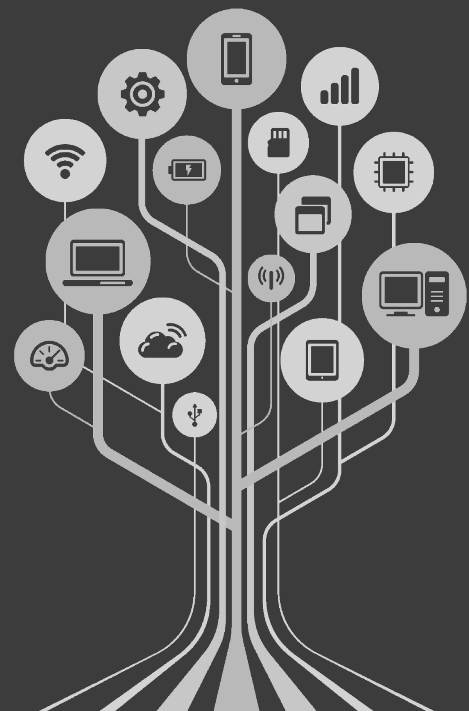


INTERNET OF THINGS (IOT)

Legal Aspects in Brazil

Dezembro 2020

**CESCON
BARRIEU**



- Brazil is frequently included in the top 6 countries with largest online population and time spent on apps
- IoT is a reality and people tend to use it in all available means (cars, wearables, household equipment, smart home systems, cars, etc)
- In 2019, Decree 9.854 / 19 - National Internet of Things Plan was enacted
- Four core verticals of Brazil's IoT plan are Smart Cities, Healthcare, Agribusiness and Manufacturing
- The National Telecommunications Agency (ANATEL) was appointed as the agency responsible for regulating and supervising telecommunication networks, machine to machine, communication systems, including access devices, to transmit data to remote applications in order to monitor, measure and control the device itself, the environment around it or data systems connected to it through these networks
- On Oct 20, 2020 ANATEL has approved the reduction of the tax burden to IoT applications (exempts equipment for internet-of-things (IoT) communication from paying telecom levies for a period of five years) and reduced technical barriers to new players (impose of portability obligations for accesses exclusively intended for the connection of IoT devices)
- New set of laws is expected soon taking into consideration the results of public consults opened to discuss the matter

Legal framework:

Consumer Protection Code and the e-Commerce Decree	<ul style="list-style-type: none"> • clear information about the risks to the health and safety of consumers • technology offered must meet the broad standards of quality and safety of products and services • the supplier may be liable for the moral and material damages caused by defects of IoT products
Internet Act (Federal Law No. 12.965 / 2014)	<ul style="list-style-type: none"> • use of the internet will follow the principles of protection of privacy and personal data and reinforce the inviolability of private life • any form of access to the World Wide Web, including using smart objects, must safeguard the security of your customers' information and privacy protection, avoiding leaks, improper data retrieval and misuse of purpose
Civil Code and Statute of Children and Adolescents	<ul style="list-style-type: none"> • rules for manifestation of will, contract, proposal, nullities etc. Need to implement operational strategies to confirm the intention to acquire by the user, for example. • risks of misuse of household objects linked to the Internet by children and adolescents. Care must be taken to avoid its handling by children, through mechanisms of blocking and control of use, mainly for objects with functionalities for displaying information related to intimacy or conducting legal business and must compose the devices security system.

Brazilian Data Protection Law (LGPD) & IOT

The General Data Protection Law entered into force on September 2020

- Benefits of having a specific law / consent not seen as the only lawful base
- Points of attention: any processing activity shall be informed to customers and all rights provided under the LGPD must be enforceable by the customers

PRINCIPLES

Purpose: legitimate, specific and explicit purposes, to be informed to the data subject – no further processing permitted

Adequacy: compatibility of the processing with the purposes that the data subject was informed of

Necessity: limitation of the processing to the minimum processing necessary to achieve its purposes

Free Access: data subject must be offered with an easy manner to consult his/her information processed and duration of the processing

Quality of data: data must be accurate, clear, relevant and updated and collected to the extent required for the purposes

Transparency: clear, precise and easily accessible information about the processing and the respective processing agents, respecting commercial and industrial secrecy

Security: use of technical and administrative measures able to protect the personal data

Prevention: adoption of measures to prevent the occurrence of damages due to the processing of personal data

Non-discrimination: prohibition of processing data for discriminatory, unlawful or abusive purposes

Liability and accountability: demonstration of the adoption of effective measures in order to prove the observance and compliance with the law

RIGHTS OF THE DATA SUBJECT

confirmation of the existence of processing

access to the data

correction of incomplete, inaccurate or outdated data

anonymization, blocking or elimination of unnecessary or excessive data or data processed in noncompliance with the provisions of this Law

portability of the data to other providers of services or goods

elimination of the personal data processed with the consent of the data subjects (except if otherwise permitted in the LGPD)

information of the public and private entities with which the controller has shared use of data

information on the possibility of not providing consent and on the effects of the denial

withdrawal of the consent

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