REACHING A DEADLOCK: AREAS OF CONTENTION IN PLATFORM REGULATION IN BRAZIL

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Introduction

The debate of whether and how platforms should be regulated arises especially in critical moments, such as elections, mobilizations, and health crises. In Brazil, this debate has affected different platform models, including social media, messaging, sharing, and service apps (Machado & Aguiar, 2023; Maranhão, 2021; Tomaz, 2023). At its core, the debate on platform governance and regulation is fundamentally about power. Often, instruments of contention employed by different actors to advance their interests arise.

Gorwa (2024) argues that if a government has sufficient power to intervene in platform governance, it can drive policy changes. However, when a government is constrained by political conflicts, governance practices and norms, its ability to implement policy changes or secure cooperation may be less effective. However we ask: what are the key areas of contention in platform regulation?

This paper focuses on two regulatory debates in Brazil: The Internet Freedom, Responsibility and Transparency Act, the "Fake News Bill" (Bill 2630/2020), and the platform work regulation (PLP 12/2024).

Our reflections are drawn from platform governance studies, which view platform governance as a multi-layered relationship that shapes interactions in platform societies (Helmond, 2015; Van Dijck, Nieborg, & Poell, 2019). This relationship influences both online interactions and platform operations, having direct consequences for society and politics (Gorwa 2019). Thus, responses to deregulatory pressures involve strategic calculations by political actors across different domains (Mendonça, Almeida, & Filgueiras, 2023; Gorwa, 2019).

The literature identifies three models of governance that impact platforms. The first is self-regulation, where platforms apply their own measures without government interference (Leonardi, 2009; Rosenau & Czempiel, 1992). The second model, known as "governance of the platforms" (Gillespie 2018), encompasses laws, regulations, and agreements that influence the platforms (Gorwa 2019; 2024). The third, referred to as "co-regulation" or "regulated self-regulation" (Finck 2018) occurs when public authorities and private companies regulate together, often involving a multiple stakeholders debate (Almeida, Getschko, & Afonso, 2015; Gorwa 2019).

Our study dialogues with literature from Platform Studies, Governance and Law, Business Studies, and Political Science. By examining the dynamics of platform regulation, we hope to shed light on the challenges and potential pathways for more effective platform governance. Especially by highlighting two crucial moments: (i) the transition from self-regulatory measures to governance of the platform's models and/or co-regulation; (ii) the moments when regulations stall and cooperation between public and private actors are at risk.

Contextualizing the cases

The Fake News Law was introduced by the Senate to Congress in 2020 in response to the high levels of disinformation during the COVID-19 pandemic and the 2018 democratic threats during the elections. The bill takes a multistakeholder approach (Schneider 2020), directly targeting Big Tech companies (Galf 2020) with more than 10 million monthly users drawing on speech, transparency, content moderation, and other issues (Tomaz 2023). Despite an ongoing debate, 2023 sparked the urgency among stakeholders to accelerate the bill's approval. Key events such as the January 8th insurrection and a wave of school attacks in May became the turning point of the debate. However, in May 2023, Big Tech platforms launched an aggressive campaign against the bill, involving lobbying, the use of their products to sway public opinion, and the spread of disinformation. After four years of debate in Congress, the bill ultimately stalled.

Between 2020 and 2023 national protests related to the safety and working conditions of platform delivery workers emerged (Author 2024; Barros 2022). The PLP 12/2024 bill was introduced to regulate the work conditions of platform drivers and facilitate their inclusion in the social security system by creating a new status: the "autonomous platform worker." Even though the government aimed to quickly approve the proposal in Congress, it has also faced delays and opposition from many members of congress and even platform workers.

At the moment we write this abstract, these two regulatory debates remain unresolved.

Methodological Approach

This study follows an interpretive approach (Yanow & Schwartz-Shea, 2006) employing a multiple case study design (Yin 2010) by focusing on two cases. The interpretive approach allows us to understand the multiple meanings and beliefs in dispute in the regulatory measures and their justifications (Bevir 2006).

We specifically examine the regulatory processes around platforms in charge of social media, messaging, sharing and service apps. This work explores the period between 2020 to 2024, in which regulatory debates emerged and subsequently stalled.

Our analysis is based on qualitative content and policy analysis (Machado 2002; Gatti 2012) of congressional transcripts, regulatory documents, and platform press releases for both Bill 2630/2020 and PLP 12/2024. We have conducted interviews with over 50 people with practitioners, policymakers, civil society representatives, academics, journalists and delivery workers.

Preliminary Results

Our study identified two areas of contention during both regulatory debates which prevented their approval. Two areas of contention were found: Defining the nature of what is being regulated and how these bills impact the business models of the platforms. .

In *Defining the nature of what is being regulated*, defining disinformation or platform-based work involves engaging with different stakeholders, laws and legal interpretations. In Bill 2630/2020, the debate has broadened the scope of regulatory issues to such an extent that it has affected the legislative progress. Similarly, with app-based drivers and couriers, classifying the nature of their work has significant implications for the adoption of social security legislation and labor law guarantees, areas on which there is no consensus among stakeholders in the debate.

As for *impacting the business models,* platforms may be open to regulation —or willing to accept it— if it does not threaten their business model. Arguments related to free initiative and excessive State intervention often emerge. Platforms intensely opposed Bill 2630/2020 by arguing that it could lead to censorship and hinder innovation. For app-based drivers and couriers, platforms argue that excessive intervention, such as setting payments, would increase service prices for consumers, reduce demand, and harm workers themselves.However, calls for better working conditions and dignity from workers demand greater 'intervention' by the regulatory efforts.

Each proposal differs in its regulatory nature and involves distinct economic sectors. Platforms acted with greater cohesion and more explicit public opposition in relation to Bill 2.630/2020 than to PLP 12/2024. In the case of platform work regulation, there was greater tension between the different scales of ride-hailing and delivery platforms, which appears to have influenced the extent of opposition to the government's proposal. In this context, there was greater alignment between the larger platforms and the government than between these platforms and their competitors.

Conclusion

We argue that when regulatory measures affect the platforms' interests, initial cooperation may turn into more oppositional and even contentious actions, leading to stalling the regulatory process. As a result, it can be in their interest to maintain the self-regulatory model in which platforms have greater control of the rules under which they operate.

Our work is critical for understanding platform governance. This paper contributes to the literature on platform regulation by highlighting the main arguments advanced by platforms during regulatory debates, and examining how these relate to government proposals and other stakeholders' interests.

Acknowledgement

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