



August 17, 2025

X Corp.
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Ambassador Jamieson Greer
United States Trade Representative
600 17th Street NW
Washington, DC 20508

Re: Concerns Regarding Recent Developments in Brazilian Internet Regulation Framework and its impacts to U.S.-based platforms

Dear Ambassador Greer,

X (formerly Twitter) established its first office in Brazil in 2012 and has maintained operations in the country for over a decade. Brazil represents one of the platform's largest global user bases, making it a strategically significant market for X. X has closely observed the evolution of local policy, court interpretations, and enforcement practices. Over this period, certain developments have raised substantial concerns regarding regulatory predictability, proportionality of enforcement, and the protection of cross-border digital trade and expression. These trends directly impact U.S. digital service providers and warrant close examination in the context of the Section 301 process.

In 2014, Brazil enacted the Marco Civil da Internet (the Civil Rights Framework for the Internet), establishing a foundational legal framework for internet governance in the country. The law recognizes the global scale of the internet (Art. 2, I), its role in facilitating access to information and knowledge (Art. 4, II). It guarantees freedom of expression (Art. 3, I), and the protection of privacy (Art. 3, II), while also affirming the principle of freedom in business models. The Marco Civil further provides that its principles operate in conjunction with Brazil's international treaty commitments, reinforcing the alignment between domestic regulation and global norms.

Significantly, its Article 19 established intermediary liability rules designed to safeguard fundamental rights, including freedom of expression and information. Under this framework, internet applications, including social media platforms, can facilitate open and decentralized communication, allowing individuals to share opinions, commentary, and creative content beyond traditional media channels. The Marco Civil provides that internet applications can only be held liable for user-generated content if that content is deemed illegal by an independent court, the internet application receives proper notice of a court order indicating the location of the unlawful content, and the provider fails to comply with that valid court order.

However, subsequent court rulings and government policy directions have undermined key protections established by the Marco Civil da Internet.

Brazilian courts have, over the years, held that judges may directly compel local subsidiaries of foreign internet application companies to produce any digital evidence necessary to investigate torts and crimes under Brazilian jurisdiction, bypassing established diplomatic channels such as the Mutual Legal Assistance Treaty (MLAT) process. This approach has been applied regardless of where the data is processed and stored, irrespective of technical nexus with Brazil or potential conflicts with the laws of other jurisdictions, including the U.S. In practice, courts have ordered direct disclosure of data and content located outside Brazil, from data subjects that are foreign users, including U.S. users, without engaging U.S. authorities. Companies attempting to challenge such orders have faced multi-million dollar fines, [threats of arrests](#) of local executives (who lack technical access to the requested data) and even blocking of the service in Brazil.

In February 2023, Brazil's Supreme Court (STF) [upheld](#) the Ação Declaratória de Constitucionalidade n. 51 that even the content of communications may be compelled from internet applications without using established diplomatic mechanisms such as the MLAT process. The decision relied on an expansive and incorrect reading of Article 11 of the Marco Civil, effectively bypassing long-standing procedures designed to respect foreign jurisdictional interests under international law. Brazil remains the only country in the region that systematically rejects the application of mutual legal assistance agreements, instead compelling local subsidiaries to comply with orders, including those that conflict with both Brazilian law and the laws of other countries, including the U.S. Moreover, Brazilian authorities require such local subsidiaries to operate in the country on pain of their internet application services being shut down, ensuring that Brazilian authorities may maintain coercive leverage over foreign internet application providers.

In June 2025, the STF also ruled Article 19 of the Marco Civil da Internet is partially unconstitutional, significantly altering the intermediary liability framework. Under the original rule, internet applications could only be held liable for user-generated content if they failed to comply with a valid court order identifying the specific illegal material. The Court's decision removes this safeguard, allowing liability to arise based solely on private notices or claims of offense, with no prior judicial review. This new standard increases legal uncertainty, elevates compliance costs, incentivizes litigation against U.S.-based internet application companies, and creates strong incentives for platforms to remove content preemptively, potentially affecting lawful speech, including that of U.S. persons. By expanding the scope of liability without legislative action, the ruling also undermines regulatory predictability for U.S.-based internet application providers, creating operational legal risks that may restrict market access and digital trade between the United States and Brazil.

This new liability standard now applies even to complex disputes over legality that courts themselves take years to resolve and on which court panels often disagree, effectively transferring legal determinations to private companies. In practice, this could result in the removal of content originating from U.S.-based individuals or entities, impacting cross-border information flows. Platforms that decline to make such determinations risk substantial financial penalties, creating strong incentives to over-comply. The combination of legal uncertainty, elevated compliance costs, and extraterritorial reach constitutes a trade-restrictive environment that may deter investment and innovation by

U.S.-based internet application providers in the Brazilian market.

Some Brazilian courts have also held that their takedown orders have global effects, meaning they can require an internet application provider to remove content deemed unlawful in Brazil from all jurisdictions where the internet application provider operates, even if such content is lawful elsewhere, including in the United States. For example, the Third Chamber of Brazil's Superior Court of Justice (STJ) recently ruled that a Brazilian court order determining the removal of offensive content from an internet application applies extraterritorially. The STJ, by majority vote, determined that the global enforcement is a "natural consequence of the internet's borderless nature", notwithstanding the fundamental principle of international law that a court's jurisdiction is limited to its own territory.

Since 2020, the Brazilian Supreme Court (STF) and the Electoral Superior Court (TSE), notably through several orders issued by Justice Alexandre de Moraes, have ordered X to deplatform users, including politicians and journalists, including in some cases U.S. persons. The vast majority of these orders were issued under seal, preventing affected users from being notified or exercising their right to defend themselves in court. Many went beyond the removal of specific content deemed unlawful, requiring the suspension of entire accounts. X's appeals against such measures - when not left undecided for extended periods of time without a legal basis - were dismissed for lack of standing, with Justice Alexandre de Moraes holding that X had no right to challenge the orders.

When X declined to comply with measures that were clearly excessive and lacked legal basis, Justice de Moraes blocked access to the platform nationwide, froze the bank accounts of the local subsidiary and its legal representative, and threatened this legal representative with imprisonment. Justice de Moraes further ordered, without legal basis, the seizure of approximately USD 2 million from the bank account of SpaceX's Starlink division, even though Starlink and SpaceX had no connection to the legal dispute with X and are unaffiliated corporate entities. These measures, taken against local subsidiaries and unrelated third parties (including a different U.S.-based company), illustrate the extent to which enforcement actions in Brazil can escalate beyond domestic jurisdictional limits, creating legal uncertainty, operational risk, and potential trade barriers for U.S.-based companies.

Since the enactment of the Marco Civil da Internet in 2014, Brazil established a legal framework that, on paper, sought to balance fundamental rights, innovation, and international cooperation.

However, subsequent policy developments and enforcement practices - particularly through expansive judicial interpretations - have progressively eroded these safeguards. The Brazilian judiciary has adopted measures that contradict the original intent of the Marco Civil, as well as Brazil's international treaty commitments with the United States, including bypassing the Mutual Legal Assistance Treaty process, imposing extraterritorial content removal orders, altering intermediary liability rules without legislative process, and employing coercive measures against local subsidiaries, its representatives and even unrelated third parties. These actions have created an environment of legal uncertainty, operational and compliance risks, and potential market access barriers for U.S.-based technology companies. The cumulative effect

has been a marked deterioration in the regulatory and judicial climate for digital services in Brazil, undermining both the rule of law and the stability necessary for cross-border trade and investment in the technology sector.

Sincerely,

X Corp.