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Brazil's Fair Digital Competition Bill Offers an Alternative to Regulating Big Tech

BY BEATRIZ KIRA *November 7, 2025*



Beatriz Kira argues that Brazil's proposed digital competition bill shows how the Global South can strengthen regulation of Big Tech platforms without forfeiting competitiveness. Brazil's efforts build on global models yet chart their own course and belie the false dichotomy between encouraging national business development and protecting competition and its benefits.

This article is part of a symposium exploring the role of big business in a globalized economy. In an era of intensifying global competition, can states pursue policies and regulations to disperse market power and prevent consolidation at home without forfeiting international competitiveness? How can the U.S. government regulate Big Tech and other big businesses at home without hamstringing their ability to compete on the global stage? How can the EU build its own Big Tech giants without undermining its pioneering digital protections for users and society and permitting the harms that can come from market concentration? You can read the contributions from Xavier Vives, Eleanor Fox and Harry First (writing together), Cristina Caffarra, Laura Phillips Sawyer, and Beatriz Kira as they are published here.

"[W]e sent draft bills to the National Congress to foster competition in digital markets and to encourage the installation of sustainable data centres." These were the words of Brazilian President Luiz Inácio Lula da Silva in his opening speech to the United Nations General Assembly this past September. It is not often that competition policy receives

such a prominent mention in a high-level diplomatic forum. But in an era where the regulation of technology has become a central arena for geopolitical wrangling, such a declaration is a sign of the times. As the United States champions its technology giants abroad while questioning their power at home, and Europe seeks to build its own industrial champions, can a nation enact robust domestic regulation without forfeiting its international competitiveness and denying its citizens cheap or quality consumer goods and services? Brazil's recently introduced proposal (Bill No. 4675/2025) suggests that this is a false choice.

Bill No. 4675/2025, known as Brazil's Fair Digital Competition Bill, provides the case that dispersing market power at home is the most effective strategy for strengthening a country's economic position abroad. While framed in national terms, its high revenue thresholds for competition scrutiny mean its provisions are aimed squarely at the handful of large technology platforms like Google and Meta whose pervasive ecosystems of interlocking services dominate the Brazilian market. The bill puts forward the idea that for a Global South economy (granted, a large middle-income one), meaningful participation in the digital age requires a regulatory framework that actively makes room for domestic innovation and opportunity. It is a strategy that seeks a path of neither submission to American corporate power nor simple replication of the European regulatory model, but one rooted in Brazil's own productivity needs and constitutional traditions.

The background of the proposed bill: competition policy as public policy

Despite the recent escalation in trade tensions between the U.S. and Brazil, the proposed bill is no knee-jerk reaction to foreign trade pressures. It is the product of a careful two-year process of public consultation, economic analysis, and international benchmarking. The bill's intellectual groundwork was laid in the Ministry of Finance's report, "Digital Platforms: Competition Aspects and Regulatory Recommendations for Brazil," published in October 2024, which drew upon lessons from jurisdictions like the United Kingdom, Germany, and Japan, but steadfastly refused a "copy and paste" approach. A different proposal introduced in 2022 (Bill No. 2768/2022), often called the "Brazilian DMA," closely mirrored the European Union's Digital Markets Act (DMA). By contrast, Bill 4675/2025 emerged from a broader comparative study covering more than ten jurisdictions. Its design draws less from Brussels' prescriptive, *ex ante* framework and more from Germany's Section 19a of the Competition Act, the United Kingdom's Digital Markets, Competition and Consumers Act (DMCC), and Japan's recent legislation focused on mobile digital ecosystems. The result is a proposal tailored to Brazil's specific circumstances, rather than an imported regulatory model.

These circumstances differ in important respects from those of the advanced economies. Brazil combines the profile of a developing economy, with persistent productivity gaps and regional inequality, with the institutional maturity of a capable competition authority. This combination helps explain the bill's design. Rather than

creating a new regulatory structure, the proposal amends the existing competition law (Law No. 12.529/2011) and builds on the administrative model of Brazil's Administrative Council for Economic Defense (CADE), which allows for flexible, case-by-case intervention. Brazil's 1988 constitution, which defines the economic order around social inclusion, free competition, and consumer protection, provides the broader legal foundation for this approach by treating market regulation as an instrument for promoting innovation, fairness, and productivity.

The government's analysis identified a critical challenge: the great potential of the digital economy in Brazil was being constrained by the entrenched power of a few dominant ecosystems, something traditional competition law was failing to effectively and timely identify and address. The experience of CADE's investigation into Google Shopping provides a good illustration of these shortcomings. In contrast to the EU's decision to fine Google for self-preferencing its own comparison-shopping service in search results, Brazil's case ended in a tie among CADE commissioners, with the president casting the deciding vote *against* condemnation on the grounds that there was insufficient evidence that the conduct had any domestic harm. The case, which took over five years to be concluded, showed the limitations of traditional *ex post* enforcement in addressing the dynamics of digital markets, where market power often stems from data control, user lock-in, and interlinked services rather than from price effects alone.

At the same time, the Ministry of Finance's report highlighted that the lack of competition in digital markets risks stifling innovation, harming productivity, and widening the entrepreneurial and wealth gap with more developed economies. The report noted how native Brazilian digital firms, while innovative and productive by national standards (Brazil has 19 unicorns—startups worth a billion U.S. dollars or more—putting it ahead in Latin America), remain modest in global comparison. The purpose of the proposed regulation, therefore, can be seen as part of an industrial strategy aimed at reorienting the digital economy toward economic gains that benefit more players than just the Big Tech firms. For Brazil, a middle-income country grappling with persistent developmental challenges, this means leveraging regulation to unlock opportunities for local small and medium-sized enterprises (SMEs) and foster a more fertile ground for home-grown digital innovation.

This perspective, which approaches competition policy as a proactive tool for public policy, has deep roots in Brazil—even if in its more recent practice CADE has distanced itself from this broader mission. The country's 1988 constitution, enacted after the end of the military dictatorship, frames the economic order around guiding principles such as free competition, consumer protection, and the reduction of social inequality. It explicitly empowers the state to repress the "abuse of economic power," which is considered the legal foundation of competition law. While this tradition of using economic law to actively shape markets has been dormant, the current proposal represents a clear revival of this constitutional vision, applying it directly to the

challenges of the twenty-first century digital economy.

A new, pro-competitive regime for digital markets in Brazil

Bill 4675/2025's design reflects its strategic goals. Instead of creating a new legislative framework from scratch, it proposes amending Brazil's existing competition law and empowering CADE with new tools. A new Digital Markets Superintendency (*Superintendência de Mercados Digitais*, or SMD) would act as CADE's dedicated unit for digital markets, responsible for designating and regulating "systemically relevant economic agents." This term is deliberately chosen to capture firms whose influence extends beyond simple market share to control over complex ecosystems. The SMD's structure mirrors that of CADE's existing General Superintendency (*Superintendência-Geral*, or SG), which serves as the investigative and prosecutorial arm in anticompetitive conduct and merger control cases. Similarly, the SMD would lead investigations and propose designations or obligations, while final decisions would rest with CADE's Tribunal, a collegiate body that reviews and approves these measures. This arrangement preserves institutional coherence and checks and balances, seeking to ensure that digital regulation remains embedded within Brazil's established administrative antitrust framework.

Designation follows two sets of criteria, with no automated designation. First, CADE would assess a firm against qualitative criteria that diagnose the sources of platform power, such as the control of key data, the strength of network effects, and the extent of vertical integration, allowing for an understanding of market influence. Second, these qualitative factors are paired with high revenue thresholds: a global annual gross revenue of over 50 billion Brazilian reais (about 10 billion U.S. dollars), or an annual revenue in Brazil of over 5 billion reais (about USD 1 billion) to ensure that regulatory scrutiny is focused exclusively on the largest global players. In this respect, the Brazilian proposal draws on the model adopted in UK, where the DMCC combines a qualitative assessment with a quantitative "floor" to ensure focus on firms of strategic market status.

Unlike the EU's Digital Markets Act, which automatically designates "gatekeepers" based on quantitative criteria tied to specific services, Brazil's approach avoids a rigid list of covered platforms or pre-defined obligations. Instead, designation targets entire "economic agents" or corporate groups, recognizing that platform power operates across interdependent markets. This allows CADE to tailor obligations to the structure of each ecosystem and to adapt enforcement to the evolving structure of digital markets.

Once a firm is designated as systemically relevant, CADE could impose a range of bespoke, case-by-case "special obligations" aimed at opening the market, setting it aside from the one-size-fits-all logic that characterizes more rigid frameworks. Specifically, these obligations might include lowering barriers to entry, protecting the competitive process, and promoting freedom of choice, which are the objectives stated in the bill. Transparency obligations would, for example, force search engines or online

marketplaces to disclose the criteria they use for ranking and displaying products or pricing structures. This would allow competitors and business users to better understand how visibility and pricing are determined, helping them adapt their commercial strategies and contest discriminatory practices.

Crucially, the bill includes both negative and positive obligations. Negative obligations could prohibit conduct that limit rivals' access to markets, inputs, or users. Examples include self-preferencing services from other parts of their ecosystems, tying services together, restricting interoperability, or using business-user data to disadvantage those same users. Positive obligations, in turn, could require designated firms to take proactive measures, such as providing tools for data portability and ensuring services can interoperate with third-party offerings. For each designated firm, these obligations will be designed, case by case, not just to police anticompetitive behaviour but to actively engineer a more even playing field.

Although comparisons with the EU's DMA are inevitable, Brazil's proposal reflects a distinct regulatory approach. Whereas the DMA rests on the presumption that a small number of digital gatekeepers must be subject to uniform obligations, Brazil's system situates designation and obligations within its existing competition law, blending ex ante and ex post elements. This hybrid model places Brazil closer to Germany's Section 19a approach, which empowers its competition authority to impose conduct obligations on dominant firms in "markets of paramount significance," while also echoing Japan's focus on ecosystems.

Looking ahead: challenge and global implications

Brazil's proposal offers a significant contribution to the global debate on technology and competition. It rejects the premise that nations must choose between entering unfettered markets to court U.S. investment or adopting the European regulatory framework wholesale. Instead, it shows a commitment to forging a third way: one where procompetitive regulation is not seen as a burden on industry but as a prerequisite for building a robust, innovative, and sovereign domestic economy.

It is a strategy built on the conviction that true international competitiveness stems from a vibrant internal market, not from one dominated by a handful of foreign-based monopolies. The Fair Digital Competition Bill advances this idea through a hybrid model that embeds digital regulation within CADE's existing competition-law framework. It creates a specialized Digital Markets Superintendency responsible for investigating and proposing designations and obligations, subject to review by CADE's collegiate Tribunal. The bill combines qualitative assessments of platform power with quantitative thresholds and provides for tailored obligations rather than uniform rules. Together, these elements adapt insights from international experience to Brazil's legal and institutional structure, and market realities.

Bill 4675/2025's now moves to Congress at a moment of growing political awareness of

digital issues. Its careful design and the extensive consultation process that preceded it have built a base of support across government, civil society, and parts of the private sector, suggesting that genuine progress is possible. The next stage will, however, test the proposal's resilience against the heavy lobbying of powerful technology firms and associations, which have already mobilized to influence the debate. Yet recent legislative successes, such as the approval of the ECA Digital, which strengthened online protections for children, demonstrate that public interest coalitions around digital policy can prevail.

If enacted, the competition proposal itself marks a key moment in Brazil's history. It is a clear-eyed attempt by a major Global South economy to translate global regulatory developments into a coherent national framework, testing whether countries outside the traditional centers of technological power can craft rules that discipline global market forces while strengthening domestic markets. The outcome will also offer important evidence in the ongoing discussion about whether nations can successfully harness domestic regulation to not only discipline global market power but also to advance their own international competitive standing.

Author Disclosure: The author has acted as a consultant for the Brazilian Ministry of Finance on competition and economic aspects of digital markets. The views and opinions expressed in this work belong solely to the author in an academic capacity and do not reflect those of the Ministry of Finance or the Brazilian government. You can read our disclosure policy here.

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