

June, 2016



Brasil Legal Update

New Regulations for Data Privacy

On May 11, 2016, Brazil enacted a Presidential Decree regulating Law 12.965, also known as the Brazilian Civil Rights Framework for the Internet. The Decree establishes parameters for monitoring compliance with the law, which sets forth harsh penalties for non-compliance. Penalties include fines of up to 10 percent of a company's gross revenue and/or suspension and service interruption.

Here are some of the highlights introduced through the new regulation, which will be in force starting June 11, 2016:

- The Imposition of governance policies on information, which must include rules on the control of data access; authentication mechanisms; an inventory of everyone who accesses data; encryption and technological measures to ensure data integrity; and separation of commercial databases.
- The retention and storage of personal data must follow the principle of "minimum retention". The same principle will be applied to storage of third party private communications and connection records as well as access to applications. A minimum period of storage means that the period of retention must be kept to the shortest time necessary for the fulfillment of its purpose.

- The law does not apply to "specialized services", even if such services make use of TCP/IP protocols or the equivalent, provided they are not providing Internet services and are intended for specific groups of users with strict mechanisms of inclusion.
- The Prohibition of "zero rating". Unilateral conduct that "prioritizes data packages due to commercial arrangements" are prohibited.
- Compliance supervision will be the responsibility of three different public authorities: (1) CNS (National Consumer Bureau) will be responsible for surveillance and investigation of offenses under the Consumer Protection Code; (2) SBDC (Brazilian System of Competition Defense) will be responsible for the investigation of violations of the economic order; and (3) Anatel (National Telecommunications Agency) will be responsible for surveillance and investigation of offenses relating to the protection of connection logs.

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