

Presidency of the Republic
Office of the Chief of Staff
Legal Affairs Subsection

LAW No. 12965, APRIL 23, 2014,

establishes the principles, guarantees, rights and
duties for the use of the Internet in Brazil.

In Effect

Regulations

I, the **PRESIDENT OF THE REPUBLIC**, hereby make known that the National Congress decrees and I sanction the following Law:

CHAPTER I
PRELIMINARY PROVISIONS

Article 1. This Law establishes principles, guarantees, rights and duties for the use of the Internet in Brazil and provides guidelines for the actions of the Federal Government, the States, the Federal District and the Municipalities in this regard.

Article 2. The discipline of use of the Internet in Brazil is based on respect for freedom of expression, as well as:

- I – recognition of the global scale of the network;
- II – human rights, personality development and the exercise of citizenship in digital medias;
- III – plurality and diversity;
- IV – openness and cooperation;
- V – free enterprising, free competition and consumer protection; and
- VI – social purpose of the network.

Article 3. The following are principles for use of the Internet in Brazil::

- I – guarantee of freedom of speech, communication and expression of thought, in accordance with the Federal Constitution;
- II – protection of privacy;
- III – protection of personal data, as required by the law;
- IV – preservation and guarantee of network neutrality;

V – preservation of network stability, security and functionality, via technical measures consistent with international standards and by encouraging the use of best practices;

VI – liability of agents according to their activities, pursuant to the law;

VII – preservation of the participatory nature of the network;

VIII – freedom of business models promoted on the Internet, provided that they do not conflict with the other principles established in this Law.

Sole Paragraph. The principles of this Law do not exclude others specified in the Brazilian legislation related to this matter or in international treaties of which the Federative Republic of Brazil is a party.

Article 4. The discipline of internet use in Brazil aims to promote:

I – the right of access to the Internet for all;

II – access to information, to knowledge and participation in cultural life and in the conduct of public affairs;

III – innovation and promotion of the broad dissemination of new technologies and models of use and access; and

IV – adherence to open technology standards that enable communication, accessibility and interoperability between applications and databases.

Article 5. For the purposes of this Law, the following definitions apply:

I – the Internet: the system consisting of a set of logical protocols, structured on a global scale for public and unrestricted use, in order to enable communication of data between terminals, through different networks;

II – terminal: a computer or any device that connects to the Internet;

III – internet protocol address (IP address): the code assigned to a terminal from a network to enable its identification, defined according to international standards;

IV – autonomous system administrator: a natural person or legal entity that manages specific IP address blocks and their autonomous routing system, duly registered in the national entity responsible for the registration and distribution of IP addresses geographically related to the country;

V – internet connection: enabling a terminal to send and receive data bundles over the Internet, by assigning or by authenticating an IP address;

VI – connection log: the set of information pertaining to the date and time of the beginning and end of a connection to the Internet, the duration thereof and the IP address used by the terminal to send and receive data bundles;

VII – internet applications: a set of functionalities that can be accessed through a terminal connected to the Internet; and

VIII – access logs of internet applications: the set of information regarding the date and time of use of a particular internet application from a particular IP address.

Article 6. The interpretation of this Law, in addition to the fundamentals, principles and purposes established, will take into account the nature of the Internet, its particular uses and costumes and its importance for the promotion of human, economic, social and cultural development.

CHAPTER II RIGHTS AND GUARANTEES OF USERS

Article 7. Internet access is essential to the exercise of citizenship, and the following rights are guaranteed to users:

I – inviolability of intimacy and privacy, protection and compensation for material or moral damages resulting from its breach;

II – inviolability and secrecy of the flow of communications over the Internet, except by court order, pursuant to the law;

III – inviolability and confidentiality of stored private communications, except by court order;

IV – non-suspension of internet connection, except for debt resulting directly from its use;

V – maintenance of the quality of the contracted internet connection;

VI – clear and comprehensive information in the contracts of provision of services, with details on data protection for connection logs and access logs of internet applications, as well as network management practices that may affect the quality of the service provided;

VII – non-disclosure of personal data to third parties, including connection logs and access logs of internet applications, except by free, express, and informed consent or in accordance with the cases provided by law;

VIII – clear and comprehensive information on the collection, use, storage, processing and protection of users' personal data, which may only take place for purposes that:

a) justify its collection;

b) are not be prohibited by law; and

c) are specified in the contracts of provision of services or in the terms of use of internet applications.

IX – expressed consent to the collection, use, storage and processing of personal data, which shall be specified in a separate contractual clause;

X – definitive removal of the personal data provided to a certain internet application, at the request of the user, at the end of the relationship between the parties, except in the cases of mandatory log custody, as set forth in this Law and in any law which provides for the protection of personal information; (Wording by Law No. 13709, of 2018) (In effect)

XI – publicity and clarity of any terms of use of the Internet connection providers and internet application providers;

XII – accessibility, considering the physical, motor, perceptual, sensorial, intellectual and mental abilities of the user, pursuant to the law; and

XIII – enforcement of consumer protection rules in the consumer interactions that take place on the Internet.

Article 8. Guarantee of the right to privacy and freedom of speech in communications is a condition for the full exercise of the right to access to the Internet.

Sole Paragraph. Contractual clauses violating the provisions of the **head provision** shall be void as well as the following:

I – those that violate the inviolability and secrecy of private communications over the Internet; or

II – those that, in adhesion contracts, do not provide a Brazilian forum-selection clause for resolution of disputes arising from services rendered in Brazil.

CHAPTER III

PROVISION OF INTERNET CONNECTION AND APPLICATIONS

Section I

Network Neutrality

Article 9. The party responsible for the transmission, switching or routing has the duty to process, in an isonomic manner, any data bundles, regardless of content, origin and destination, service, terminal or application.

Paragraph 1. Discrimination or damage of traffic shall be regulated in accordance with the authority granted to the President pursuant to Item IV of Article 84 of the Federal Constitution,

aimed at the full enforcement of this Law, upon consultation with the Internet Steering Committee and the National Telecommunications Agency, and it can only result from:

I – technical requirements essential to the adequate provision of services and applications;
and

II – prioritization of emergency services.

Paragraph 2. In the event of discrimination or damage of traffic provided for in Paragraph 1, the party mentioned in Article 9 shall:

I – refrain from causing harm to users, as set forth in Article 927 of Law No. 10406, January 10, 2002 - Civil Code;

II – act with proportionality, transparency and isonomy;

III – previously inform in a transparent, clear and sufficiently descriptive manner to its users about the management and traffic mitigation practices adopted, including those related to network security; and

IV – offer services in non-discriminatory commercial conditions and refrain from anti-competition practices.

Paragraph 3. When providing internet connection, free or at a cost, as well as, in the transmission, switching or routing, it is prohibited to block, monitor, filter or analyze the content of data bundles, subject to the provisions of this Article.

Section II

Records, Personal Data and Private Communications Protection

Article 10. Storage and availability of connection and access logs to the Internet applications referred to in this Law, as well as personal data and content of private communications, shall comply with provisions regarding the protection of intimacy, privacy, honor and images of the parties directly or indirectly involved.

Paragraph 1. The provider responsible for storing the records established in the **head provision** of this Article shall only be obliged to make them available, whether separately or associated with personal data or other information that allows the identification of the user or the terminal, upon court order, as provided for in Section IV of this Chapter, pursuant to the provision of Article 7.

Paragraph 2. Content of private communications may only be made available by court order, in the cases and in the manner established by law, and in compliance with items II and III of Article 7.

Paragraph 3. The **head provision** of this Article does not prevent administrative authorities from having access to registration data involving personal identification, affiliation and address, pursuant to the law.

Paragraph 4. Security and confidentiality measures and procedures shall be informed in a clear manner by the party responsible for the provision of services, and meet the standards set by regulation, respecting the right to confidentiality of trade secrets.

Article 11. In any operation of collection, storage, custody and handling of personal or communications data by connection providers and internet application providers when, at least, one of these acts takes place in the national territory, the Brazilian law shall prevail, including with regard to the rights to privacy, protection of personal data, and secrecy of private communications and logs.

Paragraph 1. The **head provision** of this Article applies to data collected in the national territory and the content of the communications, provided that at least one of the terminals is located in Brazil.

Paragraph 2. The **head provision** of this Article also applies to activities carried out by legal persons headquartered abroad, as long as they provide services to Brazilian clients or as long as at least one company of the same economic group has an office in Brazil.

Paragraph 3. The connection and the Internet application providers shall provide, as set forth by regulation, information that allows for verification concerning their compliance with Brazilian legislation regarding the collection, storage, custody and handling of data, as well as regarding privacy and confidentiality of communications.

Paragraph 4. A Decree shall govern the procedures to determine non-compliance to the provisions of in this Article.

Article 12. Without prejudice to any other civil, criminal or administrative sanctions, violation to the rules set forth in Articles 10 and 11 are subject, as appropriate, to the following sanctions applied individually or cumulatively:

I – warning, providing a deadline for the adoption of corrective measures;

II – fine of up to 10% (ten percent) of the gross revenue of the economic group in Brazil in the last fiscal year, taxes excluded, considering the economic condition of the violator, the principle of proportionality between the seriousness of the violation and the severity of the penalty;

III – temporary suspension of activities that entail the acts set forth in Article 11; or

IV – prohibition to exercise activities that entail the acts set forth in Article 11.

Sole paragraph. In case of a foreign company, the subsidiary, branch, office or establishment located in the Country shall be held jointly liable for the payment of the fine set forth in Article 11.

Subsection I

Keeping Connection Logs

Article 13. When providing internet connection, the administrator responsible for the autonomous system shall maintain connection logs under secrecy, in a controlled and safe environment, for a period of 1 (one) year, in accordance with regulation.

Paragraph 1. The responsibility for maintaining such connection logs shall not be transferred to third parties.

Paragraph 2. The police or administrative authority or the **Prosecution Service** may request, as a precautionary measure, that the connection logs be stored for a period longer than that of the **head provision**.

Paragraph 3. In the case of Paragraph 2, the authority requesting such precautionary measure shall have 60 (sixty) days, as of the date of the request, to file for judicial authorization to have access to logs provided for in the **head provision**.

Paragraph 4. The provider responsible for keeping the logs shall maintain confidentiality regarding the request established in Paragraph 2, which shall become ineffective once the court order is denied or the court proceeding is not filed within the period established in Paragraph 3.

Paragraph 5. In any case, the availability to the applicant of the logs referred to in this Article shall be preceded by court order, as provided for in Section IV of this Chapter.

Paragraph 6. When imposing a sanction due to violations to this Article, the nature and seriousness of the violation shall be taken into account, as well as the damages arising from such violation, any advantages obtained by the violator, any aggravating circumstances, prior records and recidivism.

Subsection II

Keeping Access Logs of Internet Applications during Provision of Connection

Article 14. In the provision of connection, whether free or at cost, it is prohibited to keep users' access logs of internet applications.

Subsection III

Keeping Access Logs of Internet Applications during Provision of Applications

Article 15. the Internet application providers duly incorporated as a legal entity and carrying out their activities in an organized, professional manner and for economic purposes shall keep access logs of internet applications, under confidentiality, in a controlled and safe environment, for 6 (six) months, as detailed in regulation.

Paragraph 1. A court order may request, for a certain amount of time, that internet application providers which are not subject to the provisions of the **head provision** store connection logs of internet applications, provided that such logs are related to specific facts in a given period.

Paragraph 2. The police or administrative authority or the Prosecution Service may request, as a precautionary measure, any provider of internet applications to keep access logs of internet applications, including for a time period higher than that provided in the **head provision**, pursuant to Paragraphs 3 and 4 of Article 13.

Paragraph 3. In any circumstance, disclosure to the requesting party of the logs referred to in this Article shall be preceded by a court order, pursuant to Section IV of this Chapter.

Paragraph 4. When imposing a sanction due to violations to this Article, the nature and seriousness of the violation shall be taken into account, as well as the damages arising from such violation, any advantages obtained by the violator, any aggravating circumstances, prior records and recidivism.

Article 16. In the provision of internet applications, whether free or at cost, it is prohibited to keep:

I – access logs of other internet applications without the users' prior and express consent, pursuant to Article 7; or

II – personal data that exceeds the purposes for which consent was given by the owner of the data, except for the situations set forth in law which provides for the protection of personal information. (Wording by Law No. 13709, of 2018) (In effect)

Article 17. Except for the cases provided for by law, the option not to keep access logs of internet applications does not imply liability for damages arising from the use of these services by third parties.

Section III

Liability for any Damages Arising from Content Generated By Third Parties

Article 18. The provider of connection to internet shall not be liable for civil damages resulting from content generated by third parties.

Article 19. In order to ensure freedom of expression and prevent censorship, the provider of internet applications can only be subject to civil liability for damages resulting from content generated by third parties if, after a specific court order, it does not take any steps to, within the scope of their services and within the period stated in the order, make the content that was identified as being unlawful unavailable, unless otherwise provided by law.

Paragraph 1. The abovementioned court order shall include, under penalty of being null, clear identification of the specific content identified as a violation, which shall allow for the unquestionable location of the material.

Paragraph 2. Enforcement of the provisions of this Article regarding violations of copyrights or related rights is subject to specific legal provisions, which shall respect freedom of speech and other guarantees provided for in Article 5 of the Federal Constitution.

Paragraph 3. Legal proceedings related to compensation for damages arising from content made available on the Internet, against honor, reputation or personality rights, as well as the removal of related contents by internet application providers, may be brought before special courts.

Paragraph 4. The judge, including within the proceeding provided for in Paragraph 3, can order a partial or full interlocutory relief in the complaint, provided that there is unequivocal evidence of the fact, and taking into account society's collective interest in the content on the Internet, as long as the plaintiff's claims are plausible and there is reasonable concern of irreparable damage, or damage that is difficult to repair.

Article 20. Whenever the contact information of the user directly responsible for the content referred to in Article 19 is available, the provider of internet applications shall have the obligation to inform the user about the enforcement of the court order with information that allows the user to have adversarial and fair hearing, except for express legal provision or express court decision based on the contrary.

Sole Paragraph. When requested by the user who posted the content made unavailable, the Internet application provider that carries out its activity in an organized, professional manner and for economic purposes, shall replace the content made unavailable for the statement of reasons or the court order related to the unavailability.

Article 21. the Internet application provider that makes third party generated content available shall be held secondarily liable for the breach of privacy arising from the disclosure of images, videos and other materials containing nudity or sexual activities of a private nature, without the authorization of the participants, when, upon receipt of notification by the participant or their legal representative, fails to diligently promote, within the technical limits of their services, the unavailability of that content.

Sole Paragraph. The notification set forth in the **head provision** shall contain sufficient elements that allow for the specific identification of the material said to violate the right to privacy of the participant and the confirmation of legitimacy of the party presenting the request.

Section IV

Judicial Requests for Records

Article 22. The interested party may, for the purpose of producing evidence in civil or criminal legal proceedings, incidentally or autonomously, request the judge to order the entity responsible for the keeping of records to provide the connection or access logs of internet applications.

Sole Paragraph. Without prejudice to other legal requirements, the request shall contain, under penalty of inadmissibility:

I – founded evidence of the wrongful act;

II – statement of reasons on the usefulness of the requested logs for the investigation or the evidentiary stage; and

III – the period of time to which the records correspond.

Article 23. The judge shall be responsible for taking the necessary measures to ensure confidentiality of the information received and the preservation of intimacy, private life, honor and image of the user. The judge may order the proceedings to be closed to the public, including with respect to the requests for keeping the records.

CHAPTER IV

THE ROLE OF THE GOVERNMENT

Article 24. The following are guidelines for the performance of the Federal Government, the States, the Federal District and the Municipalities in the development of internet in Brazil:

I – establishment of multi-stakeholder, transparent, collaborative and democratic governance mechanisms, with the participation of the government, the business sector, civil society and the academic community;

II – promotion of the rationalization of management, expansion and use of the Internet, with the participation of Brazilian Internet Steering Committee;

III – promotion of the rationalization and technological interoperability of electronic government services between the different branches of the federation, to allow for the exchange of information and the speed of procedures;

IV – promotion of interoperability between systems and different terminals, including between the different federal levels and various sectors of society;

V – preference for open and free technologies, standards and formats;

VI – publicity and disclosure of public data and information in an open and structured manner;

VII – network infrastructure optimization and stimulus to the implementation of storage, management and data dissemination centers in the country, promoting technical quality, innovation and diffusion of Internet applications, without prejudice to openness, neutrality and participatory nature;

VIII – development of initiatives and training programs for internet use;

IX – promotion of culture and citizenship; and

X – provision of public services for citizens in an integrated, efficient and simple manner and through multi-channel access, including remote access.

Article 25. the Internet applications provided by the government shall seek:

I – compatibility of e-government services with multiple terminals, operating systems and applications for access;

II – accessibility to all interested parties, regardless of their physical, motor, perceptual, sensorial, intellectual, mental, social and cultural characteristics, respecting confidentiality and legal and administrative restrictions;

III – compatibility with both human reading and automatic processing of information;

IV – easy understanding of e-government services, and

V – strengthening of social participation in public policies.

Article 26. Compliance with the constitutional duty of the State to provide education at all educational levels includes integrated training and other educational practices, for safe, conscious and responsible use of the Internet, as a tool for the exercise of citizenship, for the promotion of culture and for technological development.

Article 27. Public initiatives to promote digital culture and promote the Internet as a social tool shall:

I – promote digital inclusion;

II – seek to reduce gaps, especially between different regions of the country, regarding the access and use of information technology and communication; and

III – promote the production and dissemination of national content.

Article 28. The State shall periodically seek to develop and promote studies, as well as set goals, strategies, plans and schedules for the use and development of the Internet in the country.

CHAPTER V FINAL PROVISIONS

Article 29. The user shall have free choice in the use of computer software in their own terminal to enforce parental control over content thought to be improper to their minor children, as long as that the principles set forth in this Law and in Law No. 8069 of July 13, 1990 - Statute of the Child and the Adolescent - are respected.

Sole Paragraph. The government, together with providers of connection services and internet applications, as well as civil society, shall promote educational initiatives and provide information about the use of the software referred to in this Article, as well as establish good practices for digital inclusion of children and teenagers.

Article 30. The defense of the interests and rights set forth in this Law may be exercised either individually or collectively, as required by the law.

Article 31. Until the specific law provided for in Paragraph 2 of Article 19 comes into force, the liability of the Internet application provider for damages arising from content generated by third parties, in case of copyrights or related violations of rights, shall continue to be governed by applicable copyright legislation in effect on the date this Law comes into effect.

Article 32. This law shall come into effect 60 (sixty) days after its official publication.

Brasília, April 23, 2014; the 193th Anniversary of the Independence and the 126th Anniversary of the Republic.

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This text does not replace the one published in the Official Gazette of April 24, 2014.