"BRAZILIAN DMA" (BILL NO. 4,675/2025)

PROPOSAL TO EXPAND CADE'S ROLE IN REGULATING DIGITAL MARKETS

On September 17, 2025, the Federal Government submitted Bill No. 4,675/2025 to Congress, proposing amendments to the Brazilian Competition Law (Law No. 12,529/2011), particularly the creation of a new economic regulation for economic agents to be designated as having systemic relevance in digital markets.



CREATION OF A NEW UNIT AT CADE: SUPERINTENDENCE OF DIGITAL MARKETS (SDM)

The Superintendent of the SDM will be appointed by the Brazilian President, with the approval of the Federal Senate, for a two-year term, with the possibility of one renewal. The bill establishes the following division of responsibilities among CADE's bodies regarding matters involving agents with systemic relevance:

CADE'S TRIBUNAL

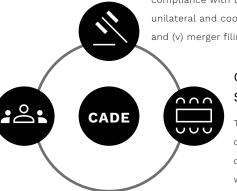
Final decision in proceedings related to (i) the designation of agents with systemic relevance, (ii) the imposition of special obligations on such agents, (iii) the assessment of non-compliance with those obligations, (iv) the investigation of unilateral and coordinated conducts involving such agents, and (v) merger filings involving such agents, when applicable.

To initiate and conduct proceedings related to (i) the designation of agents with systemic relevance, (ii) the imposition of special obligations on such agents, (iii) the

assessment of non-compliance with those

SDM

obligations, and (iv) the investigation of unilateral conducts involving such agents



GENERAL SUPERINTENDENCE

To review merger filings and to initiate and conduct proceedings to investigate coordinated conduct, even when such cases involve agents with systemic relevance



DESIGNATION OF AGENTS WITH SYSTEMIC RELEVANCE



QUANTITATIVE CRITERIA

Economic group with global gross annual turnover exceeding BRL 50 billion or exceeding BRL 5 billion in Brazil.



QUALITATIVE CRITERIA (NON-CUMULATIVE)

- Presence in multi-sided markets,
- ii. Market power associated with network effects,
- iii. Vertical integration and participation in adjacent markets,
- Strategic position for the development of third-party business activities.
- Access to large volumes of relevant personal and commercial data,
- vi. Broad base of professional and end users, or
- vii. Offering of multiple digital products or services.

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PROCEEDING FOR DESIGNATING AGENTS WITH SYSTEMIC RELEVANCE



START AND INITIAL NOTIFICATION BY THE SDM

After the initiation of the proceeding (either ex officio or based on a complaint), the defendant will be notified to submit its allegations within 30 days, extendable by an additional 10-day period.



2 ANALYSIS OF THE ALLEGATIONS BY THE SDM

After receiving the allegations, the SDM has 30 days to decide whether to refer the case to the President of the Tribunal or to conduct a supplementary investigation.



SUPPLEMENTARY INVESTIGATION BY THE SDM

In the event of a supplementary investigation, it must be completed within 30 days (extendable once for an equal period).



PRELIMINARY OPINION BY THE SDM

Once any supplementary instruction has been completed, the SDM will issue a preliminary statement within 45 days, which will be open for contributions in a public hearing for 15 days.



NEW ALLEGATIONS

The defendant will have 5 business days to submit new allegations.



FINAL OPINION BY THE SDM

Within 30 days from the submission of the allegations, the SDM will issue a final statement recommending (i) the dismissal of the case, or (ii) the designation of the defendant as an agent with systemic relevance, and/or (iii) the imposition of any special obligations.



7 REFERRAL TO THE TRIBUNAL

The referral to the Tribunal occurs automatically 180 days after the initiation of the proceeding.

The President will assign the case to a Reporting Commissioner within 48 hours.



INCLUSION ON THE AGENDA

The proceeding must be scheduled by the Reporting Commissioner within 120 days of receipt and, if it is not, it will be automatically included on the agenda of CADE's judgment sessions after this period.



ADDITIONAL INQUIRIES BY THE REPORTING COMMISSIONER

The Reporting Commissioner may request statements, inquiries, or technical studies within 20 days.



TRIBUNAL'S DECISION

The decision must be reasoned, specifying the grounds for the designation and the obligations imposed, as well as describing the requirements, deadlines, and any potential fines for noncompliance.



PUBLICATION

The Tribunal's decision will be published in the Brazilian Official Journal within 5 business days after judgment.

Relevant information:

Term of designation: up to 10 years, renewable through a new proceeding.

CESCON BARRIEU 2.



There are two categories of obligations applicable to agents with systemic relevance:

GENERAL OBLIGATIONS

Automatically applied to designated agents, without the need for a specific decision by CADE's Tribunal: (i) maintaining an office in Brazil, (ii) updating contact details, and (iii) registering legal representatives before CADE.

2 SPECIFIC OBLIGATIONS

Defined in a specific administrative proceeding, decided by CADE's Tribunal following the SDM's recommendation, and may be applied cumulatively or separately:



Mandatory notification to CADE of all merger cases, regardless of the turnover thresholds set forth in Article 88 of the Brazilian Competition Law.



Clear and accessible disclosure of information on products and services, including terms of use, ranking criteria and pricing structures.



Provision of free tools for data transfer, interoperability, installation of third-party apps, access to data and performance, and modification of default settings.



Prohibition of practices such as self-preferencing, unjustified restrictions on offering and contracting, tying, restrictions on access to inputs, and predatory conduct.



nform users, through the usual channels, of any relevant changes to the terms of use of the products or services offered.

Relevant information:

The special obligations shall take effect 60 days after the Tribunal's decision and may be reviewed in the event of relevant market changes.

CESCON BARRIEU 3.

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SANCTIONS FOR NON-COMPLIANCE

Fines ranging from 0.1% to 20% of gross turnover, daily fines, and additional sanctions (e.g. prohibition on contracting with public financial institutions, restriction on participating in public bids, and publication of the conviction decision).



COMPLIANCE REPORT

Economic agents with systemic relevance must periodically submit compliance reports to the SDM detailing they are abiding by the special obligations imposed.



JUDICIAL REVIEW AND PRECAUTIONARY MEASURES

The bill limits the granting of preliminary injunctions against CADE's decisions regarding systemic agents, in accordance with Law No. 8,437/1992, requiring a prior hearing of CADE, prohibiting measures that fully exhaust the subject matter, and allowing the presidents of the competent courts to suspend such injunctions.



PARTICIPATION OF OTHER PUBLIC AUTHORITIES

Provision for the active participation of the Secretariat for Economic Monitoring of the Ministry of Finance (SEAE) and other competent public authorities in the designation proceedings, allowing them to submit complaints to initiate such proceedings, report non-compliance, assess impacts, and propose adjustments to the imposed obligations.



PUBLIC HEARINGS

CADE's Tribunal may convene public hearings to hear the opinion of citizens, experts, companies and civil society organizations. These hearings should also take place (i) prior to the drafting of CADE's regulations on the new proceedings provided for in the bill, and (ii) after the SDM's preliminary opinion in the designation proceedings.

CESCON BARRIEU 4.

OUR TEAM

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