/155169#tramitacao_10358709.

inequalities reproduced online.

In its justification, the bill identifies key normative tensions in the existing framework of the Marco Civil da Internet (Law No. 12.965/2014), particularly its strong emphasis on freedom of expression and platform immunity. While the Marco Civil sought to protect fundamental user rights in the digital environment, it has inadvertently allowed online intermediaries to operate with minimal obligations regarding harmful or discriminatory content. The bill argues that content moderation powers already available to platforms under their terms of use must be exercised to mitigate social harms. The use of these powers, according to the drafters, does not infringe upon constitutionally protected speech, but rather preserves the democratic and pluralistic character of the internet.

A notable feature of the proposal is its concern with algorithmic bias. The bill contends that the automated systems which govern online interactions can replicate or amplify pre-existing social prejudices, thereby reinforcing discrimination through invisible, unaccountable mechanisms. Accordingly, the proposal advocates for embedding proactive duties into law that require platforms to identify, mitigate, and report algorithmic harms as a matter of regulatory compliance and democratic obligation.

Status and Legislative Process

As of May 2023, the bill remained under consideration by the Committee on Constitution, Justice, and Citizenship (CCJ), where it awaited the appointment of a rapporteur. Although no amendments were submitted before the statutory deadline, the bill continues to progress under a conclusive decision model. Its anticipated referral to the Committee on Science, Technology, and Innovation (CCT) signals its dual character as both a constitutional rights initiative and a regulatory reform concerned with platform technologies.

2. Provisions and Legislative Innovations

Bill No. 2821/2022 introduces three substantive articles—Articles 18-A, 18-B, and 18-C—and amends Article 3 of the Marco Civil da Internet to add “protection from algorithmic discrimination” as a foundational principle. The proposed amendments construct a legal framework grounded in proactive platform accountability and algorithmic transparency.

Article 18-A establishes a duty for internet application providers to implement mechanisms aimed at identifying and minimizing algorithmic bias. These mechanisms must target patterns of automated decision-making that could lead to discriminatory behavior or structural inequality in the

online environment. Article 18-B extends this regulatory burden to search platforms, requiring them to filter and suppress results that incite or perpetuate hate, prejudice, or discrimination. Article 18-C is directed at social media platforms and sets forth obligations to create accessible reporting systems for harmful content, to adopt transparent content moderation standards, and to publish regular reports evaluating the efficacy of these systems.

These provisions shift the liability model of the Marco Civil away from a purely reactive system—where liability is triggered only upon judicial notification—to a forward-looking structure premised on prevention, procedural transparency, and user accountability. By doing so, the bill advances a rights-based framework for online equality and elevates digital governance into a space of normative engagement with anti-discrimination law.

3. Relation to the Marco Civil da Internet

The legislative innovations in Bill No. 2821/2022 represent a substantive evolution of the principles articulated in the Marco Civil da Internet. The original law, enacted in 2014, enshrined user rights such as net neutrality, privacy, and freedom of expression, and adopted a narrow model of intermediary liability, most notably in Article 19. This model protected platforms from responsibility for third-party content unless a court order was ignored. While this approach was central to the protection of digital civil liberties at the time, the current regulatory environment demands more nuanced tools to confront the harms emerging from automated systems and large-scale content dissemination.

By amending Article 3 to include algorithmic discrimination as a fundamental concern, and by introducing affirmative obligations on platforms under Articles 18-A to 18-C, the bill embeds a new balance into the Marco Civil—one that recalibrates user rights in light of platform responsibilities. It shifts the interpretive frame of the law from one premised solely on the passive protection of users toward an interactive regime that anticipates the harms posed by algorithmic design, content curation, and digital amplification.

4. Potential Legal and Social Impact

If enacted, Bill No. 2821/2022 would introduce a significant normative inflection in Brazil's approach to internet regulation. Its legal consequences would be far-reaching, both operationally and doctrinally. It would require digital platforms to adopt and publicize tools capable of detecting algorithmic

bias, to actively suppress discriminatory content, and to engage in periodic disclosure through transparency reports. These mechanisms would serve not only as legal compliance tools but also as instruments of democratic accountability.

At the social level, the bill responds directly to longstanding critiques of digital inequality and content-based harms disproportionately affecting marginalized communities. By foregrounding structural bias and algorithmic injustice, it offers a corrective to earlier models of platform neutrality that failed to account for the disparate impact of content amplification. The bill also positions Brazil as a jurisdiction willing to legislate in alignment with international soft law standards, including the United Nations Guiding Principles on Business and Human Rights and the OECD's frameworks for algorithmic accountability and fairness.

In this respect, Bill No. 2821/2022 transcends a reactive legislative posture and articulates a forward-thinking model of digital rights governance. It reconfigures the Brazilian internet governance framework to accommodate a more inclusive vision of constitutional equality and technological responsibility—one that centers the rights of the digitally vulnerable while preserving the foundational values of openness and pluralism in the online sphere.²⁶

E. Bill No. 3207, 2023²⁷

1. Overview and Legislative Background

Bill No. 3207 of 2023, authored by Senator Cleitinho (REPUBLICANOS/MG), proposes an amendment to the Marco Civil da Internet (Law No. 12.965/2014) aimed at prohibiting the offering of mobile internet plans with limited data allowances, commonly referred to as “data caps.” The bill was introduced in response to the increasing reliance of Brazilian citizens on mobile internet as their primary or sole means of digital connectivity, particularly among lower-income populations. According to its justification, the widespread offering of data-capped mobile plans—endorsed by the National Telecommunications Agency (ANATEL)—has generated significant social and economic inequalities by limiting users' ability to fully access and engage with the digital environment. The proposal seeks to

²⁶ Projeto de Lei n° 2821/2022 (Brazil), Senado Federal, 21 November 2022, https://www25.senado.leg.br/web/atividade/materias/-/materia/155169#tramitacao_10358709.

²⁷ Senado Federal, Projeto de Lei n° 3207, de 2023: Altera a Lei n° 12.965, de 23 de abril de 2014, para vedar a oferta de pacotes com franquias limitadas de dados móveis (21 June 2023), <https://www25.senado.leg.br/web/atividade/materias/-/materia/158369>

address these inequalities by incorporating an express legal guarantee of unrestricted mobile internet access into Article 7 of the Marco Civil da Internet, which enumerates the fundamental rights of users in Brazil's digital sphere.

Status and Legislative Process

As of April 2025, Bill No. 3207/2023 remains under review in the Senate's Committee on Science, Technology, and Innovation (CCT). It is currently awaiting the appointment of a rapporteur and has not yet progressed to deliberation or voting stages. The bill's initial referral to the CCT reflects its dual character as both a consumer rights measure and a structural intervention in the regulation of telecommunications services. While its formal advancement remains pending, the proposal has already prompted public debate concerning the appropriate balance between market regulation and constitutional principles of digital inclusion.

2. Provisions and Legislative Innovations

The core innovation of Bill No. 3207/2023 lies in the inclusion of a new paragraph under Article 7 of the Marco Civil da Internet, explicitly prohibiting the commercialization of mobile internet packages that impose usage limits. The provision is designed to guarantee continuous, unrestricted access to mobile internet services, thereby extending the existing guarantees under Article 7 relating to privacy, service quality, and data protection. The proposed text does not merely address technical service standards, but instead frames mobile data access as a matter of substantive rights protection. In doing so, the bill challenges the prevailing contractual model in telecommunications law by imposing a statutory floor below which service providers may not operate. The language of the proposal is rights-affirming in nature, seeking to transform mobile internet from a commodified service into a legally protected instrument of access to information, education, and democratic participation.

3. Relation to the Marco Civil da Internet

The proposed amendment fits coherently within the structure and normative goals of the Marco Civil da Internet. Article 7 of the Marco Civil guarantees the inviolability of privacy, the preservation of data confidentiality, and the assurance of service quality and continuity. Bill No. 3207/2023 reinforces these guarantees by adding the requirement that mobile internet services be provided without artificial limitations on data usage. In

doing so, it continues the legislative trend of treating internet access not merely as a commercial offering but as a necessary precondition for the exercise of constitutionally enshrined rights, including freedom of expression and access to public services. Importantly, the bill does not alter the general liability regime established by the Marco Civil but extends its user-rights framework to ensure that digital connectivity is meaningful, equitable, and uninterrupted. This reflects a maturation of the Marco Civil's normative ambitions, aligning its practical implementation with evolving conceptions of digital citizenship and information justice.

4. Potential Legal and Social Impact

If enacted, Bill No. 3207/2023 would constitute a significant development in Brazilian internet law by outlawing the imposition of data caps on mobile internet plans. This would mark a shift from consumer-contractual autonomy toward a rights-based regulatory model that prioritizes digital inclusion and non-discrimination in access to online services. The legal impact of the bill would be to prohibit a widespread market practice that disproportionately affects vulnerable populations, thereby promoting social equality and enhancing the practical accessibility of constitutionally protected rights. In social terms, the bill would likely improve educational access, facilitate economic participation, and strengthen the capacity of individuals to interact with public institutions and services online. By restricting telecommunications providers' ability to commodify and limit essential digital infrastructure, the proposal affirms the principle that internet access must be guided by public interest rather than market efficiencies alone. Thus, Bill No. 3207/2023 offers a concrete legal mechanism for addressing Brazil's persistent digital divide, elevating connectivity to the status of a protected social right within the country's broader constitutional and statutory framework.

F. Bill No. 4103, 2024²⁸

1. Overview and Legislative Background

Bill No. 4103 of 2024, authored by Senator Ciro Nogueira, proposes significant amendments to Brazil's Marco Civil da Internet (Law No. 12,965/2014), with the aim of regulating internet applications that facilitate advertisement publication and the intermediation of online purchase and sale transactions. The bill seeks to introduce two new provisions—Articles 7-A

²⁸ Projeto de Lei n° 4103, de 2024 (Brazil), Senado Federal, <https://www25.senado.leg.br/web/atividade/materias/-/materia/165939>

and 7-B—creating distinct regimes for platforms that merely enable communication between users for commercial purposes and those that play an active role in transactional processes such as payment or delivery. The justification behind the bill is rooted in widespread concern over consumer fraud in digital marketplaces, particularly scams perpetrated through targeted advertising on social media and classified platforms. The proposal responds to this regulatory gap by introducing new transparency and liability rules within Brazil’s foundational internet legislation.

Status and Legislative Process

As of April 2025, Bill No. 4103/2024 remains under analysis in the Federal Senate and has not yet progressed to plenary debate or voting. It is currently awaiting the appointment of a rapporteur within the Communication and Digital Law Commission (CCDD), after which it will proceed to the Transparency and Consumer Protection Committee (CTFC) for a final decision. No amendments were submitted during the statutory period, and the legislative process remains in its early stages. Nonetheless, the bill has already stimulated public discussion on the adequacy of existing protections against online fraud and the evolving responsibilities of digital platforms in consumer transactions.

2. Provisions and Legislative Innovations

The bill’s principal innovation lies in its bifurcated regulatory model. Article 7-A targets platforms that function as digital bulletin boards—hosting classified ads and facilitating communication between users but not participating directly in the transaction. These platforms are required to inform users that the transaction is conducted between individuals, to disclose profile data such as the user’s registration date, transaction history, and reviews, and to maintain a complaint mechanism when operating professionally. However, such platforms remain exempt from liability for any contract breaches or damages arising from user-to-user transactions, thereby preserving the intermediary protections codified in Article 19 of the Marco Civil.

By contrast, Article 7-B introduces stricter obligations for platforms that act as intermediaries in digital transactions, particularly those that process payments or manage logistics. These platforms must provide consumers with a statutory seven-day withdrawal period, akin to the right of repentance in traditional consumer law. They must also disclose user history data prior to the conclusion of a transaction, offer accessible communication and complaints mechanisms, and cooperate with public enforcement bodies.

Most significantly, Article 7-B imposes joint liability on platforms for the delivery of goods and services, a marked departure from the general principle of intermediary non-liability in the digital context. These innovations reflect a deliberate incorporation of consumer protection principles, as seen in Brazil's Consumer Protection Code (CDC), into the architecture of internet governance.

3. Relation to the Marco Civil da Internet

Bill No. 4103/2024 represents a functional expansion of the Marco Civil da Internet's normative scope. Originally conceived as a charter for the protection of civil liberties in digital environments—with a particular emphasis on privacy, freedom of expression, and net neutrality—the Marco Civil was not designed to govern the dynamics of e-commerce or online consumer protection. The proposed amendments, however, blur the boundary between internet governance and consumer regulation by introducing transactional transparency obligations and liability rules typically found in specialized legislation. In doing so, the bill hybridizes the Marco Civil's structure, transforming it from a rights-based internet charter into a more operational framework for digital commerce governance. While the bill preserves the intermediary liability shield for passive platforms, it introduces a new legal standard for platforms that engage in active transactional intermediation, thereby creating a dual-track liability regime within the same statute.

4. Potential Legal and Social Impact

The enactment of Bill No. 4103/2024 would constitute a significant doctrinal and regulatory shift in Brazil's approach to digital commerce and platform governance. Legally, the bill would impose differentiated obligations based on a platform's degree of involvement in transactions, requiring providers to assess their functional role with precision. This would necessitate new compliance mechanisms, such as profile verification systems, user history disclosure protocols, and cooperation agreements with public enforcement agencies. The expansion of joint liability to digital intermediaries also introduces new litigation risks, particularly for start-ups and smaller platforms, potentially raising constitutional questions around freedom of enterprise and the proportionality of imposed burdens.

From a social standpoint, the bill aims to enhance consumer confidence in digital markets by increasing transparency and accountability. It addresses the informational asymmetries that frequently underlie digital fraud, particularly in low-trust online environments, and seeks to build a legal

framework capable of deterring predatory commercial practices. While the proposal enhances consumer protection, it also provokes important normative debates about the future trajectory of Brazil’s digital regulation—namely, whether the Marco Civil should remain a liberal rights-based framework or evolve into a regulatory instrument for market governance. If passed, the bill would exemplify a convergence of internet law and consumer protection law, reinforcing the idea that digital platforms are not only technical intermediaries but also normative actors within the commercial public sphere.

G. Bill No. 295, 2025²⁹

1. Overview and Legislative Background

Senate Bill No. 295 of 2025, authored by Senator Carlos Viana (PODEMOS/MG), introduces a critical intervention in Brazil’s evolving legal framework for digital governance and public ethics. Filed on 5 February 2025, the bill seeks to amend two foundational statutes—Law No. 12.965/2014 (Marco Civil da Internet) and Law No. 8.429/1992 (Administrative Misconduct Law)—to prohibit the monetization of digital platforms by political agents during their term of office. The proposal responds to mounting concerns regarding the intersection of public authority and private economic interest in the digital age, particularly where elected officials exploit the visibility and institutional legitimacy of their office to generate income from social media platforms and other digital channels.

Status and Legislative Process

As of 2 May 2025, the bill remains in the preliminary stages of the legislative process, with its most recent status marked as “Waiting for Dispatch” in the Plenary of the Federal Senate. The full text was published in the Senate Journal following its presentation in the legislative session of 5 February. No rapporteur has been appointed, and the bill has not yet been assigned to a committee for analysis, leaving its future trajectory contingent upon legislative prioritization and political alignment.

2. Provisions and Legislative Innovations

Bill No. 295/2025 introduces two core amendments. First, it proposes an addition to the Marco Civil da Internet explicitly prohibiting political

²⁹ Projeto de Lei n° 295, de 2025 (Brazil), Senado Federal, https://www25.senado.leg.br/web/atividade/materias/-/materia/167126#tramitacao_11004934

agents—defined as individuals holding elected or appointed public office—from engaging in the monetization of digital platforms, including blogs, websites, social media profiles, and other internet applications. Monetization is broadly understood to include advertising, sponsorship, affiliate marketing, and other mechanisms of revenue generation. This measure directly targets the commercialization of online engagement by political figures while in office.

Second, the bill amends Law No. 8.429/1992 (the Administrative Misconduct Law) to classify monetization of digital platforms by political agents as an act of administrative misconduct. If enacted, this amendment would subject violators to a range of penalties already enumerated in the statute, including fines, suspension of political rights, and removal from office. By legally equating platform monetization with public impropriety, the bill aims to resolve ambiguities regarding the permissibility and consequences of such conduct, transforming what is currently a political or ethical issue into a justiciable infraction.

3. Relation to the Marco Civil da Internet

The bill represents a novel recalibration of the principles enshrined in the Marco Civil da Internet. While the existing framework champions user rights such as freedom of expression, net neutrality, and data protection (see Articles 3, 7, and 9), it does not presently distinguish among users based on public office, nor does it restrict monetization or economic activity conducted via internet platforms. Article 7 of the Marco Civil protects users' rights to apply consumer protection laws in digital contexts, but without reference to their status or institutional function.

Bill No. 295/2025 introduces a limited and status-based carve-out from this general protection. Rather than restricting user freedoms in a broad sense, the proposal targets a specific category of users—political agents—whose institutional authority, visibility, and access to public platforms pose unique risks to the ethical governance of digital space. It seeks to harmonize the Marco Civil's user-centric ethos with constitutional principles applicable to public administration, including legality, impersonality, morality, and efficiency. In doing so, it shifts the focus from the neutrality of the network to the normative obligations of public office.

4. Potential Legal and Social Impact

The legal and social implications of the bill are considerable. By prohibiting public officials from monetizing their digital presence during their term of office, the bill seeks to prevent conflicts of interest, preserve the

non-commercial character of public authority, and deter the commodification of institutional influence. In a digital environment increasingly shaped by influencer culture and algorithmically amplified visibility, the risk of political messaging being subsumed under commercial logic is real and growing. The bill positions itself as a normative safeguard against this trend, defending the principle that public service should not be leveraged for personal enrichment via digital means.

Moreover, the linkage of monetization practices to administrative misconduct raises the stakes of non-compliance significantly. Political agents who engage in commercial activities on digital platforms could face the full range of sanctions under the Administrative Misconduct Law, including the loss of office and political rights. This aligns Brazil's legal posture with global trends emphasizing the ethical boundaries of public communication in online spaces. Although the measure restricts expressive and economic freedoms for a defined class of users, it does so in pursuit of a broader constitutional objective: the integrity and impartiality of public administration.

From a systemic perspective, the bill represents a convergence between digital law and administrative law, illustrating the adaptive capacity of Brazil's legislative framework in responding to new forms of political behavior facilitated by technology. It also foregrounds a critical debate: whether digital visibility acquired through public office can or should be treated as a monetizable asset. If enacted, Bill No. 295/2025 may set a precedent not only for Brazil but for other jurisdictions grappling with the ethical and regulatory dilemmas posed by the digitalisation of politics.

H. Bill No. 880, 2025³⁰

1. Overview and Legislative Background

Senate Bill No. 880 of 2025, introduced by Senator Marcos do Val (PODEMOS/ES), proposes a substantive amendment to Brazil's internet governance statute, the Marco Civil da Internet (Law No. 12.965/2014). The bill was prompted by alarming increases in the dissemination of child sexual abuse material (CSAM) across digital platforms, particularly within encrypted or minimally moderated environments such as Telegram.

Drawing upon international best practices, including those articulated in the ICMEC's *Model Legislation & Global Review*, the proposal aims to enhance Brazil's regulatory framework by embedding mandatory, proactive content moderation mechanisms into internet law. The bill was filed in early

³⁰ Bill No. 880, 2025 (Brazil), <https://www25.senado.leg.br/web/atividade/materias/-/materia/167490>

2025 and is currently pending consideration in the Federal Senate. While it has yet to advance to committee analysis or plenary debate, its submission reflects mounting political and social pressure to strengthen online protections for minors.

2. Provisions and Legislative Innovations

The bill seeks to insert Article 21-A into Section III, Chapter III of the Marco Civil da Internet, creating a set of positive legal duties for internet application providers. These duties include the implementation of technological tools capable of detecting sexually explicit or pornographic content involving children or adolescents—including digitally altered or simulated materials. Platforms must not only remove such content immediately upon detection but must also notify the user responsible, provide a reasoned justification, and afford an opportunity to contest the decision, thereby respecting procedural fairness while prioritizing child protection.

Beyond content removal, the bill mandates that platforms report detected CSAM to the appropriate authorities, such as the police or the Public Prosecutor's Office. This report must include relevant user data and content evidence, enabling criminal investigations to proceed without delay. Failure to comply with these obligations will trigger the sanctions already set forth in Article 12 of the Marco Civil, while also exposing platforms to civil, criminal, or administrative liability under broader statutory frameworks.

This legislative initiative reflects a distinct shift in Brazil's approach to intermediary liability. Rather than relying solely on reactive models—such as judicial notice-and-takedown procedures—it imposes *ex ante* obligations grounded in technological capability and systemic monitoring. The focus on detecting both actual and simulated content addresses contemporary challenges posed by AI-generated imagery, which often evades traditional moderation techniques.

3. Relation to the Marco Civil da Internet

The bill builds upon and extends the rights and responsibilities framework established by the Marco Civil da Internet. Whereas the original statute prioritized principles such as net neutrality, user privacy, and limited intermediary liability (particularly under Articles 3, 7, and 19), Bill No. 880/2025 reorients the balance toward a duty of care that obliges platforms to act preemptively in the presence of egregious harms such as CSAM. Article 21-A would operate alongside, rather than in contradiction to, existing provisions, reinforcing the statute's protective ethos through more concrete enforcement mechanisms.

In doing so, the bill reconfigures the scope of platform neutrality in cases involving severe human rights violations. The proposed duty to monitor, detect, and report unlawful content carves out an exception from the general principle of provider immunity for user-generated content. While Article 19 of the Marco Civil conditions platform liability on the existence of a court order, Article 21-A introduces autonomous duties rooted in the intrinsic illegality of the material in question and the pressing need to safeguard vulnerable individuals.

The bill also pre-empts potential conflicts with the General Data Protection Law (*Lei Geral de Proteção de Dados – LGPD*, Law No. 13.709/2018). By invoking the exemption clause in Article 4, III(d) of the LGPD, which permits data processing for the purposes of public security and criminal investigations, the bill clarifies that the transfer of personal data to law enforcement in cases involving CSAM does not violate Brazil's data protection framework.

4. Potential Legal and Social Impact

If enacted, Bill No. 880/2025 would mark a decisive evolution in Brazil's regulatory response to online child sexual exploitation. It responds to a quantifiable surge in digital CSAM activity: according to data from SaferNet, a Brazilian NGO focused on digital rights, there was a 78% increase in reports of CSAM dissemination on Telegram between the first and second semesters of 2024. The number of active groups rose from 874 to 1,043, with over 2 million users implicated in the dissemination or sale of such material. These statistics expose the inadequacy of voluntary moderation and underscore the need for legal mandates that operationalize platform responsibility.

The bill's impact would be both normative and operational. It reinforces the notion that internet governance must serve as an instrument for the protection of human dignity, especially where minors are concerned. It also shifts the legal narrative from reactive liability to proactive prevention, making Brazil one of the few democracies to explicitly mandate content detection and reporting technologies for CSAM.

By aligning national law with international soft law benchmarks, the bill strengthens Brazil's standing in global efforts to eliminate online child exploitation. It also raises significant implementation challenges, including the need for platforms to invest in advanced monitoring technologies and train moderation teams capable of handling complex, often encrypted content environments. Smaller providers may struggle to meet these obligations without regulatory guidance or technical support, suggesting the potential need for secondary regulations or public-private partnerships.

Ultimately, Bill No. 880/2025 reinforces the Marco Civil da Internet's

foundational commitment to a rights-based digital order while addressing emergent threats that require more than passive compliance. It represents a recalibration of internet law in favor of vulnerable users and sets a precedent for further integration between child protection, platform accountability, and criminal enforcement in the Brazilian legal system.

CONCLUSION

In conclusion, Brazil's *Marco Civil da Internet* (Law No. 12.965/2014) has undergone significant legislative evolution since its enactment in 2014, particularly through amendments like the introduction of the *Lei Geral de Proteção de Dados Pessoais* (LGPD) in 2018. The LGPD enhanced user privacy protections and data processing regulations, complementing the *Marco Civil*'s foundational principles of net neutrality, user rights, and data retention. These changes solidified the law's role in protecting user privacy and governing internet platforms, ensuring Brazil's alignment with international data protection standards. Additionally, the *Decree No. 8,771/2016* and subsequent amendments clarified enforcement mechanisms, making the law more actionable and comprehensive.

The potential future changes through the proposed bills will significantly impact the scope and enforcement of Brazil's internet regulations. For example, Bill No. 2922/2020 introduces an innovative approach by holding digital platforms financially accountable for content they monetize, such as disinformation and hate speech. This bill would mark a substantial shift from the traditional content liability model of the *Marco Civil*, introducing an economic deterrent for platforms that profit from harmful content. The passage of this bill could dramatically reshape Brazil's digital ecosystem by addressing the financial incentives that drive the spread of false and harmful information.

Similarly, Bill No. 2821/2022 seeks to address algorithmic discrimination by mandating platforms to implement mechanisms to identify and mitigate algorithmic bias. This bill would impose a new layer of responsibility on digital platforms, requiring them to proactively address issues of fairness in automated decision-making processes. If passed, it could set a precedent for digital governance, where platform operators are held accountable not only for the content they host but also for the algorithms they deploy, ensuring that these algorithms do not perpetuate discrimination.

Moreover, Bill No. 4103/2024 would impose new transparency and liability rules on digital platforms involved in commercial transactions, addressing consumer fraud in digital marketplaces. It would introduce a differentiated liability regime, particularly for platforms facilitating transactions. This amendment would strengthen consumer protection by

requiring platforms to disclose more information about sellers and ensure more transparent processes in digital commerce. If enacted, this bill could lead to enhanced trust in Brazil's digital economy and reduce the risk of fraud, particularly for vulnerable users in online environments.

The potential changes highlighted by these bills is important because it provides a comprehensive understanding of how Brazil's legal framework is adapting to new technological and societal challenges. It not only informs Brazilian legal and policy debates but also serves as a valuable resource for international policymakers and legal scholars looking to navigate the complex landscape of digital governance. By exploring the intersection of law, technology, and society, this research contributes to shaping a more just and equitable digital future globally.

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