

“BRAZILIAN DMA” (BILL NO. 4,675/2025)

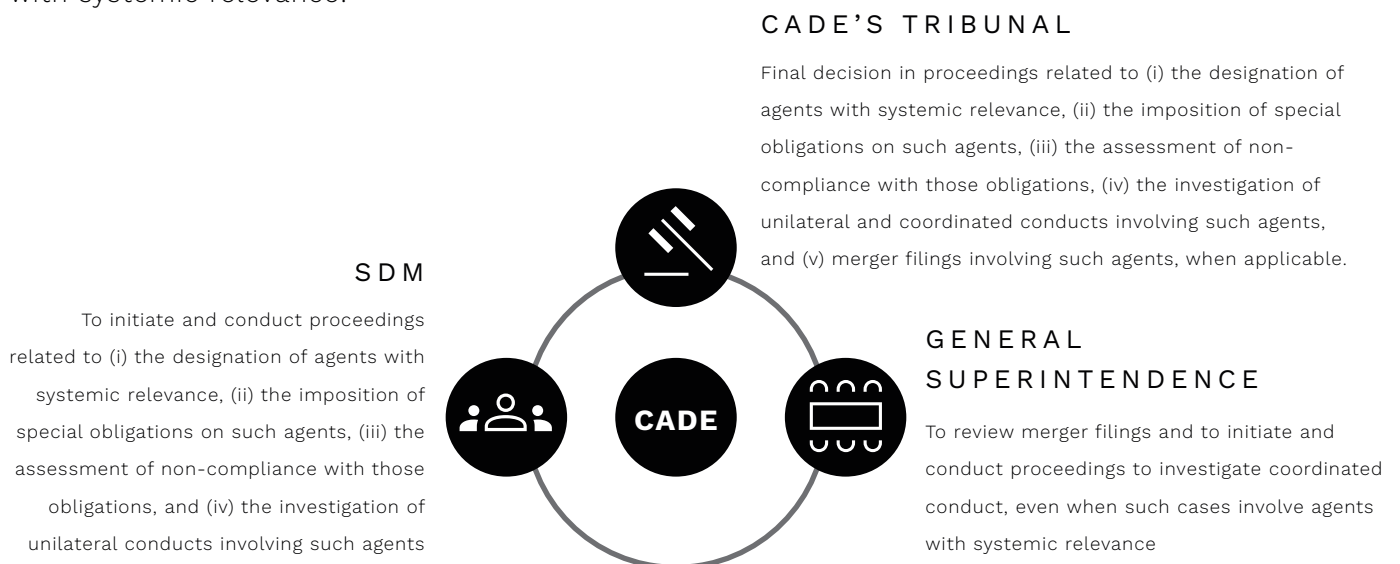
PROPOSAL TO EXPAND CADE’S ROLE IN REGULATING DIGITAL MARKETS

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:



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,
- Market power associated with network effects,
- 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,
- Broad base of professional and end users, or
- Offering of multiple digital products or services.



PROCEEDING FOR DESIGNATING AGENTS WITH SYSTEMIC RELEVANCE



Relevant information:

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



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

1 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.



Inform 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.



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.

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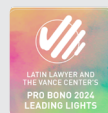
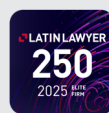
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