

INFORMATIVE - DIGITAL LAW

DIGITAL NEWSLETTER



6th EDITION

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news in this edition*



ALMEIDA
ADVOGADOS

This is the informative prepared by our Digital Law team, aiming to gather the most relevant news and discussions on digital topics. Enjoy your reading!



COSTS OF DATA BREACHES: IMPLICATIONS AND STRATEGIES FOR CORPORATE PROTECTION

The report entitled "Cost of a Data Breach 2024" reveals that the average expenditure associated with a data breach in Brazil amounts to an astonishing R\$ 6.75 million, with the healthcare and services sectors bearing the most considerable impacts. Phishing attacks emerge as the predominant vector, accounting for a notable 16% of all incidents.

The adoption of artificial intelligence is posited as a means for enterprises to mitigate these costs; organizations employing such technologies have reported a reduction of R\$ 2.17 million in expenditures, coupled with accelerated response times. Reassessment of data security and management policies, essential to ensure compliance with data protection legislation and minimize associated risks, and the implementation of robust cybersecurity practices are essential to safeguard customer trust and circumvent financial penalties

CENTRAL BANK OF BRAZIL INITIATES SECOND TESTING PHASE OF DIGITAL REAL

The Central Bank of Brazil has embarked upon the second phase of testing for Drex, the digital currency of the Brazilian real, slated for implementation in 2025. This phase encompasses thirteen meticulously selected projects, featuring innovations such as the transfer of receivables and transactions involving debentures. This presents enterprises with the unique opportunity to explore novel financing avenues while optimizing their financial operations. The participation of sixteen consortia and enterprises signifies a collective commitment to modernizing the financial system and aligning it with the exigencies of the market.

For businesses, the adoption of Drex may herald enhanced agility and security in transactions, facilitating access to credit while concurrently reducing operational costs. The anticipated functionalities promise to revolutionize the manner in which enterprises conduct payments and manage their assets, thereby enabling a more efficient and integrated financial management framework. Organizations must prepare for these transformative changes, thoughtfully considering how the digital currency may be seamlessly integrated into their strategic and daily operations.

TRT UPHOLDS JUST CAUSE DISMISSAL OF EMPLOYEE WHO REGISTERED CLIENTS' PURCHASES UNDER THEIR OWN CPF FOR CASHBACK GAINS

The ruling from the Regional Labor Court (TRT) has upheld the dismissal for just cause of an employee who fraudulently used customers' purchase information and personal data to obtain cashback rewards under her own CPF, resulting in a financial detriment exceeding R\$ 2,000 to the enterprise. This situation underscores the paramount importance of data protection, as the improper use of personal information can lead to grave financial and legal ramifications.

Beyond the breach of trust, the case analysis emphasized the imperative for organizations to implement stringent data protection policies and diligent oversight of personal data processing. The verdict serves as a clarion call for companies to remain vigilant regarding the proper utilization of client information, ensuring that protocols are unequivocal and effectively communicated to prevent fraud and safeguard the integrity of personal data.

FEDERAL POLICE APPREHENDS INSS OFFICIALS AND HACKER INVOLVED IN THE SALE OF BRAZILIAN CITIZENS' DATA

The Federal Police has initiated Operation "Data Market," culminating in the apprehension of three officials from the National Institute of Social Security (INSS) and a hacker, all implicated in the illicit sale of personal data pertaining to Brazilian citizens. This operation executed 29 search warrants and 18 arrest warrants across various states and the Federal District.

The investigation, which commenced in September 2023, unveiled a criminal organization employing advanced invasion techniques to infiltrate the INSS database. This scenario underscores the vulnerability of personal information and the imperative of instituting robust data protection measures within both public and private institutions.

ANPD RELEASES REPORT ON DATA PROTECTION IN THE DIGITAL ECONOMY OF THE G20

The National Data Protection Authority (ANPD) has published a report accentuating the significance of digital literacy and proposes novel regulatory approaches to tackle the challenges inherent in the global digital economy. Among the key discussions were the necessity for training in data protection and multilateral collaboration to promote inclusive digital policies, aimed at fostering a secure and informative environment for citizens.

Moreover, the report underscores the relevance of regulatory sandboxes as instruments for testing innovations in data governance and artificial intelligence, to facilitate a balance between innovation and data protection, ensuring that emerging technologies are developed according to appropriate ethical and quality standards.

SUPREME COURT RULES THAT THE PUBLIC PROSECUTION SERVICE AND POLICE MAY ACCESS INVESTIGATED INDIVIDUALS' DATA WITHOUT JUDICIAL AUTHORIZATION

In a momentous decision, the Supreme Court of Brazil has determined that the Public Prosecution Service and law enforcement agencies are permitted to access the personal data of individuals under investigation—such as their names, parentage, and addresses—without the necessity of prior judicial approval. This ruling underscores the paramount significance of privacy and data protection, facilitating the unfettered sharing of personal information devoid of judicial oversight.

The ramifications for the private sector are profound, as telecommunications companies and financial institutions must now reassess how this new interpretation impacts their obligations concerning confidentiality and data security. Furthermore, this decision ignites pertinent discussions regarding the adequacy of compliance and data protection policies, given that investigative bodies are now afforded easier access to information that may encroach upon the privacy of clients.

SUPERIOR COURT OF JUSTICE TARGETED BY CYBERATTACK, YET REPORTS NO ADVERSE IMPACT ON SYSTEM

The Superior Court of Justice (STJ) recently fended off a cyberattack attempt on 6 September, swiftly regaining control over its system without any detriment to its users. In an official communiqué, the court classified the incident as a "criminal cybernetic activity," aimed at incapacitating its digital services. Thanks to the implementation of robust security measures, the Court's operations remained unimpeded, thereby demonstrating the efficacy of its incident response strategies.

Moreover, the increasing frequency of cyberattacks targeting public institutions, including the Supreme Court and Anatel, serves as a clarion call for the private sector. Companies are encouraged to bolster their cybersecurity strategies, investing in protective technologies and staff training, whilst remaining cognisant of emerging regulations concerning information security.

REGULATORY RADAR

INTERNAL REGULATIONS OF THE CNPD PUBLISHED

In September 2024, the resolution CNPD No. 2 was published delineating guidelines for the functioning of the National Council for Personal Data Protection and Privacy (CNPD), which operates under the auspices of the ANPD. This resolution revokes its predecessor and elaborates on the composition of the CNPD, which will comprise 23 members, including representatives from various ministries, civil society organisations, and private sector.

CGU UPDATES GUIDELINES FOR APPLICATION OF THE LAI

The Federal Inspector General Office (CGU) released Normative Ordinance No. 176, which redefines the application of the Access to Information Law (LAI) and has important implications for companies. The new regulation establishes that the confidentiality of personal information will be limited to 15 years, unless there is a clear justification for longer periods. For organizations, this presents an opportunity to review and strengthen their data governance policies, ensuring that they are in compliance with transparency guidelines and preventing abuses in the retention of sensitive information.

SENATRAN OPENS PUBLIC CONSULTATION TO REGULATE ACCESS TO DATA FROM COMPUTERIZED SYSTEMS AND SUBSYSTEMS

The National Traffic Secretariat (SENATRAN) has started a public consultation for the draft ordinance that aims to regulate access to data from its computerized systems and subsystems. With the opening for contributions until October 16, 2024, companies can not only contribute to the construction of a stronger regulatory framework, but also better prepare to adapt to the data protection requirements that are becoming increasingly relevant in the business environment.

ANPD PUBLISHES MONITORING REPORT ON THE REGULATORY AGENDA FOR THE FIRST HALF OF 2024

In September, the National Data Protection Authority (ANPD) released the Monitoring Report on the Regulatory Agenda for the first half of 2024. The document reveals that, in all, 3,281 suggestions were presented by citizens and entities during Grant Takes, Public Consultations and Public Hearings.

ANPD REFORMULATES INSPECTION PAGE ON ITS WEBSITE

The ANPD has updated its website page dedicated to Inspection, in order to facilitate access to information on monitoring, inspection, and administrative sanctioning proceedings, as well as security incidents related to data protection. The new interface offers an intuitive and clear view of the inspection process, promoting transparency and guidance to society.

ANPD LAUNCHES SPECIAL PAGE ON INTERNATIONAL DATA TRANSFER

The ANPD launched a page on International Data Transfer, with guidance on electronic petitions and regulatory mechanisms, such as contractual clauses and global corporate rules, and a Frequently Asked Questions section, offering objective answers to questions.

LEGISLATIVE RADAR

PL 2.338/2023

The Administrative Council for Economic Defense (CADE) presented its contributions to the Bill that regulates Artificial Intelligence in Brazil, highlighting the importance of developing new investigation tools and techniques that consider the particularities of algorithms and AI.

PL 3419/2024

Amends the Consumer Protection Code to prohibit pharmacies and drugstores from conditioning discounts on the provision of customers' personal data. It further seeks to prevent the use of such data for purposes unrelated to pharmaceutical assistance, as well as its sharing with third parties.

PL 118/2021

Concerns the permission for tracking mobile devices via their IMEI numbers and models in instances of theft or robbery.

PL 2869/2024

Seeks to ban the promotion, advertisement, and encouragement of hazardous gaming activities and addictive electronic games by digital influencers, public figures, or any individuals, with the aim of safeguarding the populace from the associated risks.

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