THE BRUSSELS EFFECT ON DIGITAL PLATFORM REGULATION: ANALYZING THE BRAZILIAN REGULATORY PROCESS AND ITS IMPLICATIONS FOR JOURNALISM

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ABSTRACT *This article compares the European Union's digital platform regulations with Brazil's most advanced legislative proposal,* Bill No. 2630/2020, *reflecting the influence of the European framework, particularly the* Digital Services Act *(DSA). Through a documentary analysis, the article traces the history of communication regulation in Brazil, highlighting the challenges faced in advancing the issue. Comparing the Brazilian proposal to the DSA, both similarities, especially regarding platform transparency and algorithm functioning, and differences are noted, such as the inclusion of remuneration for journalistic content. The article also analyzes the "Brussels Effect", examining how this concept applies to the Brazilian context.*

KEYWORDS

REGULATION, PLATFORMS, BRAZIL, BRUSSELS EFFECT, JOURNALISM

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INTRODUCTION

Two years after the *General Data Protection Regulation* (GDPR) came into effect in the European Union, the *General Data Protection Law* (LGPD) took effect in Brazil, incorporating similar elements. A few years later, the approval and enactment of the *Digital Services Act* (DSA) in the European Union inspired several regulatory proposals around the world, including in Brazil, which is currently debating legislation regarding social media and platform payments to journalism. Following the Union's approval of the *AI Act*, Brazil is also debating a law on the use of artificial intelligence.

This phenomenon reflects what is known as the "Brussels Effect" (Bradford, 2020), which highlights the European Union's unilateral ability to regulate the global market through the approval of its own legislation. However, the reception and incorporation of these normative models do not occur linearly or homogeneously. In the Brazilian context, a distinct process of incorporation can be observed, where foreign legislation is combined with the country's specific demands. The regulation of digital platforms is a notable example of this movement. *Bill No. 2630/2020*, the most advanced legislative proposal on the subject in the National Congress, evidences the influence of the DSA but also points to a deviation from the European model by incorporating provisions that address the remuneration of journalistic content – a topic absent from the DSA but present in other international legislations, such as Australia's *News Media Bargaining Code*.

Thus, although the DSA does not include specific provisions on journalism, its structural influence on *Bill No. 2630* reveals the central role that European legislation plays as a normative reference. The fact that the Brazilian text has included the issue of journalism remuneration, albeit intermittently and controversially, indicates an attempt to condense multiple agendas – disinformation, algorithmic transparency, platform accountability, journalism sustainability – into a single regulatory instrument. This normative condensation also reflects a historical feature of communication regulation in Brazil: the absence of a structured public policy for the sector, which forces legislators to attempt to resolve, in a single proposal, issues that, in other contexts, are addressed in separate legislative packages.

In light of this context, the objective of this paper is to trace the history of regulation in Brazil and analyze the influence of international regulatory instruments, particularly the *Digital Services Act*, on the development of the most advanced Brazilian proposal currently under consideration in the National Congress. To this end, we conducted extensive documentary research to contextualize the scenario of (non)regulation of platforms in the Latin American country, compared the regulations based on previous research, and analyzed how journalism is incorporated into this framework.

Authors such as Campos et al. (2023) have already observed that several provisions in the DSA can be found, with varying degrees of adaptation to the local reality, in the Brazilian *Bill No. 2630/2020*, which has been under legislative discussion for four years. The proposal became popularly known as the *"Fake News Bill"* because it initially prioritized

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the issue of disinformation. After the text was reworked entirely in early 2023 under the influence of the left-leaning administration of President Luiz Inácio Lula da Silva and civil society organizations defending the right to communication, it evolved into a proposal for regulating digital platforms.

Despite Brazil's historically unfavorable stance on communication regulation (Marques, 2020)[1], and more specifically, the current political situation with limited space for social media regulation (Ratier, 2024), *Bill No. 2630* represents the country's most structured effort in this field. It reflects debates that have already matured in other nations.

Not surprisingly, it faces strong resistance to its advancement in the legislature and public opinion. In the media and on social networks, an alliance between big techs and right-wing/extreme-right lawmakers – currently numerically hegemonic in both houses of Congress, the Senate and the Chamber of Deputies – has managed, since April 2023, to block the bill's progress, arguing that it poses a threat to freedom of expression in the digital environment.

In this context, the controversy over the remuneration of journalistic content by platforms also deserves attention. After being included in the original version of the substitute text, the provision was removed during the legislative process and is currently redistributed across different bills under discussion in the National Congress (*Bill No. 2630/2020*; *Bill No. 2370/2019*; *Bill No. 1354/2021*), signaling the difficulty of addressing journalism sustainability in an integrated way within platform regulation. This fragmentation reinforces the argument that Brazil lacks a more cohesive public policy model for the media ecosystem.

Thus, this study aims to understand how the European legislative framework, particularly the DSA, has influenced the construction of *Bill No. 2630*, with a particular focus on the gaps and adaptations related to journalism. The objective is to situate the debate within the broader perspective of importing and adapting legislation from the Global North by countries in the Global South, discussing the relevance, limitations, and risks associated with such transposition. To this end, we employ a qualitative methodology that combines documentary analysis and a literature review. Official legislative texts from the European Union, with an emphasis on the *Digital Services Act*, as well as the various versions of *Bill No. 2630/2020*, currently under discussion in the Brazilian National Congress, were examined. This analysis was complemented by an examination of the texts of Australia's *News Media Bargaining Code* and Canada's *Online News Act* to draw comparisons with the provision on journalism remuneration present in *Bill No. 2630*.

[1] A notable exception was the *Marco Civil da Internet* (MCI) (*Law No. 12965* of 2014), which aims to regulate rights, guarantees, and duties related to internet use. Article 19, concerning the liability of platforms for third-party content, has been controversial. Grounded in the principle of net neutrality, Article 19 of the MCI states that an internet 'application provider' can only be held judicially liable if it fails to remove content identified as infringing after a court order. At the time of writing, Brazil's Supreme Federal Court (STF), the highest judicial authority in the country, is conducting a trial on the liability of digital platforms for illegal content posted by users, with a tendency to revisit Article 19.

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The approach adopted is based on a communication perspective, particularly concerned with the political, economic, and institutional impacts of platform regulation on the journalistic ecosystem. Although the legislative texts analyzed are legal, the study's focus is not on a technical-normative interpretation but rather on a critical analysis of how these regulatory frameworks interact with broader communication dynamics. Based on this empirical and theoretical foundation, we develop a comparison between European, Australian, Canadian, and Brazilian regulatory mechanisms, with special attention to the convergences, omissions, and adaptations that permeate the different proposals.

Accordingly, the paper is divided into seven sections. First, we provide an overview of historical attempts at communication regulation in Brazil, highlighting the absence of a robust legal framework focused on media and journalism. Second, we analyze the debate on journalism and digital platform regulation in Brazil. In the third section, we discuss the role of digital platforms in the journalistic ecosystem, further deepening our understanding of journalism's economic crisis and its dependence on large tech companies. The following section examines the European regulatory framework, with an emphasis on the *Digital Services Act* (DSA), outlining its key provisions. The fifth part of this article focuses on *Bill No. 2630* and compares it with the DSA, highlighting points of convergence and divergence. We then theoretically discuss the concept of the Brussels Effect, deepening its application to the Brazilian case and reflecting on its limitations when confronted with different political and structural contexts. Finally, we analyze the risks and possibilities of adopting foreign regulatory frameworks in the Global South, questioning whether the Brazilian strategy represents a viable path, a hasty shortcut, or a dead end in terms of sustainable and fair digital regulation.

BRAZILIAN MEDIA AND NEWS ECOSYSTEM: A HISTORY OF REGULATORY ATTEMPTS

In a seminal text, de Lima (2001) presents the Brazilian media ecosystem as an oligopoly, traditionally dominated by a few families with a significant overlap between economic and political elites throughout the 20th century. This diagnosis stems from a historical dynamic, as Marques (2020) identifies distinct phases that began with the proclamation of the Brazilian Republic in 1889, summarizing that regulatory attempts have been marked by limited advances and recent setbacks.

During the so-called Old Republic (1889-1930), the media had an incipient and regionalized character with little national influence. Media regulation was not a priority; most communication vehicles were privately owned, with strong political alignment, and opposing views faced government arbitrariness (censorship and closure of publications).

In the Vargas Era (1930-1945), then-President Getúlio Vargas − who rose to power through a coup and later became a dictator − implemented stricter control over the media, creating the Department of Press and Propaganda (DIP) in 1939, which centralized content production and censored the opposition. The intensification of government

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censorship was renewed during the Military Dictatorship (1964-1985), while the central administration favored the concentration of power in the hands of large media groups, such as Globo. The media was used as a propaganda tool for the regime, and opposition vehicles were marginalized.

With the immediate post-redemocratization period (1985-2002), a political opening occurred, but media regulation did not progress significantly. The 1988 Constitution prohibited media monopolies and oligopolies, but these provisions were not effectively regulated.

According to de Lima (2001), the liberal wave initiated during the presidency of Fernando Henrique Cardoso (1994-2002) did not change the scenario. On the contrary, appealing to market competitiveness, the privatization of the communications sector, especially after the sale of Telebrás (the former state-owned Brazilian telecommunications company), consolidated a scenario of private oligopoly in place of state monopoly. Large transnational groups such as MCI (WorldCom), Telefónica de España, NEC, and Portugal Telecom partnered with national conglomerates (such as Globo, Bradesco, and RBS) to control the sector's major companies.

For the author, as had already occurred in the ownership of newspapers, radio, and TV, the privatization policy favored concentration in new technological platforms, allowing a few groups to dominate strategic segments – fixed telephony, mobile, satellite, and subscription TV. The result, according to the author, would be deregulated and concentrated markets, cross-ownership, and the loss of state control over a sector vital for national security and identity (de Lima, 2001).

The Workers' Party's (PT) arrival in power (2003-2016) sparked a greater discussion on the need for media regulation, providing a historical platform for the left-wing party (Marques, 2020, p. 176). Focusing on the democratization of access to information and combating the concentration of media ownership, the PT advocated for the creation of a regulatory framework for the media, including the prohibition of cross-ownership and limiting media ownership by politicians. Media regulation was discussed at the 2009 National Communication Conference (Confecom), which brought together representatives from the government, civil society, and the business sector. However, the proposals did not advance in the legislative environment, where many lawmakers either own media outlets or have connections with large media groups.

The impeachment of President Dilma Rousseff and the rise of the governments of Temer and Bolsonaro (2016-2021) marked a setback in media regulation policies, especially under Jair Bolsonaro (2019-2021), when media regulation was entirely abandoned. Bolsonaro opposed any form of regulation, arguing that it would be a threat to freedom of expression. In September 2021, the government attempted to issue a *Provisional Measure* (MP) – a normative act enacted by the President of the Republic with the force of law, applicable in cases of relevance and urgency, and valid for a maximum of 120 days – aimed at combating content removal on social media platforms. The MP was rejected by

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the President of the Senate a week later, on the grounds that it introduced abrupt changes to the *Marco Civil da Internet* (Brazil's Internet Civil Framework), allowed insufficient time for compliance, and imposed immediate liability for non-compliance with its provisions. Bolsonaro also favored media outlets aligned with his government, such as TV Record and SBT, in the allocation of government advertising funds – an important revenue source for media vehicles.

In fact, the International Media Ownership Monitor (MOM, 2017) survey conducted in Brazil in 2017 indicates a high concentration of audience and ownership, as well as high geographic concentration, a lack of transparency, and interference from religious, political, and economic interests. Regarding regulation, MOM pointed out that Brazil's legal framework is insufficient to combat media concentration and the lack of transparency regarding media ownership. The lack of a robust regulatory framework results in a media landscape still dominated by a few groups, undermining pluralism and the diversity of voices. In summary, the entire structure of the regulatory frameworks that remain in Brazil originates from the Military Dictatorship (1964-1985), which consolidated a regime of bargaining with political and economic leaders (Marques, 2020, p. 2020).

THE DEBATE ON JOURNALISM AND PLATFORM REGULATION IN BRAZIL

According to Marques (2020), media regulation has always faced strong resistance from large media groups, which argue that any form of regulation could be interpreted as censorship or governmental interference. The debate on the regulation of journalism and, later, platforms involves relevant political actors such as the already mentioned Workers' Party (PT); in civil society, the National Forum for the Democratization of Communication, with more than 500 affiliated entities, and the Coletivo Intervozes, a think tank on public policy for the sector; and the academic field, which has been addressing the topic for several decades (Marques, 2020, p. 176).

Regarding the regulation of journalism, the 2000s witnessed three significant developments. In 2009, the Federal Supreme Court, the highest Court in the country, revoked the *Press Law* of 1967, considering it incompatible with democracy, thereby leaving journalism without specific legislation. The Court also removed the requirement for a journalism degree, arguing that the barrier violated the free flow of information and freedom of expression. The proposal by the National Federation of Journalists (Fenaj) to create a Federal Journalists Council to oversee professional practice was rejected by the National Congress in 2004 after strong opposition from employers on the grounds of "censorship".

Regarding the debate on regulating platforms, the Brazilian Internet Civil Framework (MCI), officially *Law No. 12,965/2014*, is the primary legislation governing internet use in the country. There is intense debate about the constitutionality of the provision that

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platforms can only be held accountable for third-party content after a court order has been issued. Currently, the constitutionality of Article 19 of the *Marco Civil da Internet* (MCI) – Internet Civil Framework, which establishes a regime of responsibility for Internet application providers – is being debated in the Federal Supreme Court (Alimonti, 2024).

Regarding digital platform regulation, Flew and Martin (2022) observe that in recent years, internet governance has evolved from a specialized niche to a central theme in academic, political, and social debates. This shift has been driven by multiple factors, including Edward Snowden's 2013 revelations about the NSA's mass surveillance, the connections between intelligence agencies and tech giants, the spread of disinformation and its electoral interference, as well as regulatory measures adopted by entities such as the European Union.

The authors highlight that underlying discussions about digital platforms are fundamental tensions between freedom and control, self-regulation and state intervention, and global interests versus national sovereignty. They argue that today's complex digital ecosystem demands innovative governance approaches, which may range from corporate accountability frameworks to more stringent state-led regulation.

Based on the political economy of the communication framework, Napolitano and Ranzani (2021) reject the neutrality of the network as a passive technological support. They argue that regulating digital platforms is crucial in the globalized scenario. Private and transnational companies are exerting oligopolistic influence over the public debate – mediating social and economic relations, controlling algorithms that personalize content, promoting echo chambers and filtering bubbles, and spreading disinformation, all of which threaten democracy and freedom of expression.

Without social or state control, the authors claim, content moderation is left to the companies themselves, creating a public space regulated by private interests and lacking transparency. Self-regulation is rejected, as is purely state regulation, which is typical of authoritarian regimes and tends to result in censorship, ideological persecution, user bans, and the emergence of clandestine or underground platforms.

Supporting the propositions of the Coletivo Intervozes, the authors advocate for regulated self-regulation or co-regulation. This model involves participation from various members of society to balance the regulatory process, whether in decision-making or in the formulation of guidelines to be followed by platforms and supervised by a "specialized public body with a perspective of defending freedom of expression" (Napolitano & Ranzani, 2021, p. 190). Politically, this perspective materializes in proposals such as *Bill No. 2630/2020*, which will be discussed further.

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JOURNALISM'S DEPENDENCE ON DIGITAL PLATFORMS

The transformations brought about by digital technology and globalization have led to structural changes that affect the journalistic profession, professional routines, and relationships with sources and audiences. According to Pereira and Adghirni (2011), these changes include the emergence of new forms of news production, digital convergence processes, and a crisis in journalistic companies. Journalism, as part of society, is reconstructed through the interaction of various social actors, including individuals, institutions, and concepts, that follow norms and conventions to coordinate their activities.

The changes imposed by the architecture of digital platforms and their business models have significantly impacted the structure of the public sphere, promoting its fragmentation and reorganizing historically central actors in mediating this space. Technological development and its centrality have transformed, as Nielsen and Ganter (2022) argue, the media environment in the 21st century into a more digital, mobile, and platform-dominated space.

This scenario significantly reshapes the functioning of traditional media, forcing it to rethink its practices, methods, and ways of gathering news. The centrality gained by platforms in recent years (van Dijck et al., 2018) has significant implications for the journalistic market as a whole, from its production to its distribution, including issues such as news disaggregation and the very way news is consumed.

This process is mapped in surveys such as the *Digital News Report*. The 2024 edition reveals that, in Brazil, news consumption occurs more frequently through social media (51%) than through television (50%) and print media (11%). In the country, only 19% of the population pays to consume news, which also reveals the crisis in the business model of news outlets (Newman, 2024).

Nielsen and Ganter (2022) refer to the scenario of deep dependence experienced by journalism as "platform power", characterized by a power exercised by systems that are both social and technical, ultimately attracting various stakeholders. The authors argue that digital platforms ultimately empower these stakeholders while making them increasingly dependent, thereby creating asymmetrical relationships.

Guided by algorithms, timelines begin to prioritize content that generates higher engagement and longer viewing times rather than focusing on informational quality. According to Pyo (2018), this intermediary role has significantly impacted the news industry, forcing journalistic organizations to adapt quickly. This has transformed public participation into an essential news value, influencing newsworthiness criteria and strategies of journalistic companies to attract audiences.

With the public's preference for accessing news through platforms such as social media, news aggregators, and search engines, news organizations have become increasingly dependent on these platforms to reach their audiences and distribute

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content. This dependence varies according to the size, business model, market position, and type of news each organization produces. In research with South Korean journalists, Pyo (2024) reports that even larger and more established journalistic organizations face more pressure to prioritize audience traffic, often compromising journalistic values.

The trend is toward deepening this dependence. In the 2024 edition of the *Journalism, Media, and Technology Trends and Predictions* report, Newman (2024) notes the deprioritization of news display by Meta, encouraging content creators instead of journalists to use their platforms. On X (formerly Twitter), the removal of headlines from post publications made it harder to distinguish news from other content.

Social media is disappearing from the radar as a source of audience for journalistic websites. Data from the analytics company Chartbeat, collected from nearly 2,000 news sites, shows that Facebook's aggregate traffic to news sites has decreased by two-thirds (67%) over the past two years, and traffic from X has dropped by half (50%).

According to the 2025 edition (Newman & Cherubini, 2025), disruption has reached search mechanisms with the integration of AI-generated summaries in Google Search, which may further reduce exposure to news links. New competitors, such as OpenAI and Perplexity, aim to revolutionize the search experience by combining advanced language models with real-time information indexes. OpenAI, Apple, and Amazon have struck deals with major publishers to use their content in AI-generated summaries.

Newman and Cherubini (2025) expect growth in platform taxation for the use of journalistic content, judicial action for using journalistic articles without authorization to train AI models, and the emergence of collaborative intermediaries who calculate the contribution of articles or outlets in AI-generated summaries, creating space for content remuneration. Politically, this perspective is materialized with proposals such as *Bill No. 2630/2020*, which will be discussed later.

Politically, this perspective was materialized with the introduction of Australia's *News Media and Digital Platforms Mandatory Bargaining Code*, which was pioneeringly implemented in March 2021. The bargaining code requires digital platforms to compensate journalists for their content. This agreement should be reached through direct negotiation; however, if no resolution is achieved, an independent arbitration panel is tasked with determining the payments (Australian Communication and Media Authority [ACMA], 2022). This proposal has inspired both Canada's *Online News Act*, passed in 2023, and Brazil's *Bill No. 2630/2020*.

In response to increasing regulatory pressures, technology companies have partnered with media organizations to support news production through programs, subsidies, and financial aid for journalism. A notable example is the Google News Initiative (GNI) Innovation Challenge, which has reportedly invested millions of dollars in journalistic projects in Latin America.

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According to Mesquita and de-Lima-Santos (2024), the analysis of these initiatives makes it clear that the media organizations benefiting from them are trapped in a cycle of dependence: they hire additional personnel and implement technological advancements – often from Google itself – for a limited period, but do not achieve sustainability in their business models. It is also noted that the thematic capture of the developed agendas poses a challenge for independent and plural journalism.

EUROPEAN REGULATORY MECHANISMS

The scenario created by the platformization of society (van Dijck et al., 2018) has prompted emphatic responses from governments around the world, contrary to what cyber-libertarians once imagined, who believed that the digital space would be able to self-regulate. In the famous "Declaration of the Independence of Cyberspace", activist John Perry Barlow (1996) calls on governments to leave the digital space alone.

It is not only those who dream of a free, open, and democratic online space who reject the idea of regulation; digital platforms, the most interested parties in this issue, also position themselves radically against it. Zuboff (2021) summarizes some statements, particularly those made by Google's top executives. The leadership's discourse against legislation includes arguments that technology advances faster than its understanding, making it impossible for well-crafted interventions, as well as the delay that regulation would bring by "impeding innovation and progress".

Similarly, in early 2025, Meta's CEO, Mark Zuckerberg, publicly spoke out against global regulation, stating that he would actively work with the US government to curb regulatory efforts, which he labeled as "censorship"[2]. However, the stance of big tech companies is not limited to discourse; it is also manifested in concrete actions against legislation. When Australia passed its bargaining code, the country experienced a brief news blackout on Facebook, with Meta following through on its threat if the law were enacted (Bossio et al., 2022). The same occurred in Canada. In 2023, following the approval of the *Online News Act*, the company "began the process of ending news availability in Canada" (Meta, 2023). Unlike in Australia, however, the block on Canadian news has remained in place for nearly two years on the big tech's social media platforms.

For Shoshana Zuboff, "this lack of legislation has been a critical factor in the success of surveillance capitalism in its brief history" (2021, p. 125). Indeed, the exclusive self-regulation model of digital spaces created a scenario conducive to both the expansion of digital platforms and the side effects of a business model driven by user attention and the surveillance and capture of their data.

[2] "We're going to work with President Trump to push back on governments around the world. They're going after American companies and pushing to censor more. The US has the strongest constitutional protections for free expression in the world. Europe has an ever-increasing number of laws, institutionalizing censorship, and making it difficult to build anything innovative there. Latin American countries have secret courts that can order companies to quietly take things down. China has censored our apps from even working in the country. The only way that we can push back on this global trend is with the support of the US government, and that's why it's been so difficult over the past four years when even the US government has pushed for censorship", retrieved from https://www.techpolicy.press/transcript-mark-zuckerberg-announces-major-changes-to-metas-content-moderation-policies-and-operations/

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It is important to note that although many of the regulations, or regulatory drafts, focused on digital platforms or digital services, emerged in the late second decade of the 21st century, this does not necessarily mean that the online space was completely unregulated. In the European Union, the *Directive on Electronic Commerce*, introduced in 2000, included aspects of information society services, particularly electronic commerce.

The directive was the first EU regime to establish a liability framework for online services. One of the fundamental pillars of the text was the introduction of the safe harbor principle for digital platforms and web hosting companies (Medeiros, 2024). This principle exempted such applications from liability for illegal content published by third parties, similar to Section 230 of the United States' *Communications Decency Act* (CDA), which shields providers from being treated as publishers or authors of third-party content. According to Leiser (2023), however, this approach has limitations and is inadequate for protecting society from illegal content, for instance.

In Brazil, as previously mentioned, the *Marco Civil da Internet* has been in effect since 2014, creating obligations and a liability system for online service providers. However, it is currently debated in the judicial sphere whether this remains the best framework to guide the digital space. In the Brazilian case, providers are also not held liable for third-party content, except in instances of non-compliance with a court order.

However, as is being debated in the three branches of Brazil's government and around the world, the rules need to be analyzed and revised in light of the ecosystem that has emerged and the centrality that actors have achieved in the global public sphere. In this sense, the European Union stands out as a significant agent, both due to the scope of the regulatory package it has approved in recent years and its political influence.

According to Leiser (2023), the *Digital Services Act* (DSA) emerges as both a renewal and a complement to the directive, aiming to harmonize regulation at the European Union level without entirely replacing it. The DSA adheres to the core principles of the earlier framework, such as the prohibition on general monitoring, but imposes more asymmetrical and stringent due diligence obligations (Leiser, 2023, p. 11).

In the text of the *Digital Services Act* (DSA), the European Union presents several justifications for implementing the legislation, which include the "proper functioning of the internal market for intermediary services" and ensuring a safer and more trustworthy online environment, concerning "the freedom of expression and information, the freedom to conduct a business, the right to non-discrimination, and the attainment of a high level of consumer protection" (DSA, 2022, p. 2).

In addition to the DSA, the EU has approved other legislation in recent years, such as the *General Data Protection Regulation* (GDPR), the *Digital Markets Act* (DMA), the *AI Act*, and the *Media Freedom Act* (EMFA), thus building a broad framework in this area and inspiring other countries.

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The GDPR[3], which inspired Brazil's *Lei Geral de Proteção de Dados* (*General Data Protection Law*), regulates the processing of personal data of EU residents, establishing rules for the collection, use, protection, and sharing of such information. Bueno and Canaan (2024, p. 5) note that the legislation enacted in 2018 has become the internationally recognized standard for data privacy, influencing both corporate practices and foreign legislation.

The *Digital Markets Act* (DMA)[4], a sister regulation to the DSA, both approved simultaneously, aims to ensure competition and fairness in digital markets by limiting the power of platforms designated as gatekeepers. The DMA sets criteria to identify these major platforms and defines rules they must follow to prevent unfair practices. In Brazil, the press reported in May 2025[5] that the federal government plans to submit a bill to Congress aimed at regulating digital markets as well.

The *AI Act*[6], approved in 2024, establishes a regulatory framework for artificial intelligence in the EU, ensuring that the technology is developed and used in a safe, ethical, and responsible manner. It introduces a risk-based classification system for AI systems, imposing obligations based on the level of risk identified. The *European Media Freedom Act* (EMFA)[7] is the most recent legislation adopted within this regulatory scope, which seeks to safeguard media freedom and pluralism in the European Union by protecting editorial independence, journalistic sources and preventing the unjustified removal of content, among other measures.

Since the focus of our work is to understand the mechanisms Brazil imported from other countries for the construction of a regulatory text, which has not yet been approved but was widely discussed in the National Congress, and its implications for journalism, we will focus on the DSA. This law was highlighted 25 times in the report of the Brazilian *Bill No. 2630/2020*, which will be addressed in the next section.

The objectives of the law include harmonizing the rules applicable to intermediary services within the European Union's internal market and preventing fragmentation arising from different national legislations. Thus, the DSA, proposed in 2020 and approved in 2022, aims to combat the spread of illegal content and misinformation, encompassing, for example, information related to illicit products, services, and activities, including hate speech and terrorist content.

The legislation also aims to provide greater legal certainty to intermediary service providers while protecting users' fundamental rights. To ensure the accountability of these providers, obligations of diligence proportional to the type, size, and nature of the services offered are established, a mechanism known as asymmetric regulation, in which actors of different sizes assume different obligations and responsibilities.

[3] https://eur-lex.europa.eu/eli/reg/2016/679/oj/eng
[4] https://digital-markets-act.ec.europa.eu/index_en
[5] https://istoedinheiro.com.br/proposta-para-aprovar-regulacao-de-mercados-digitais-esta-em-fase-final
[6] https://artificialintelligenceact.eu/
[7] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/protecting-democracy/european-media-freedom-act_en

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Thus, the DSA creates cumulative obligations for intermediary services, hosting services, online platforms, and huge online platforms and search engines (VLOPs). According to data from the European Union, over 10,000 platforms are operating within the bloc, and 90% of them are small and medium-sized enterprises. The legislation, however, differentiates based on size, placing large platforms and search engines that reach more than 10% of the 450 million European consumers in a separate category, as they present high risks in the spread of illegal content and negative social impacts. Platforms such as Apple, Amazon, Meta, Google, TikTok, Microsoft, and others are included in these lists.

The DSA imposes, as a rule for all companies, regardless of service or size, the requirement to produce transparency reports, clarify in their terms of service the guarantee of fundamental rights, cooperate with national authorities through orders, and, when necessary, establish points of contact with a legal representative.

According to the European Union (n.d.), online platforms must maintain a complaint and extrajudicial dispute resolution mechanism, keep trusted flaggers to report illegal content, have measures against abusive notifications and counter-notifications, prohibit targeted ads to children and those based on sensitive user characteristics, promote transparency in recommendation systems, and ensure transparency in online advertising directed at users.

In addition, VLOPs also have obligations related to risk management and crisis response, must undergo external and independent audits, need to provide an option for users to opt out of receiving content recommendations based on their profiles, must share data with authorities and researchers, and maintain codes of conduct (European Commission, n.d.). Another central aspect of the legislation is the obligation of these large companies to assess the systemic risks of their services and implement measures to mitigate these risks.

According to Bueno and Canaan (2024), the DSA strengthens the EU's normative power and positions itself as a "regulatory laboratory" for a rights-oriented internet. The authors note that the regulation, like the United Kingdom's *Online Safety Act* (OSA), adopts a risk-based regulatory approach by introducing the concept of "systemic risk", which requires platforms to identify, assess, and mitigate risks arising from their structure, algorithms, and patterns of use. The OSA, in turn, incorporates the notion of a duty of care, which is also explored in Brazil's *Bill No. 2630*.

The DSA imposes additional obligations on companies, such as the requirement to publish regular transparency reports, the right of users to receive explanations regarding automated decisions, and the opening of data to the scientific community. Moreover, the DSA innovates by linking the protection of fundamental rights with technical and organizational mechanisms that aim to foster a safer and more transparent digital environment. Among its provisions are the prohibition of using sensitive data in personalized advertising, particularly targeting children, and the requirement to maintain a public repository of information on advertising campaigns (Leiser, 2023).

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Given that the legislation covers a wide range of countries, direct oversight of Very Large Online Platforms (VLOPs) is assigned to the European Commission (Bueno & Canaan, 2024), which has the authority to impose administrative sanctions, including fines, alongside the Digital Services Coordinators of the Member States.

THE BILL *NO. 2630/2020* AND THE INFLUENCE OF THE *DIGITAL SERVICES ACT*

The Brazilian *Bill No. 2630* emerged before the European Union's *Digital Services Act* (DSA) proposal. While the Brazilian text was presented in the Federal Senate in April 2020, the European proposal came in December of the same year. However, in Brazil, Bill No. 2630 was not initially intended to regulate digital platforms comprehensively. As Sanches and Nóbrega (2021) note, the original aim of the bill was to affirm truth and combat disinformation, responding to concerns over the spread of false information during the COVID-19 pandemic. Consequently, it became widely known as the "Fake News Bill". Only after its approval in the Senate and submission to the Chamber of Deputies did the bill undergo amendments that shifted its focus toward regulating platform architecture.

The first version of the bill faced intense criticism from Brazilian civil society and other stakeholders. During its time in the Senate, "the bill underwent a series of modifications that removed provisions that established any form of control over disinformation content" (Sanches & Nóbrega, 2021, p. 382). Although the Senate approved the text, it arrived in the House with a different character, still encountering significant obstacles in progressing.

The return of Luiz Inácio Lula da Silva to the presidency within a center-left coalition government has reopened the possibility of resuming the regulatory communication agenda, now focusing on digital platforms. The anti-democratic attacks of January 8, 2023, also brought a renewed sense of urgency to the issue. In early 2023, a revised version of *Bill No. 2630* began taking shape in the Digital Policy Secretariat of the Secretariat of Social Communication − Secom, an executive branch agency with ministerial status (Nóbrega, 2023a).

Pro-regulation civil society organizations significantly influenced the development of the new text. On May 4th, 2023, during a public hearing in the Chamber of Deputies, various pro-regulation civil society organizations − including Intervozes, Avaaz, Sleeping Giants, Diracom (Right to Communication and Democracy), Coalition Rights on the Internet, and Article 19 Legal Reference Center − came out in favor of the bill's revised version (HAJE, 2025).

Thus, the bill continued to evolve through public hearings, expanding its scope to regulate the digital environment − increasingly drawing inspiration from the *Digital Services Act* (DSA). Although the Brazilian proposal was presented earlier, it has not yet become law, and more than four years after its presentation in the House, it still has not been voted on. A significant factor contributing to this delay has been the intense

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lobbying efforts of digital platforms, which have pressured lawmakers, as well as the strong political opposition fueled by the far right (Weterman & Affonso, 2023).

In May 2023, the bill was scheduled for a vote in the House, but it was withdrawn from the agenda due to insufficient support for its approval. During this time, digital platforms conducted vigorous lobbying efforts both within and outside Congress. For example, Google featured a link on its homepage in Brazil titled "The fake news bill could make your internet worse" (Paul, 2023), and Telegram sent a message to all Brazilian users warning that the bill would "end freedom of expression" and "kill the modern internet" (Galf, 2023). This situation led to an inquiry by the Federal Police, which accused the companies of abusing their economic power.

By this time, a significant change had occurred in the text from 2022[8] to the version presented in 2023[9], with a 44% modification, according to researcher Christian Perrone (Butcher, 2023). The previous version contained 38 articles, while the final version included 60. Among the factors that influenced these changes is the Brazilian political context – the country held general elections in 2022 and, on January 8, 2023, experienced the most significant attack on its democratic institutions since its re-democratization, with invasions of the headquarters of the three branches of government: Executive, Legislative, and Judiciary.

According to Perrone, the country's political moment was compounded by new international legislation, such as the DSA, which was approved in October 2022. As a result, the new text of *Bill No. 2630/2020* incorporated these changes. In the document outlining the law and recording the process leading to its final form, the deputy cites the *Digital Services Act* 25 times, in addition to referencing the French and German experiences in regulating digital issues. This demonstrates both the study of other laws and the references used in constructing the Brazilian text.

Researchers such as Campos et al. (2023) examined the similarities and differences between the two texts in March of that year. According to the authors, the Brazilian experience could benefit from the expertise already embedded in the European text. The law firm b/luz[10] also conducted a similar comparative analysis in May 2023, using the final version of the Brazilian bill. Overall, *Bill No. 2630* incorporates several principles introduced by the DSA. One of the most evident similarities, which was included after the European Union's text was approved in its April 2023 version, is the concept of systemic risks.

In the DSA, Articles 34 and 35 establish that Very Large Online Platforms (VLOPs) must identify, analyze, and diligently assess systemic risks arising from their services, including algorithmic systems, covering the dissemination of illegal content and their impact on

[8] In Portuguese, https://www.camara.leg.br/midias/file/2022/03/fake.pdf
[9] In Portuguese, https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=2265334&filename=PRLP+1+%3D%3E+PL+2630/2020
[10] In Portuguese, https://baptistaluz.com.br/wp-content/uploads/2023/05/BLUZ_230511_ebook_PD_Analise-Comparativa-DSAxPL2630_20_v3.pdf

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fundamental rights, civic discourse, electoral processes, gender-based violence, and the protection of minors. Similarly, Article 7 of *Bill No. 2630* adopts this approach by listing systemic risks and imposing a duty of diligence on platforms to identify, assess, and mitigate them, with a particular focus on their impact on fundamental rights, democracy, and public security.

Additionally, *Bill No. 2630* seeks to establish a differentiation regarding "who should be regulated". The Brazilian legislation would apply only to providers with more than 10 million users – approximately 5% of the population. However, unlike the European legislation, it does not include a tiered system of obligations, and platforms with a smaller user base are not subject to regulation. While the European framework aims to regulate "digital services" in a broader sense, the Brazilian bill limits its scope to "social network providers, search engines, and instant messaging services".

Another apparent similarity introduced by *Bill No. 2630* is transparency. This is one of the core concepts outlined in the DSA and is also reflected in the official name of the Brazilian legislation. Although commonly referred to as the "Fake News Bill" its official title is the *Brazilian Law on Freedom, Responsibility, and Transparency on the Internet*. Transparency is addressed in Chapter IV of the Brazilian legislation, whereas in the DSA, it is mentioned in multiple articles, including Articles 15, 24, 27, 39, and 42. In both frameworks, platforms are required to publish transparency reports every six months, explain how their algorithmic recommendation systems function, and ensure transparency regarding advertising. Another transparency-related provision concerns data access for researchers, which is explicitly included in European law.

Codes of conduct, external audits, and crisis response protocols are also topics present in both texts. Additionally, both legislative frameworks establish due process in content moderation cases, although the DSA provides more detailed guidelines on this matter, while the Brazilian bill leaves room for further development. However, there are also notable differences, particularly regarding the regulatory structure, which reflects the contrast between a national framework and a supranational bloc, as well as the absence of enforcement mechanisms in the Brazilian bill, raising ongoing concerns about the country's capacity to implement the proposed measures (Bueno & Canaan, 2024). Other elements in the Brazilian text, such as the duty of care, draw inspiration from other legislative proposals, including Germany's *NetzDG Law* (Soares, 2023).

It is evident that the *Digital Services Act*, which has significantly influenced *Bill No. 2630*, despite key differences, does not directly address journalism sustainability. Its contributions in this regard are primarily symbolic, linked to the protection of the digital public sphere, the promotion of transparency, and the establishment of content moderation appeal mechanisms. In Brazil, discussions have been held regarding the possibility of extending data access provisions to journalists in addition to researchers (Fenaj, 2023). However, this proposal was not included in the final version of the bill, nor is it a feature of the DSA.

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Unlike the DSA, however, *Bill No. 2630* includes a specific section on journalism, which reveals an attempt by the Brazilian legislator to encompass multiple dimensions of digital regulation within a single legislative proposal. This choice, although understandable given the scarcity of sector-specific regulatory frameworks in the country, also highlights the structural challenges of legislative formulation in Brazil, especially when compared to the more segmented approach adopted by other democracies.

The legislators who drafted the Brazilian proposal drew inspiration from other initiatives addressing this issue, specifically from the *News Media Bargaining Code* in Australia. The proposal implemented in 2021 is based on the central idea that journalistic organizations "increasingly depend on platforms to reach their audiences and generate advertising revenue but are not adequately compensated for the use of their content and are unable to negotiate fairly without state intervention" (CGI, 2023, p. 15). The Australian legislation, therefore, argues that digital platforms should remunerate news organizations for the use of their content. Initially, this payment is to be determined through direct negotiation between the parties; if no agreement is reached, the amount is decided by an independent arbitration panel (ACMA, 2022). The Canadian *Online News Act*, enacted in 2023, proposes a similar approach.

In the Brazilian bill, the remuneration for journalistic content is also structured as a negotiation between the parties, with arbitration mechanisms in place in cases where an agreement cannot be reached – although the details of this process are to be regulated later. Additionally, the bill includes provisions on copyright in a separate chapter. The inclusion of this topic within a bill aimed at regulating digital platforms marks a crucial difference, as other countries tend to address these issues through separate legislation.

In Brazil, given the unfavorable political scenario and the strong opposition to the bill, which was labeled by critics as the "Censorship Bill" it is hypothesized that lawmakers included all these topics in a single proposal as a strategy to advance multiple agendas simultaneously. However, following the intense backlash against the bill in early May 2023, the bill's rapporteur deputy attempted to "split" the text, transferring the provision on journalism remuneration to a separate bill focused solely on copyright to ease political tensions (Nóbrega, 2023b). This alternative bill, however, also failed to progress.

Although the DSA does not provide direct input for the Brazilian bill, the recently approved *European Media Freedom Act*[11] (EMFA) may serve as an inspiration for either a revised version of the bill or future proposals on the matter. While the EMFA, which came into force in May 2024, does not specifically address journalism remuneration, it introduces important safeguards for protecting the profession in the digital environment, such as moderation protections for journalistic content and incentives for media pluralism.

[11] https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/new-push-european-democracy/protecting-democracy/european-media-freedom-act_en

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THE BRUSSELS EFFECT

This context aligns with what the scholar Anu Bradford (2020) defines as the "Brussels Effect". According to her, the term "refers to the EU's unilateral ability to regulate the global marketplace" (Bradford, 2020, p. 1), which may be unintentional but is ultimately a reflection of the size and attractiveness of the European market.

Bradford highlights that the Brussels Effect can manifest either *de facto* or *de jure*, differing in the mechanisms through which EU regulations spread globally. In the first case, European legislation extends its influence through corporate practices, meaning that no formal regulatory action is required for the rules to be adopted in other contexts. This occurs because multinational companies often find it more efficient and cost-effective to standardize their operations across all markets, particularly when the EU market is large and significant.

Based on the experiences analyzed, we observe that this strand of the theory does not necessarily apply to platform regulation. Many obligations imposed on large digital platforms within the EU have not been extended to the rest of the world. For instance, under the DSA, corporate transparency reports[12] cover only the European market, and access to data for researchers follows the same pattern.

Another example that illustrates platforms' reluctance to extend their obligations beyond Europe is related to the GDPR. In June 2024, Meta initiated a process to request the consent of European users for the use of their data and content in AI training. This request was made in advance solely to comply with the *General Data Protection Regulation* (GDPR). In Brazil, the approach was different: there was no prior notice, but users could still object based on the country's similar legislation – the *General Data Protection Law* (LGPD). However, in countries without equivalent regulations, this was not an option, as reported by *The New York Times* (Jiménez, 2024). This suggests that rules are effectively followed only in already regulated environments.

In their analysis of this issue, Bueno and Canaan (2024) interviewed experts from various sectors to understand the extent to which the DSA shapes the Brazilian draft law. Based on the interviews, the researchers conclude that there is no evidence of a *de facto* effect, as companies are not adopting the DSA as a standard global compliance, considering it too rigid and still in a testing phase. Another concern is that the adoption of aspects of the DSA could inspire other countries to adopt similar measures, potentially leading to a so-called "Brazil Effect".

The second mechanism identified by Bradford (2020) occurs through legislative means, where the formal adoption of these rules may have been influenced by the *de facto* effect but also by other factors. The creation of similar legislation can result from corporate adoption, as companies may even begin lobbying for specific regulations to be implemented in other countries to level the playing field. This is particularly relevant in

[12] https://transparency.dsa.ec.europa.eu/

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scenarios where multinational corporations must comply with the EU's stricter regulations while competing with local businesses subject to more lenient rules. However, Bradford (2020) notes that other factors, such as pressure from foreign consumer advocacy groups, can also influence the decision to adopt similar legislation.

Bradford emphasizes that these factors can be both pragmatic and normatively driven. Pragmatic factors include the accessibility of EU legislation, facilitated by its availability in all official languages of the Union, as well as historical and cultural influences inherited from colonial ties that many Latin American and African countries maintain. Additionally, the well-defined nature of EU regulations, designed to accommodate a wide range of countries, further supports their transposition into other legal frameworks.

On the normative side, the author Bradford argues that the quality of ideas influences this process, as does the Union's commitment to democratic values and fundamental rights: "The appeal of these principles means the EU sets a 'virtuous example', leading to a diffusion of its norms across the world" (Bradford, 2020, p. 81).

This perspective, Bradford adds, has attracted criticism regarding a possible "regulatory imperialism", which could represent a new form of colonialism under the guise of a "benevolent hegemon". Concerns include issues of sovereignty and the imposition of European preferences (Bradford, 2020, p. 249).

In the specific case under analysis, based on the research by Bueno and Canaan (2024), it is evident that the DSA exerts a symbolic and normative influence on the Brazilian draft law. However, this influence is limited in some respects by its structural constraints. In tracing this incorporation, key actors interviewed note that the primary reference to the DSA in *Bill No. 2630* originated from contributions made by the federal government in 2023, which were later incorporated by the bill's rapporteur, Congressman Orlando Silva. Additionally, the European Union's diplomacy played a relevant role by fostering regulatory exchange with Brazilian authorities (Bueno & Canaan, 2024, p. 9).

It is also noted that, on a symbolic level, the DSA is mobilized as a reference that legitimizes the regulatory proposal in Brazil, even though, in practice, this influence is limited to discursive aspects. In this sense, the authors also question the use of this legitimizing instrument, which naturalizes Europe as a reference: "The paper re-engages with the debate surrounding the cultural hierarchy identified by Quijano (2002), opening a room for discussion on how the pervasiveness of the European worldview represents a form of postcolonial legacy influencing policy construction in the Global South" (Bueno & Canaan, 2024, p. 9).

Regarding the specific aspect related to journalism, it is noteworthy that legislative influence also comes from other non-European countries, such as Australia and Canada, which are still considered part of the Global North.

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REGULATORY IMPORTATION IN THE GLOBAL SOUTH: PATH, SHORTCUT, OR DEAD END?

By naming the influence of the European Union's regulatory capacity beyond the continent's borders as the Brussels Effect, Ana Bradford highlights the EU's transnational ability to regulate the global market. In the case under discussion − the attempts to regulate platforms in Brazil − norms and regulations from the EU are introduced by specific private actors: pro-regulation civil society organizations, academic sectors dedicated to studying the democratization of communication, and left-wing and center-left parliamentarians. The most significant influence was observed in the formulation of various bills for discussion and legislative proceedings, particularly in the substitute text of *Bill No. 2630*. As highlighted in Section 5, this bill presents multiple similarities with the European Union's *Digital Services Act* (DSA).

According to Bradford, for the importation of legislation to effectively establish hegemonic regulatory power, five conditions must be met: (1) market size, (2) regulatory capacity, (3) stringent standards, (4) inelastic targets, and (5) non-divisibility.

In the attempt to regulate platforms in Brazil, only condition (4) is met. The presence of inelastic targets is evident in the difficulty of jurisdictional shifts aimed at evading regulations. The judicial suspension of X/Twitter by Brazil's Supreme Federal Court (STF) for 38 days in 2024 serves as the most striking example of this condition. The platform was only allowed to resume operations after complying with a court order to remove posts and paying fines, invoking "national sovereignty", as stated by STF Minister Alexandre de Moraes (Marques & Rezende, 2024).

The remaining conditions are not met. Regarding market size (1), Bradford herself argues that although the European Union's influence remains hegemonic, it has already surpassed its peak. It is also important to note that, despite their transnational nature, the Big Tech companies targeted by regulation are headquartered in countries − primarily the United States and China − where regulatory pressures remain relatively lenient.

The influence of more permissive legislation in these robust economies also undermines the principle of non-divisibility (5), which requires multinational corporations to standardize their compliance with the strictest regulations across all markets in which they operate.

The return of Donald Trump to power and Big Tech's alignment with his administration, alongside a push for platform deregulation even beyond US borders, suggests movement in the opposite direction. On February 26, 2025, the Office of Western Hemisphere Affairs, an agency within the US Department of State, cited Brazil in a statement criticizing the blocking of American social media platforms by foreign authorities, arguing that such actions were "incompatible with freedom of expression". The statement referred to the suspension of the Rumble platform in Brazil, a network backed by Trump Media. The department's note stated:

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> Rumble is an American company operating under US law. The idea that a foreign judge can dictate which content an American platform must remove and who can receive payments within the United States represents a direct attack to US digital sovereignty. This kind of judicial overreach is precisely why Rumble and Trump Media have filed a lawsuit [against Supreme Federal Court Justice Alexandre de Moraes] in US federal court. (BBC News Brasil, 2025)

In the Brazilian case, conditions (2) and (3) are also barely met. The historical overview presented in Sections 1 and 2 suggests that regulatory capacity has been robust only during dictatorial periods, primarily in the form of censorship, while the tendency toward stringent standards has either mainly been absent or lacked the necessary legal and enforcement mechanisms to ensure their effective implementation.

The immediate political context is also unfavorable for the adoption of EU-style regulation. Studies on the ideological composition of the Brazilian Congress suggest that only around 20% of legislators have a progressive profile, who, in theory, would be more aligned with discussions on the democratization of communication. However, given more pressing contemporary issues such as the climate crisis, inflation, and ideological polarization, this topic remains secondary. The coexistence of a center-left executive branch with a conservative right-wing and far-right legislature, which, as demonstrated, is aligned with Big Tech, has led to a legislative deadlock in advancing platform regulation proposals inspired by the EU's *Digital Services Act*.

In the absence of regulation, Brazil's short-term trend is for the judiciary to continue playing a central role in its relationship with platforms. According to the already cited Internet Civil Framework, content can only be removed following a court order, meaning that judicial discretion takes precedence over any regulatory framework. However, while this approach may lead to changes in platform liability, it does not advance discussions on other critical issues, such as transparency, nor does it propose alternatives for ensuring the sustainability of journalism in digital spaces.

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BRISELSKI UČINAK NA REGULACIJU DIGITALNIH PLATFORMA: ANALIZA BRAZILSKOGA REGULATORNOG PROCESA I NJEGOV UTJECAJ NA NOVINARSTVO

Lizete Barbosa da Nóbrega :: Rodrigo Pelegrini Ratier

SAŽETAK *Ovaj članak uspoređuje regulative digitalnih platformi Europske unije s najnaprednijim zakonodavnim prijedlogom Brazila, Zakonom 2630/2020, koji odražava utjecaj europskog okvira, osobito Zakona o digitalnim uslugama (engl. Digital Services Act, DSA). Analizirajući dokumentaciju, članak prati povijest regulacije komunikacija u Brazilu te ističe izazove u tome području. Usporedbom brazilskog prijedloga sa Zakonom o digitalnim uslugama uočavaju se i sličnosti, osobito u pogledu transparentnosti platformi i funkcioniranja algoritama, kao i razlike, poput uključivanja naknade za novinarski sadržaj. Članak također analizira tzv. „briselski učinak", proučavajući kako se taj koncept primjenjuje u brazilskom kontekstu.*

KLJUČNE RIJEČI

REGULACIJA, PLATFORME, BRAZIL, BRISELSKI UČINAK, NOVINARSTVO

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