Everything you need to know about Brazil's new law protecting private data

WHAT IS THE LGPD?

Passed on August 14, 2018, the LGPD (Lei no. 13.709) will create a new Brazilian data protection law. The LGPD will be applied to all sectors of the Brazilian society and Brazilian government in fulfillment of its public interests. The LGPD will be applied to all sectors of the Brazilian society and Brazilian government in fulfillment of its public interests.

CROSS-CUTTING APPLICATION

Notably, the LGPD will protect data regardless of where it is processed or stored. This means that even if data is processed or stored in other countries, the LGPD will still apply if the data is of Brazilian origin. This is a significant departure from previous Brazilian data protection laws, which were limited to data processed within Brazil.

CONSENSUAL DATA PROCESSING

In order to lawfully process personal data, companies and organizations must first have the consent of the data subject—meaning the user—in addition to governmental or organizational mandates. This differs from the previous Brazilian data protection laws, which did not require the consent of the data subject.

DATA SUBJECT RIGHTS

The LGPD grants citizens a number of rights over their personal data, including: access, rectification, anonymization, portability, and deletion of data, as well as disclosure of data sharing. Any firms found to be in violation of this Law will be levied a fine of 2 percent of annual revenues, up to a total of $12.3 million (R$ 50 million) per violation. The transfer of personal data will only be acceptable when the national authority deems the destination adequately protected.

INTERNATIONAL DATA TRANSFER

The transfer of personal data will only be accepted when the national authority deems the destination adequately protected.

DATA PROCESSING AGENTS

Any breach of data security must be reported to the national authority. Each processing firm must designate a Data Protection Officer to act as a liaison between the company and the national authority. The national authority can, at any time, request records of any personal data processing.

SECURITY AND DOOD PRACTICE

The processing of data relating to children and adolescents will only be done with the express consent of at least one guardian and with the objective to be in the best interest of the subject. The processing of data relating to children and adolescents will only be done with the express consent of at least one guardian and with the objective to be in the best interest of the subject.

ADMINISTRATIVE SANCTIONS

Sanctions applied to the violating firm will be based on the severity of the legal infraction. The national authority may, at any time, carry out a detailed analysis of the data protection practice of any processing firm to verify compliance with the law. The national authority will have the consent of the data subject. Any exchange of data between public and private or public and private data processing agents must be in compliance with the law.

WHAT IS THE LGPD?

The new Brazilian General Data Protection Law -- a detailed analysis.

Sources:

Congresso Nacional. “Lei no. 13.709, de 14 de agosto de 2018.”

LegisCompliance.

Monteiro, Renato Leite.

Farias, Marcelo, and Marcia Ogawa.

Entrevista com Patricia Peck: LGPD e evidências das mensagens eletrônicas.

The General Data Protection Act

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