



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

Brendan Carr
Commissioner

September 5, 2024

Carlos Manuel Baigorri
President, Board of Directors
National Telecommunications Agency of Brazil (ANATEL)
SAUS Qd 6 - Block H - 10th floor - South Wing
CEP 70.070-940 - Brasília/DF, Brazil

Dear ANATEL President Baigorri,

The FCC and ANATEL, the lead communications regulatory agencies in the U.S. and Brazil, have had a long-standing relationship—one built on reciprocity, respect for the rule of law, and our shared status as independent agencies established by law to operate without undue influence from the partisan political branches of our governments. The sectors that we regulate in our respective countries stand to benefit from continuing a partnership based on adherence to those foundational principles. Indeed, you recently signed a Memorandum of Understanding with the FCC's Chairwoman that further formalized the FCC and ANATEL relationship.¹

Nonetheless, I am compelled to address with you today the cascading set of apparently unlawful and partisan political actions that your agency has been carrying out against businesses with U.S. ties, including your own threat to pull Starlink's licenses and authorizations to operate in Brazil.² These punitive actions—backed publicly by the Lula Administration—are already reverberating broadly and shaking confidence in the stability and predictability of Brazil's regulated markets. In fact, U.S. business leaders are now openly questioning whether Brazil is on the path to becoming an uninvestable market.³

Under your leadership, ANATEL is now actively enforcing a widely criticized decision by Justice Alexandre de Moraes to censor social media platform X that, according to government officials in Brazil, violates Brazil's own Constitution and your country's statutory prohibitions against government censorship. To make matters worse, Justice de Moraes chose to enforce his decision by freezing the assets of Starlink—even though Starlink is a separate company with different shareholders that has broken no laws.

¹ FCC Press Release, FCC Signs Partnerships with Brazilian and Romanian Counterparts (Sept. 26, 2022), <https://docs.fcc.gov/public/attachments/DOC-387586A1.pdf>.

² Andréia Sadi, Starlink May Lose Authorization to Provide Service in Brazil, says ANATEL President (Sept. 2, 2024), <https://g1.globo.com/politica/blog/andreia-sadi/noticia/2024/09/02/starlink-pode-perder-autorizacao-para-prestar-servico-no-brasil-diz-presidente-da-anatel.ghtml>.

³ See, e.g., Roberta Ribeiro, X Suspension and Starlink Account Freeze Undermine Legal Certainty and Deter Investment in Brazil (Sept. 4, 2024) ("after X was already blocked in Brazil, American investor Bill Ackman weighed in . . . stat[ing] that 'the illegal shutdown of X and the freezing of Starlink's accounts are rapidly putting Brazil on a path to becoming uninvestable'"), <https://www.gazetadopovo.com.br/republica/x-suspension-and-starlink-account-freeze-undermine-legal-certainty-and-deter-investment-in-brazil/>.

In all of this, Justice de Moraes has failed to respect universal and basic tenets of transparency, fair notice, and due process. Indeed, it has now been revealed that Justice de Moraes has been sending social media companies secret orders to censor the political posts of elected members of Brazil's national Congress. "If this sounds authoritarian, it is," the Washington Post wrote this week about Justice de Moraes's takedown campaign.⁴ Continuing, the Washington Post stated that Brazil's recent moves come "at a substantial cost to free expression—with mandates for removals and even arrest warrants often issued under seal and with scant reasoning to support them." "Brazilians shouldn't have to put up with government suppressing political viewpoints," the Washington Post concluded.

While Justice de Moraes's actions mirror crackdowns on free speech that are taking place across the globe, I am not writing you today based on a generalized concern about free expression—though I believe strongly that communications regulators like us should stand against this trend towards censorship. Nor am I arguing that these actions by Brazil's government somehow violate U.S. laws on free speech. As a sovereign country, Brazil has its own laws and precedents.

But according to Brazilian officials and legal authorities, Brazil is now violating its *own* laws through arbitrary and capricious actions against X and Starlink. Indeed, the Justice de Moraes decision runs headlong into Brazil's own Constitution, which expressly prohibits "[a]ny and all censorship of a political, ideological and artistic nature," as well as other provisions of Brazilian law that further guarantee freedom of expression.⁵

The serious and apparently unlawful actions against X and Starlink cannot be squared with the principles of reciprocity, rule of law, and independence that have served as the foundation of the FCC and ANATEL relationship and the basis for reciprocal foreign investment.

I am therefore requesting a meeting with you to address and resolve these issues. If you prefer, I will come to you in Brazil to do so.

Sincerely,



Brendan Carr

⁴ Editorial Board, Washington Post, In This Free Speech Fight, Musk's X has Marked the Right Position (Sept. 4, 2024), <https://www.washingtonpost.com/opinions/2024/09/04/elon-musk-x-brazil-judge-speech/>.

⁵ CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] art. 5, § IX, art. 220, § 2 (Braz.); Lei No. 12.965, de 23 de Abril de 2014, DIÁRIO OFICIAL DA UNIÃO [D.O.U.] de 24.4.2014, art. 3, § I (Braz.).