
Brazil's Gamble to Import Europe's Digital Playbook

TL;DR

Background: Brazil's Congress has fast-tracked [Bill 4,675/2025](#), a proposal to establish *ex ante* [competition regulation](#). Unlike Brazil's current framework, which relies on *ex post* enforcement by the Administrative Council for Economic Defense (CADE), the bill would grant CADE [authority](#) to designate "systemically relevant economic agents in digital markets" in advance and impose "special obligations."

But... Brazil already faces the notorious "[Custo Brasil](#)" (Brazil Cost), a bureaucratic and regulatory burden estimated at nearly 19.5% of gross domestic product that raises the cost of doing business. Against this backdrop, Bill 4,675/2025 would add a new layer of *ex ante* digital regulation without a Regulatory Impact Assessment (RIA), the formal process used to evaluate the likely economic, social, and administrative effects of proposed rules. Without that cost-benefit analysis, the legislation risks compounding inefficiencies and further constraining economic growth.

Moreover... Early evidence from Europe's Digital Markets Act (DMA), the primary inspiration for Bill 4,675/2025, suggests that rigid *ex ante* rules can delay the rollout of advanced technologies, increase user friction, and strip away integrated features that consumers value. Importing this model to Brazil would likely slow access to new technologies, reduce productivity, and weaken incentives to invest in locally tailored innovation.

European experience, however, suggests Brazil's bill could impose significant economic costs.

Former European Central Bank President Mario Draghi has identified Europe's heavily regulated technology sector as a key driver of the productivity gap with the United States. That gap is stark: [only four](#) of the world's top 50 technology companies are European.

The DMA has required platforms to remove efficient integrations, increasing friction for users and businesses. Routine digital searches can take [up to 50% longer](#) for heavy users, while firms face billions in potential revenue losses. At the same time, the regulation's core promise of "contestability" remains largely aspirational. Evidence of increased switching is limited, there is no clear evidence of lower prices, no major digital platforms have emerged in Europe, and [80%](#) of consumers remain unaware the regulation exists.

Brazil's legislators should weigh these outcomes carefully. Adopting a similar framework risks importing not only Europe's regulatory model, but also its economic tradeoffs.

When Rules Outrun Markets

Innovation in digital markets outpaces regulation. Rigid rules risk freezing business models before they evolve. *Ex ante* regimes heighten that risk by discarding the contextual, effects-based analysis central to traditional competition law and increasing false positives that condemn pro-competitive conduct.

Bill 4,675/2025 illustrates the problem. Article 47-E(IV)(c) would, at CADE's discretion, prohibit designated firms from favoring their own products or services over those of rivals, a ban on self-preferencing that treats as suspect what is often consumer-benefiting vertical integration (e.g., a search engine displaying its own maps or

KEY TAKEAWAYS

Europe's Cautionary Tale

Proponents of Bill 4,675/2025 often point to the European Union's Digital Markets Act (DMA) as a model for promoting market contestability. The

price-comparison tools). Article 47-E(IV)(d) could similarly prohibit tying, even though bundling often lowers costs and improves the user experience.

The bill's interoperability and data-portability mandates (Art. 47-E(V)(a)–(b)) raise similar concerns. They could force platforms to open systems in ways that compromise security and privacy without evidence of user demand.

Under traditional competition law, each practice requires a showing of consumer harm. The bill gestures toward flexibility by keeping enforcement within CADE, allowing “economic justifications,” and adopting a more discretionary framework. Those features, however, do not sufficiently limit regulatory overreach without robust judicial review.

Regulation Without Reckoning

Under the Brazilian Economic Freedom Act (Law 13.874/2019), regulators must conduct a rigorous Regulatory Impact Assessment (RIA) before adopting new rules. Bill 4,675/2025 is a legislative initiative, not a formal regulation, yet the government has advanced it without any comparable cost-benefit analysis.

That omission is especially concerning given Brazil's existing regulatory burden. The country faces the well-documented “Custo Brasil,” with structural inefficiencies estimated at R\$1.7 trillion annually, and it ranks as the fifth worst of 51 countries on the Organisation for Economic Co-operation and Development's (OECD) [Product Market Regulation indicators](#).

In an already overregulated environment, new mandates should meet a higher bar. Policymakers should confirm that the bill addresses a clearly identified domestic market failure and that expected consumer benefits outweigh the risks of overenforcement, reduced innovation, and higher compliance costs. Without that showing, the proposed cure risks proving worse than the disease.

Pause Before You Regulate

Rather than rushing to import an untested regulatory model, Brazilian policymakers should take three steps.

First, conduct a proper Regulatory Impact Assessment (RIA) before any vote. Brazil's Economic Freedom Act recognizes cost-benefit analysis as foundational to sound regulation, and there is no justification for bypassing it—especially given the limited legislative scrutiny associated with the bill's fast-tracked process.

Second, rely on existing tools. The Administrative Council for Economic Defense's (CADE) competition-enforcement powers remain underused. Its December 2025 [settlement](#) with Apple, which secured meaningful concessions on app-store practices, shows that Brazil's current framework can achieve outcomes similar to *ex ante* regimes while preserving case-specific analysis and reducing collateral harm.

Third, wait for further evidence from Europe. The DMA remains in its early stages, and initial results raise concerns. Brazil sacrifices nothing by observing how these policies evolve before committing to a framework that may prove costly and ineffective. Speed offers little advantage when the risk is entrenching regulatory errors that compound over time.

For further analysis, see ICLE's forthcoming working paper about digital regulation in Brazil.

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