

PLANO DE ENSINO

DISCIPLINA	DIGITAL PLATFORMS: LAW & POLICY								
DOCENTE	NICOLO ZINGALES								
CÓDIGO	GRDDIRELE162	SEMESTRE	2022.2	PERÍODO	-	NATUREZA	ELETIVA	CARGA HORÁRIA	60h

EMENTA	<p>1. Internet law and the four modalities of regulation in virtual communities. 2 The dilemma of content moderation: its purpose, its approaches and limits. 3. The evolving framework for content moderation and the blurring boundaries of private-public. 4. Big Tech, Big Responsibilities: between liberalism and positive duties. 5. Intermediaries, platforms and secondary liability. 6. Intermediary safe harbors and the scope of liability limitations. 7. Safe harbors and conflicting norms. 8. Economic analysis of intermediary liability rules. 9. Human rights analysis of liability. 10. Platforms as points of control: enablers of innovation and of delegated decision-making. 11. The hypocrisy of safe harbors: the neutrality trap. 12. The rise of platform responsibility. 13. The role of intermediaries in combating copyright infringement. 14. The role of intermediaries in combating terrorism and indecent speech. 15. The role of intermediaries in combating fake news. 16. The problem of concentration of power: knowledge and choice architecture as power. 17. Separation of powers in the platform economy. 18. Antitrust in platform markets: general concepts and market power. 19. Antitrust in platform markets: agreements. 20. Antitrust in platform markets: abuse of dominant position. 21. Antitrust in platform markets: mergers. 22. The antitrust problems of the Big Tech: Google and Facebook. 23. The antitrust problems of the Big Tech: Amazon and Apple. 24. From platforms to ecosystems: new challenges for economic regulation. 25. Beyond market power: media and infrastructure regulation. 26. Beyond market power: data regulation. 27. Beyond market power: Unfair competition law. 28. Beyond market power: Duty of care and special responsibility. 29. Regulating Artificial Intelligence. 30. Combining different regulatory approaches.</p>								
OBJETIVOS	<p>In this course, we analyse the profound impact of providers of digital platforms services (Google, Facebook, Amazon, Apple and others) and other online intermediaries (ISPs, payment providers, domain name providers) on concepts of law and power. To that end, we revisit the foundations of separation of power in liberal democracies and the manner in which this informs the traditional process of law formation. We then contrast that process with the private law-making that governs the activities of Internet users, and examine the mechanisms that have been developed to curb discretionary power in that context. We review relevant self-regulatory initiatives, discuss challenges in the horizontal application of fundamental rights, and examine the expanding area of intermediary liability law across a number of domains, including intellectual property, data protection law, and the prevention of terrorist and obscene content. We also gauge the extent to which existing laws are able to tackle issues of concentration and abuse of market power by online platforms and consider possible regulatory alternatives.</p> <p>By the end of the course, the student will be able to:</p> <ul style="list-style-type: none"> • Describe the multi-faceted notion of power, and the ways in which it acquires relevance in the process of law formation, particularly around digital platforms. • Distinguish among different types of intermediation to the actions of third parties, and different forms of responsibilities that attach. • Explain the legal and policy rationale behind the adoption of specific types of intermediary liabilities, and highlighting potential unintended (or underestimated) consequences. • Identify and critically analyse the most important regulatory mechanisms for the imposition and the enforcement of platform liabilities. • Articulate a vision for the future direction of the evolving framework for platform governance in Brazil, and comparing that with other jurisdictions. • Manage and critique case-studies illustrating the theoretical framework studied. 								
METODOLOGIA	The course will alternate theoretical (but interactive) lectures with hands-on workshops, specifically one workshop every two lectures								
HABILIDADES Exigência MEC CNE/CES nº 5, 18 de dezembro de 2018	X	Interpretar/aplicar as normas (princípios e regras) do sistema jurídico nacional, observando a experiência estrangeira comparada, quando couber, articulando o conhecimento teórico com a resolução de problemas.							
	X	Demonstrar competência na leitura, compreensão e elaboração de textos, atos e documentos jurídicos, de caráter negocial, processual ou normativo, bem como a devida utilização das normas técnico-jurídicas.							
	X	Demonstrar capacidade para comunicar-se com precisão.							
	X	Dominar instrumentos da metodologia jurídica, sendo capaz de compreender e aplicar conceitos, estruturas e racionalidades fundamentais ao exercício do Direito.							
	X	Adquirir capacidade para desenvolver técnicas de raciocínio e de argumentação jurídicas com objetivo de propor soluções e decidir questões no âmbito do Direito.							
		Desenvolver a cultura do diálogo e o uso de meios consensuais de solução de conflitos.							
		Compreender a hermenêutica e os métodos interpretativos, com a necessária capacidade de pesquisa e de utilização da legislação, da jurisprudência, da doutrina e de outras fontes do Direito.							
		Ter competências para atuar em diferentes instâncias extrajudiciais, administrativas ou judiciais, com a devida utilização de processos, atos e procedimentos.							
	X	Utilizar corretamente a terminologia e as categorias jurídicas.							
	X	Aceitar a diversidade e o pluralismo cultural.							
X	Compreender o impacto da inteligência artificial e das novas tecnologias na área jurídica.								

	Possuir o domínio de tecnologias e métodos para permanente compreensão e aplicação do Direito.
X	Desenvolver a capacidade de trabalhar em grupos formados por profissionais do Direito ou de caráter interdisciplinar.
	Apreender conceitos deontológico-profissionais e desenvolver perspectivas transversais sobre direitos humanos.
	Outras:
CONTEÚDO PROGRAMÁTICO	
AULA	TEMA
1	Internet law and the four modalities of regulation in virtual communities
2	The dilemma of content moderation: its purpose, its approaches and limits
3	The evolving framework for content moderation and the blurring boundaries of private-public
4	Big Tech, Big Responsibilities: between liberalism and positive duties
5	Intermediaries, platforms and secondary liability
6	Intermediary safe harbors and the scope of liability limitations
7	Safe harbors and conflicting norms
8	Economic analysis of intermediary liability rules
9	Human rights analysis of liability
10	Platforms as points of control: enablers of innovation and of delegated decision-making
11	The hypocrisy of safe harbors: the neutrality trap
12	The rise of platform responsibility
13	The role of intermediaries in combating copyright infringement
14	The role of intermediaries in combating terrorism and indecent speech
15	The role of intermediaries in combating fake news
16	The problem of concentration of power: knowledge and choice architecture as power
17	Separation of powers in the platform economy
18	Antitrust in platform markets: general concepts and market power
19	Antitrust in platform markets: agreements
20	Antitrust in platform markets: abuse of dominant position
21	Antitrust in platform markets: mergers
22	The antitrust problems of the Big Tech: Google and Facebook
23	The antitrust problems of the Big Tech: Amazon and Apple
24	From platforms to ecosystems: new challenges for economic regulation
25	Beyond market power: media and infrastructure regulation
26	Beyond market power: data regulation
27	Beyond market power: Unfair competition law
28	Beyond market power: Duty of care and special responsibility
29	Regulating Artificial Intelligence
30	Combining different regulatory approaches

TRILHA	Advocacia Empresarial
	Carreiras Públicas
	X Regulação
	Justiça e Sociedade
	X Tecnologias
CRITÉRIOS DE AVALIAÇÃO	20% class participation, 30% in-class assignment, 50% 3,000-word essay
BIBLIOGRAFIA BÁSICA	GRIMMELMANN, James. Internet Law: Cases and Problems (11th ed., Semaphore Press 2021) FROSIO, Giancarlo (ed.), The Oxford Handbook of Intermediary Liability (Oxford University Press, 2020) DUCCI, Francesco, Natural Monopolies in Platform Markets (Cambridge University Press, 2020)
BIBLIOGRAFIA COMPLEMENTAR	BELLI, Luca & ZINGALES, Nicolo (eds.), Platform Regulations: How Platforms Are Regulated and How They Regulate Us (FGV Press, 2017) HUSOVEC, Martin. Injunctions Against Intermediaries (Cambridge University Press, 2017) PETKOVA, Bilyana & OJANEN, Tuomas. Fundamental Rights Protection Online: The Future Regulation of Intermediaries (Edward Elgar, 2020) MOORE, Martin and TAMBINI, Damian (eds.) Digital Dominance. The Power of Google, Amazon, Facebook, and Apple (Oxford University Press, 2018). (Available open access at https://global.oup.com/academic/product/digital-dominance-9780190845124?cc=us&lang=en&#) SUZOR, Nicolas. Lawless: The Secret Rules that Govern Our Digital Lives (Cambridge University Press, 2019). (Available open access at https://osf.io/preprints/socarxiv/ack26/)