

## **Regulating Digital Platform Influence: Legislative Efforts to Address Online News Dependency in Brazil<sup>1</sup>**

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### **Abstract**

Digital platforms increasingly control digital journalism. Publishers are collaborating with policymakers to create regulatory frameworks for equitable online news revenue distribution. This study analyzes media companies' legislative efforts to reduce platform dependence and shape digital journalism. By conceptualizing these conflicts as "regulatory spaces of negotiation," we examine Brazil's case, focusing on three National Congress bills. This broadens platform and online news regulation literature beyond the Global North to include Global South responses, something useful for countries like Brazil and the USA.

**Key Words:** Digital platforms; Publishers; Online news; Brazil; Platform regulation

### **Expanded abstract**

The digital journalism landscape is increasingly dominated by digital platforms. In response, publishers and policymakers have collaborated on regulatory proposals to balance online news revenue distribution. This paper analyzes rulemaking efforts by media companies in Brazil, focusing on three bills in the National Congress (2,370/2019, 1,354/2021, and 2,630/2020).

These efforts aim to reduce publisher dependence on digital platforms and influence digital journalism. Conceptualizing these disputes as "regulatory spaces of negotiation," the paper contributes to literature on platform and online news regulation, broadening the discussion beyond the Global North to include regulatory responses from the Global South, specifically Brazil.

Digital platforms are infrastructures that organize data collection and circulation, algorithmic processing, and information monetization, shaping online interactions.

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While initially a means for news distribution, platforms have led to publishers' dependence for audience traffic. Regulatory initiatives, such as those in Australia and Canada, have addressed this platform dependency.

The paper focuses on Brazil's efforts to establish rules for sharing online advertising revenues. The analysis draws on platform studies, policymaking analysis, and Latin American media regulation studies. Publishers and other interest groups are seeking to counterbalance platform dependency through regulatory initiatives, aiming to disentangle news production from platforms' gatekeeping practices. The paper emphasizes considering national and regional political environments and policymaking cultures.

Building on Poell et al.'s (2023) concept of "spaces of negotiation," the paper proposes "regulatory spaces of negotiation" to highlight institutional rulemaking instances that shape evolving power dynamics. The Brazilian case illustrates how publishers can promote regulatory efforts to mitigate their dependency on platforms, rather than regulation being solely a reaction to platform dominance. While regulatory challenges in Brazil mimic those globally, the legal challenge is more prominent due to concentrated political and media environments and historical absences of public policies for journalism.

Platforms leverage economic, technological, and political resources to extend their influence across online markets. In journalism, publishers are both empowered by and dependent on platforms. This shift in power from news media to platform companies affects news distribution, consumption, and has epistemic implications for journalism. Recent literature highlights increasing infrastructural dependencies and power imbalances.

The relationship between news media production and platforms is characterized by the former's dependency on the latter. While Poell et al.(2023) characterized "opportunities available to news organizations to determine how they produce, distribute and monetize content vis-à-vis platforms" as "spaces of negotiation," they also acknowledge that power relations, though mutually shaped, are asymmetric. Publishers have sought compensation for content use, but platforms dictate terms. Recent examples of regulatory proposals to "force platforms to pay publishers" include the EU Copyrights Directive and Australian and Canadian media bargaining codes. This study focuses on publisher-led efforts to counterbalance platform dependency. The methodological approach expands Poell et al.(2023) framework, proposing "regulatory spaces of negotiation" to describe institutional instances where the platform-publisher relationship is mediated by regulatory bodies and rulemaking processes.

These efforts are "media-led regulatory controversies," shifting from economic to political arenas to rebalance asymmetric power. The paper investigates not only regulatory outcomes but also the process behind them. Policy-making and rulemaking analysis methods are employed to explore strategies of platforms and publishers. Three bills (2,370/2019, 1,354/2021, and 2,630/2020) were selected based on their support and progression in the Brazilian National Congress.

Historically, communication policies in Latin America have been dominated by economic and political elites, leading to concentrated private media ownership. Brazil's media system resembles that of the United States, with significant concentration. While traditional media, particularly print, has declined, digital training has increased.

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The advertising market has shifted to the internet, dominated by international conglomerates like Meta and Alphabet, which are now major news distribution channels in Brazil. Brazilian publishers accept joining digital platforms for content creation and dissemination, but controversies arise over content monetization. Historically powerful, Brazilian publishers are now concerned about platform dominance regarding content usage and revenue sharing, leading some to refuse Google's use of their content. Bills 2,370/2019 and 1,354/2021 propose mandatory payment from digital platforms with over two million users for online news. The payment rate can be set through collective bargaining and may include individual publishers. In the absence of negotiations, disputes can be resolved by arbitration or public administration. Journalistic content is defined broadly. The bills aim to compensate publishers and balance advertising resource concentration, aligning with publisher interests and counterbalancing platform dependency.

Digital platforms and media outlets promote their interests through industry associations and affiliated think tanks. Digital platforms possess significant economic power and structured lobbying teams. Mainstream media outlets also have lobby teams and political power due to historical positions. Smaller media outlets, unions, and civil society networks have fewer resources.

In the first lawmaking round, digital platforms opposed proposals like Bill 1,354/2021, arguing it violated free market principles, while media outlets defended it as compensation for revenue loss. Bill 2.630/2020 became a central battleground for regulating digital platforms. Despite support from mainstream media and the government, digital platform lobbying, aided by far-right parties, successfully hindered its approval. Platforms utilized their economic power by threatening to reduce support for media outlets and running anti-regulation campaigns, demonstrating their ability to mobilize users.

In the second round, regulatory proposals were included in Bill 2,370/2019. Digital platforms opposed it, claiming it would make free content unfeasible. Mainstream media outlets supported payments and took their agenda to an international level. Journalist and digital rights organizations highlighted the importance of democracy and a plural journalistic ecosystem, advocating for inclusion of professionals and a journalism sustainability fund. Publishers leveraged their political power to push for a vote on Bill 2,370/2019, but it was unsuccessful due to disputes with streaming companies and platform lobbying. Publishers then secured approval for Bill 1,354/2021 in the Communications Committee of the Lower House, demonstrating their political power.

Digital platforms aim to maintain an unregulated environment to exercise economic power. Publishers, conversely, utilize political influence due to historical connections with the Brazilian National Congress. The rulemaking process highlights the clash between publishers seeking to counterbalance platform dependency and platforms lobbying to maintain an unregulated scenario. Publishers have supported the introduction of remuneration proposals in different bills to find opportunities for passage.

The "regulatory spaces of negotiation" framework integrates policymaking analysis to understand how these groups interact with rulemaking processes to advocate for their interests and reshape power dynamics. The Brazilian case illustrates that

regulatory responses are strategies employed by publishers to negotiate more advantageous conditions for revenue distribution.

The process faces significant challenges due to the economic power of digital platforms and the political intricacies of the Brazilian Congress. However, ongoing legislative efforts led by media outlets, journalist associations, and civil society show a collective determination to tackle platform dependency and secure journalism's future. The Brazilian case serves as a valuable example for other countries grappling with platform regulation

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