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## The Brazilian Internet Framework

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The Brazilian Internet Framework is the recently approved law in Brazil that aims to set forth rights, individual guarantees and duties that should guide the general use of the Internet in Brazil.

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After two years and seven months of negotiations and intense lobbying, the House of Representatives passed, on March 25<sup>th</sup>, the Bill of Law regarding the Internet Civil Framework<sup>1</sup> (“Brazilian Internet Framework”). The Bill of Law was subsequently approved, on April 22<sup>nd</sup>, by the Senate and, the following day, enacted by President Dilma Roussef.

It is noteworthy that our firm acted with the purpose of adding value to the approval process of the Brazilian Internet Framework, both in the House of Representatives and in the Senate, since our Intellectual Property partner, Leonardo Palhares, was invited by both Houses to speak on two public hearings on this subject in 2012 and also in this year.

The so-called “Internet Bill of Rights” establishes principles, guarantees, rights and duties for Internet Service Providers and will rule the use of Internet in Brazil.

In this regard, the Bill is divided into 5 chapters: Preliminary Provisions, User Rights and Guarantees, Provision of Internet Connection and Internet Applications, the Role of Public Authorities and Final Provisions. The Brazilian Internet Framework is focused on the users’ rights and general principles for the regulation of

Internet, as well as to the storage of connection logs, potential liability applicable to Internet Service Providers and web neutrality.

It is worth highlighting the most relevant topics included in the recently enacted text, as follows:

- **Web Neutrality**

One of the key points of the Brazilian Internet Framework, the principle of Web Neutrality prohibits discrimination of Internet users based on the services package contracted with Internet providers. As a result, Internet provider companies shall treat Internet customers under equal conditions of limit and speed, regardless of the category of services contracted.

In other words, this principle states both Internet and its data must be treated in an equally way, not discriminated against or treated differently depending on user or content. The text approved by the Senate only allows such discrimination or degradation in case of technical or emergency matters.

The Web Neutrality is considered a victory for web freedom, since countries as USA and Canada are heading in the opposite direction. Both aforementioned countries are examples of countries which do not apply the principle of Web Neutrality as a rule. In the USA, for instance, Netflix recently entered into an agreement with Comcast to pay for preferential

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<sup>1</sup> Bill of Law No. 2.126/2011.

treatment of Internet traffic with Netflix's film streams.

Whereas the Internet Service Provider industry in the USA is basically dominated by two companies – Comcast and Verizon –, agreements such as that executed between Comcast and Netflix are very detrimental to ordinary people while allowing discrimination based on user profile and accessed content.

- **Data Centers Location**

Data centers meant that large Internet companies would have to keep a physical structure in Brazil to store data of Internet users. The current Brazilian Internet Framework simply sets forth that the data stored by such companies shall be subject to Brazilian law, if related to Brazilian users or users located in Brazil. Therefore, no requirement that Internet companies keep a data center in Brazil.

- **Internet Service Provider's Liability**

Content providers – websites and apps - will only be liable for publishing unauthorized third-party content if they ignore a court order determining the exclusion of the content. The requirement of a court order before a certain content is deleted serves to delay the removal of the content and to prolong any potential breach to the applicable laws.

In the specific case of pornographic content, the page that provides unpermitted images or videos that infringe the privacy of others is subject to a stricter scrutiny than the general content. In this event, a notification to delete the pornographic content is enough to create liability should the content persist online.

- **Data Storage**

Internet Service Providers will be required to store the Internet Protocols and times of users' connections for 1 year. In addition, search sites will be obliged to save browsing history for 6 months. It is worth mentioning that before the amendment, the storage was at the discretion of Internet Service Providers and sites.

Almeida Advogados has a team of highly specialized professionals with the expertise in Internet Law matters and we are at your entire disposal for any further clarifications you may deem necessary.