

Momentum

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How New Executive Decrees Are Reshaping Platform Regulation in Brazil

At the end of May, President Luiz Inácio Lula da Silva signed two decrees establishing new obligations for digital platforms operating in Brazil. The measures set out mechanisms for overseeing major technology companies and define their responsibilities regarding certain categories of third-party content, granting new supervisory powers to Executive Branch agencies over the activities of these companies within the country.

Each in its own way, the decrees seek to implement the platform liability framework introduced by a ruling of Brazil's Supreme Federal Court (STF) in mid-June 2025, in the context of a landmark case concerning the Marco Civil da Internet—the federal law that establishes rights, guarantees, and obligations for internet use in Brazil. The presidential decrees do not require legislative approval and will enter into force sixty days after their signature, meaning that the new obligations will take effect in mid-July.

In this policy brief, **Momentum – Journalism & Tech Task Force** presents the main innovations introduced by the decrees, analyzes the measures in light of ongoing debates on platform regulation in Brazil, and discusses their potential implications for journalism.

The Decrees and the “New” Marco Civil da Internet

To understand the innovations and implications of the decrees signed by President Lula, it is necessary to revisit the ruling issued by Brazil’s Supreme Federal Court (STF) roughly one year ago, which redefined the liability regime applicable to platforms for content posted by their users. At the time, **Momentum** published a detailed policy brief on the decision, available [here](#).

In short, prior to the ruling, the Marco Civil da Internet (MCI)—and more specifically, its Article 19—provided that social media platforms could only be held civilly liable for user-generated content if they failed to remove the material identified in a specific court order. In other words, decisions regarding the compulsory removal of content rested with the judiciary rather than with the platforms themselves. Under this framework, companies retained discretion to establish and enforce their own content moderation policies but, as a general rule, were not held liable for harms arising from user posts unless they failed to comply with a judicial order.

The Supreme Court decided that this framework remains in place for certain situations, particularly cases involving offenses against an individual’s reputation, such as defamation, slander, and insult. For more serious crimes and for the dissemination of content that has already been deemed unlawful, however, the Court determined that—until Congress enacts new legislation on the matter, which has not yet occurred and in part explains the Executive Branch’s decision to issue the decrees—platforms may be held liable if they fail to remove such content after receiving notice. This approach closely resembles the so-called “notice-and-action model”¹ and also applies to cases involving fake accounts.

¹ The notice-and-action (or notice-and-takedown) model became internationally established through regulatory frameworks such as [Section 512 of the Digital Millennium Copyright Act \(DMCA\)](#) in the United States and the European Union’s [E-Commerce Directive](#). Although it varies across jurisdictions, its core logic is to link the liability of digital intermediaries to their response to notifications concerning allegedly unlawful content. This approach differs from the framework established under Article 19 of the Marco Civil da Internet, which made judicial intervention a prerequisite for holding platforms liable.

The ruling also reinforced companies' obligation to provide more effective and transparent mechanisms for content moderation. Along the same lines, it recognized that platforms have a duty of care in addressing systemic risks associated with the circulation of content linked to serious offenses, including attempts to overthrow the democratic order, terrorism, racism, homophobia, and crimes against women and children. In such cases, the Court's interpretation requires companies to take preventive and immediate action to prevent the continued availability and widespread dissemination of this content.

As a result of the ruling, new obligations and responsibilities were imposed on platforms, creating a corresponding need for oversight and systemic monitoring by public authorities. In practice, several of the requirements emerging from the Supreme Court's decision required further regulation and clarification to ensure their effective implementation. In a context where Congress has yet to address the issue, the decrees were issued as an attempt to fill some of these regulatory gaps.

Key Provisions and Innovations of the New Decrees

In summary, Decrees No. 12,975/2026 and 12,976/2026 address, respectively, the regulation of the Marco Civil da Internet and measures to combat violence against women in digital environments. As presidential decrees, they do not require legislative approval and will enter into force sixty days after their signature, meaning that the obligations they establish will take effect in mid-July. The decrees may, however, be challenged before the courts and remain subject to legislative debate, as Congress retains the authority to enact legislation that supersedes them.

Broadly speaking, the measures require platforms to establish channels for receiving and tracking complaints, while ensuring that users are adequately informed about how these mechanisms operate.

They also mandate proactive and preventive action by platforms to curb the dissemination of unlawful and criminal content. With regard to the protection of women, the decrees prohibit the AI-generated creation or manipulation of intimate content and establish a maximum two-hour deadline for its removal following notification by the victim or her legal representative. In addition, the measures strengthen the existing protection framework by requiring priority reporting channels and expedited response procedures for cases involving violence against women, bringing platforms into closer coordination with institutional networks already engaged in addressing gender-based violence.

The most significant innovation introduced by the decrees, however, is the designation of Brazil's National Data Protection Authority (ANPD) as the body responsible for regulating, overseeing, and investigating potential violations committed by platforms. In practice, this means that the ANPD will play a more active role in investigations and enforcement proceedings involving major technology companies, positioning the agency as a central actor in Brazil's ongoing debates on technology regulation and digital sovereignty.

Beyond the provisions already established by the decrees, the designation of the ANPD empowers the agency to regulate additional operational aspects related to platform notifications and duty-of-care obligations, including requirements for transparency reporting and procedures through which users may challenge the reporting and/or removal of content. Combined with its regulatory and oversight responsibilities under the Digital Child and Adolescent Statute (ECA Digital), the innovations

What Is the ANPD?

Brazil's National Data Protection Authority (ANPD) is the public body responsible for safeguarding personal data protection in the country. Linked to the Ministry of Justice and Public Security, the agency oversees and promotes compliance with Brazil's data protection framework, while also exercising responsibilities related to the Digital Child and Adolescent Statute ([ECA Digital](#)) and—now—certain provisions of the Marco Civil da Internet. Created in 2019 as the National Data Protection Authority, the ANPD was transformed into an independent regulatory agency in 2025, gaining greater administrative autonomy and institutional capacity to carry out regulatory, supervisory, and enforcement functions [[Read more](#)].

introduced by the decrees position the agency as a uniquely qualified authority to assess the systemic conduct of digital platforms in Brazil.

The Decrees in Brazil's Evolving Digital Regulatory Landscape

The signing of the decrees comes at a time when debates over platform regulation and artificial intelligence governance are gaining momentum in Brazil. In addition to the recent entry into force of the Digital Child and Adolescent Statute (ECA Digital) and the adoption of new rules governing the use of AI in the context of the national elections scheduled for the second half of this year, Brazil's federal competition authority approved, at the end of May, the opening of an investigation into Google to assess the impact of the company's conduct on the news media market.

At the legislative level, attention is also focused on the consideration of bills that could shape the near future of sectors affected by the operations of major technology companies. These include Bill No. 4,675/2025, on digital competition, and Bill No. 2,338/2023, which establishes a general framework for the development, deployment, and use of artificial intelligence in Brazil.

Against this backdrop, the decrees signed by President Lula may be interpreted as an indication of the federal government's priorities and regulatory approach to key issues on the digital policy agenda. By seeking to address matters left unresolved by the Supreme Court's ruling, the measures also provide insight into the regulatory paths the Executive Branch intends to pursue in the governance of digital platforms and artificial intelligence. Given that Lula is expected to seek re-election in October, the decrees may also signal policy priorities and technological governance principles that could form part of a potential future administration's agenda.

What the Decrees Could Mean for Journalism

Although the decrees do not address journalism directly—that is, they contain no specific provisions regarding the impact of platforms on media sustainability, the distribution of advertising revenues, or the visibility of news content—their effects are likely to reverberate across the sector. By redefining institutional responsibilities and assigning new powers to the ANPD, the measures help reshape the arenas in which key disputes over the future of Brazil’s information ecosystem will unfold.

The designation of the ANPD as the primary authority responsible for platform oversight means that an increasing share of debates on digital governance will take place within an institutional setting traditionally associated with data protection, risk management, and technology regulation. For journalism, this creates a need to strengthen engagement with the agency in order to ensure that the sector’s concerns are heard in regulatory discussions. It also requires translating journalistic concerns into regulatory and technical frameworks that are not always familiar to media organizations. Meeting this challenge will require greater knowledge-sharing and the development of a more robust critical perspective across the sector.

Recent experience demonstrates that meaningful participation by the journalism community can influence strategic regulatory decisions. It is worth recalling that CADE’s decision to open an investigation into Google followed active engagement by journalism organizations and industry associations, which were able to articulate the risks posed to the news ecosystem by changes to the platform’s search services. Just as the sector was able to engage constructively with Brazil’s competition authority, it must also be prepared to do so with the ANPD and with other institutions that may assume a leading role in this policy agenda.

At a time when strategic regulatory questions are being actively debated in Brazil, journalism cannot afford to remain absent from informed discussions about the impact of digital platforms on its activities.

In the current context, an accurate understanding of the political and regulatory landscape—and the capacity to participate in key debates across the various forums in which they are taking place—are essential conditions for building a journalism sector capable of both innovating in response to contemporary challenges and safeguarding the financial sustainability and independence of the broader information ecosystem.

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