

Programa de Pós-graduação *Stricto Sensu* em Direito da Regulação Plano de Ensino

- **Disciplina:** Digital Platform Governance
- **Nome da disciplina em inglês:** Digital Platform Governance
- **Tipo Disciplina:** Eletiva
- **Carga Horária:** 45h (3 créditos)
- **Horário:** 10h às 13h **Dia da semana:** Sexta-feira

- **Professor Responsável:**

Nicolo Zingales – PhD, is a Professor of information law and regulation at FGV law school in Rio de Janeiro, where he also heads the E-Commerce Research Group. His research focuses on the role and responsibilities of digital intermediaries across distinct but overlapping legal regimes such as competition law, data protection, intellectual property and consumer law. His work was cited, among others, by the OCDE, the Council of Europe, the UN Special Rapporteur on Freedom of Expression, the Brazilian Competition Authority, the UK House of Lords and the European Parliament. He is a Director of CPDP LatAm; a founding member of the MyData Organisation and the host of its Brazilian hub; an affiliate scholar at the Stanford Center for Internet and Society and the Tilburg Institute for Law, Technology and Society; and a consultant on digital markets for CADE, the Brazilian competition authority. Prior to establishing his academic home at FGV, he worked for three years in the United Kingdom (Leeds and Sussex University), and for two years in the Netherlands (Tilburg Law School). He held visiting appointments at the law schools of the University of Western Australia, the Graduate Institute of Geneva, New York University, Harvard University, and at the Max Planck Institute for Competition and Innovation. He was a Google Policy Fellow at Research ICT Africa, a consultant on Internet freedom for APC and CIPESA, and practiced law with two international law firms, the European Commission and the European Court of Justice. He holds a JD from the University of Bologna and a PhD in international law and economics from Bocconi University. Further information about his work can be found on his [Lattes](#), [LinkedIn](#) or [Twitter](#) profiles.

- **Ementa:**

I.Regulation and governance of online communities; II. The dilemma of content moderation; III. The evolving framework for content moderation and the blurring boundaries of private-public; IV. Big Tech = big responsibilities in content moderation; V. Intermediaries, platforms and secondary liability; VI. Intermediary safe harbors and the scope of liability limitations ; VII. Economic analysis of liability; VIII. Human rights analysis of intermediary liability; IX. The rise of platform responsibility; X. The role of intermediaries in combating copyright infringement; XI. The role of intermediaries in combating fake news; XII. The Digital Services Act and its implications for digital intermediaries; XIII. Platform regulation as risk regulation; XIV. Platform Transparency: Expectations and Frustrations. XV. Regulating AI Platforms: Substantive and Procedural Challenges.

▪ **Objetivos:**

This course aims at providing an understanding of the evolving law regarding digital platforms and how this subject may vary across different national frameworks. Upon successful completion, students will be able to critically discuss the pros and cons of different approaches to regulation of and by digital platforms, considering the impact of their activity on the economy and society more broadly. Specifically, students will be able to:

1. 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.
2. Distinguish among different types of intermediation to the actions of third parties that occur on the Internet, and different forms of responsibilities that attach.
3. Explain the legal and policy rationale behind the adoption of specific types of intermediary liabilities, and highlight potential unintended (or underestimated) consequences.
4. Identify and critically analyse the most important regulatory mechanisms for the imposition and the enforcement of platform liabilities.
5. Articulate a vision for the future direction of the evolving framework for platform governance in Brazil, and comparing that with other jurisdictions.
6. Manage and critique case-studies illustrating the imparted theoretical framework.

▪ **Critérios de avaliação:**

The final grade will be based on the combined result of student participation to debates during class, students' oral presentations, and written take-home exam.

The evaluation of the written exam will correspond to 40% (four out of ten points of the final grade). The written exam must be in English language and shall be delivered by **28 July 2025**.

The evaluation of the oral presentations will correspond to 40% (four out of ten points of the final grade).

The remaining 20% (two out of ten points of the final grade), to reach 100% of the final grade (ten points), will depend on the student's presence and effective participation in the debates held in the classroom.

▪ **Cronograma e Bibliografia:**

AULA	DATA	TEMA
I	14/03/2025	<p>REGULATION AND GOVERNANCE OF ONLINE COMMUNITIES</p> <p>Lawrence Lessig, The Law Of The Horse: What Cyberlaw Might Teach, 113 Harvard Law Review 501 (1999).</p> <p>Nicolas Suzor, The role of the rule of law in virtual communities, 25 Berkeley Technology Law Journal 1819 (2011).</p> <p>Suggested readings:</p> <p>Tim Wu, An Introduction to the Law & Economics of Information (March 22, 2016). Columbia Public Law Research Paper No. 14-399; Columbia Law and Economics Working Paper No. 482. Available at SSRN: https://ssrn.com/abstract=2446577.</p> <p>Amy Kapczynski, The Law of Informational Capitalism, 129 Yale L. J. 1460 (2019-2020)</p>

<p>II</p>	<p>21/03/2025</p>	<p>THE DILEMMA OF CONTENT MODERATION</p> <p>James Grimmelman, The Virtue of Moderation, 17 Yale Journal of Law and Technology 42 (2015)</p> <p>Eric Goldman, Content Moderation Remedies (2021). 28 Michigan Technology Law Review 1 (2021), Santa Clara Univ. Legal Studies Research Paper, Available at SSRN: https://ssrn.com/abstract=3810580</p> <p>Suggested readings:</p> <p>Robyn Caplan, 'Context or Content Moderation? Artisanal, Community-Reliant, and Industrial Approaches', Data & Society Research Institute (2018), available at https://datasociety.net/output/content-or-context-moderation/</p> <p>Gillespie, T. (2022). Do Not Recommend? Reduction as a Form of Content Moderation. Social Media + Society, 8(3). https://doi.org/10.1177/20563051221117552</p>
<p>III</p>	<p>28/03/2025</p>	<p>INTERMEDIARIES, PLATFORMS AND SECONDARY LIABILITY</p> <p>OECD, 'The Economic and Social Role of Internet Intermediaries' (2010), at https://www.oecd.org/internet/ieconomy/44949023.pdf, pp. 6-14</p> <p>Graeme Dinwoodie, Who are Internet Intermediaries?, Oxford Handbook on Intermediary Liability (Oxford University Press, 2020).</p> <p>Paul Belleflamme and Martin Peitz, Platforms: Definitions and Typology, in The Economics of Platform (Cambridge University Press, 2021), at https://www.cambridge.org/core/books/abs/economics-of-platforms/platforms-definitions-and-typology/EBA51D430F062103A738AFB833FBD7C7</p> <p>Suggested readings:</p> <p>Tarleton Gillespie, Platforms are not Intermediaries, 2 Georgetown Law Technology Review 198 (2018).</p> <p>Daphne Keller, Internet Platforms. Observations on speech, danger and Money. Hoover Institution White Paper (2018), available at https://www.hoover.org/research/internet-platforms-observations-speech-danger-and-money</p>
<p>IV</p>	<p>04/04/2025</p>	<p>ECONOMIC ANALYSIS OF INTERMEDIARY LIABILITY</p> <p>Alexandre De Streel et al., Liability of Online Platforms- Should Exceptionalism End? CERRE Report September 2018</p> <p>Husovec, Martin, Accountable, Not Liable: Injunctions Against Intermediaries (May 2, 2016). TILEC Discussion Paper No. 2016-012, Available at SSRN:</p>

		<p>https://ssrn.com/abstract=2773768 or http://dx.doi.org/10.2139/ssrn.2773768</p> <p>Suggested readings:</p> <p>Mike Masnick, 'Don't shoot the Message Board. How Intermediary Liability Harms Investment and Innovation' (June 2019), http://netchoice.org/wp-content/uploads/Dont-Shoot-the-Message-Board-Clean-Copia.pdf</p> <p>Grimmelmann, James and Zhang, Pengfei, An Economic Model of Intermediary Liability (April 19, 2023). Berkeley Technology Law Journal, Forthcoming, Available at SSRN: https://ssrn.com/abstract=4422819</p>
V	11/04/2025	<p>HUMAN RIGHTS ANALYSIS OF INTERMEDIARY LIABILITY</p> <p>Robert Spano, Intermediary Liability for Online User Comments under the European Convention on Human Rights, <i>Human Rights Law Review</i>, 2017, 1–15.</p> <p>Nicolo Zingales, Virtues and Perils of Anonymity: Should Intermediaries Bear the Burden 5 (2014) <i>JIPITEC</i> 155, para 1.</p> <p>Council of Europe, Recommendation CM/Rec (2018)2 of the Committee of Ministers to member States on the roles and responsibilities of internet intermediaries</p> <p>Suggested readings:</p> <p>Christina Angelopoulos and Stijn Smet, 'Notice-and-fair-balance: How to Reach a. Compromise Between Fundamental Rights in European Intermediary Liability', 8 (2) <i>Journal of Media Law</i> (2016) 266-301</p> <p>Aleksandra Kuczerawy, The Power of Positive Thinking: Intermediary Liability and the Effective Enjoyment of the Right to Freedom of Expression, 8 (2017) <i>JIPITEC</i> 226 para 1.</p>
VI	25/04/2025	<p>THE RISE OF PLATFORM RESPONSIBILITY</p> <p>Nicolo Zingales & Luca Belli, 'Introduction', in <i>Platform Regulations: How Platforms Are Regulated and How They Regulate Us</i> (FGV Press, 2017).</p> <p>Frosio, Giancarlo and Husovec, Martin, Accountability and Responsibility of Online Intermediaries (September 10, 2019). in Giancarlo Frosio (ed.), <i>The Oxford Handbook of Online Intermediary Liability</i> (Oxford University Press, 2019, Forthcoming), available at SSRN: https://ssrn.com/abstract=3451220 or http://dx.doi.org/10.2139/ssrn.3451220</p>

		<p>European Commission, Communication on 'Tackling Illegal Content Online: Towards an enhanced responsibility of online platforms', COM(2017) 555 final.</p> <p>European Commission, Recommendation on 'on measures to effectively tackle illegal content online', C(2018) 1177 final.</p> <p>Suggested readings:</p> <p>Hu, Ying, Platform Liability for Terrorist Activities (March 12, 2022). Chapter 6 in Paul S Davies and Tan Cheng-Han SC (eds), Intermediaries in Commercial Law (Hart Publishing 2022) 117-36, Available at SSRN: https://ssrn.com/abstract=4275846</p> <p>Cohen-Almagor, Raphael. Google and Corporate Social Responsibility: YouTube in the Service of Terrorism (December 1, 2022). Perspectives on Terrorism, Vol. 16(5) (2022): 46-61., Available at SSRN: https://ssrn.com/abstract=4290567</p>
VII	09/05/2025	<p>THE ROLE OF INTERMEDIARIES IN COMBATING COPYRIGHT INFRINGEMENT</p> <p>Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC (Text with EEA relevance.)</p> <p>Husovec, Martin, How Europe Wants to Redefine Global Online Copyright Enforcement (April 15, 2019). In: Tatiana Eleni Synodinou (ed.), Pluralism or Universalism in International Copyright Law (Kluwer law, Forthcoming), Available at SSRN: https://ssrn.com/abstract=3372230 or http://dx.doi.org/10.2139/ssrn.3372230</p> <p>Bridy, Annemarie, The Price of Closing the 'Value Gap': How the Music Industry Hacked EU Copyright Reform (June 30, 2019). Vanderbilt Journal of Entertainment & Technology Law, volume 22, pp. 323-358 (2020), Available at SSRN: https://ssrn.com/abstract=3412249 or http://dx.doi.org/10.2139/ssrn.3412249</p> <p>Suggested readings:</p> <p>Thomas Spoerri, On Upload-Filters and other Competitive Advantages for Big Tech Companies under Article 17 of the Directive on Copyright in the Digital Single Market, 10 (2019) JIPITEC 173 para 1.</p> <p>Quintais, João, The New Copyright in the Digital Single Market Directive: A Critical Look (October 14, 2019). European Intellectual Property Review 2020(1) (Forthcoming), Available at SSRN: https://ssrn.com/abstract=3424770 or http://dx.doi.org/10.2139/ssrn.3424770</p>

VIII	16/05/2025	<p>THE ROLE OF INTERMEDIARIES IN COMBATING FAKE NEWS</p> <p>David Lazer et al., The science of fake news. 359 (6380) Science (09 Mar, 2018).</p> <p>Alberto Alemanno, How to Counter Fake News? A Taxonomy of Anti-fake News Approaches. 9 (1) European Journal of Risk Regulation (2018).</p> <p>A multi-dimensional approach to disinformation, Report of the independent High level Group on fake news and online disinformation. Available at https://ec.europa.eu/digital-single-market/en/news/final-report-high-level-expert-group-fake-news-and-online-disinformation</p> <p>European Commission, Communication on Tackling Misinformation: A European Approach, COM/2018/236 final.</p> <p>European Commission, The Strengthened Code of Practice on Disinformation 2022, at: https://digital-strategy.ec.europa.eu/en/policies/code-practice-disinformation#:~:text=The%20Code%20will%20strengthen%20the,challenges%20related%20to%20such%20techniques.</p> <p>P.H. Chase, The EU Code of Practice on Disinformation: The Difficulty of Regulating a Nebulous Problem, August 29, 2019, available at https://www.ivir.nl/twg/publications-transatlantic-working-group/</p> <p>Suggested readings:</p> <p>Anastasia Kozyreva, Stefan M. Herzog, Stephan Lewandowsky, and Jason Reifler. Resolving content moderation dilemmas between free speech and harmful misinformation, Proceedings of the National Academy of Science 2023</p> <p>Gizem Ceylana, Ian A. Andersonb, and Wendy Wood. Sharing of misinformation is habitual, not just lazy or biased. Proceedings of the National Academy of Science 2023</p> <p>Richard Mackenzie-Gray Scott, Managing Misinformation on Social Media: Targeted Newsfeed Interventions and Freedom of Thought, 21 Nw. J. Hum. Rts. 109 (2023). https://scholarlycommons.law.northwestern.edu/njihr/vol21/iss2/1</p>
IX	23/05/2025	<p>THE DIGITAL SERVICES ACT AND ITS IMPLICATIONS FOR DIGITAL INTERMEDIARY GOVERNANCE</p> <p>Husovec, Martin and Roche Laguna, Irene, Digital Services Act: A Short Primer (July 5, 2022). Martin Husovec and Irene Roche Laguna, Principles of the Digital Services Act (Oxford University Press, Forthcoming 2023), Available at SSRN: https://ssrn.com/abstract=4153796 or http://dx.doi.org/10.2139/ssrn.4153796</p>

		<p>Nicolo Zingales, The DSA as a paradigm shift for online intermediaries' due diligence, Verfassungblog, at https://verfassungsblog.de/dsa-meta-regulation/</p> <p>Martin Husovec, Will the DSA work? On money and effort, Verfassungblog, at https://verfassungsblog.de/dsa-money-effort/</p> <p>Daphne Keller, The EU's new Digital Services Act and the Rest of the World, Verfassungblog , at https://verfassungsblog.de/dsa-rest-of-world/</p> <p>Sebastian Becker, Jan Pefrat, The DSA fails to reign in the most harmful digital platform businesses – but it is still useful , Verfassungblog, at https://verfassungsblog.de/dsa-fails/</p> <p>Pietro Ortolani, If You Build It, They Will Come, Verfassungblog, https://verfassungsblog.de/dsa-build-it/</p> <p>Catalina Goanta, Now What, Verfassungblog, a https://verfassungsblog.de/dsa-now-what/</p> <p>Aleksandra Kuczerawy, Remediating overremoval, Verfassungblog, at https://verfassungsblog.de/remediating-overremoval/</p> <p>Suggested readings:</p> <p>Suzanne Vergnolle, Putting collective intelligence to the enforcement of the Digital Services Act Report on possible collaborations between the European Commission and civil society organisations, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4435885</p> <p>Frosio, Giancarlo and Geiger, Christophe, Taking Fundamental Rights Seriously in the Digital Services Act's Platform Liability Regime. European Law Journal 2022 (forthcoming), Available at SSRN: https://ssrn.com/abstract=3747756</p>
X	30/05/2025	<p>PLATFORM REGULATION AS RISK REGULATION</p> <p>Alessandro Mantelero, Fundamental rights impact assessments in the DSA, https://verfassungsblog.de/dsa-impact-assessment/</p> <p>Evelyn Douek, Content moderation as Systems Thinking, 136 Harv. L. Rev. 526 (2022).</p> <p>ACT Coalition on Meaningful Transparency, Audit frameworks under the Digital Services Act - an ACT briefing note (April 2023), at https://www.meaningfultransparency.tech/post/audit-frameworks-under-the-digital-services-act-an-act-briefing-note</p> <p>COMMISSION DELEGATED REGULATION (EU) .../... of XXXsupplementing Regulation (EU) 2022/2065 of the European Parliament and of the Council, by laying down rules on the performance of audits for very large online platforms and very large online search enginesProposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN</p>

		<p>HARMONISED RULES ON ARTIFICIAL INTELLIGENCE (ARTIFICIAL INTELLIGENCE ACT) AND AMENDING CERTAIN UNION LEGISLATIVE ACTS, COM/2021/206 final</p> <p>Suggested readings:</p> <p>Thomas Kadri, Juridical Discourse for Platforms, 136 Harv. L. Rev. F. 163 (2022)</p> <p>Lindsay Sain Jones and Tim R. Samples, On the Systemic Importance of Digital Platforms, 25 J. Bus. L. 141 (2023) Available at: https://scholarship.law.upenn.edu/jbl/vol25/iss1/5</p> <p>World Economic Forum, Digital Safety Risk Assessment in Action: A Framework and Bank of Case Studies</p>
XI	06/06/20245	<p>PLATFORM TRANSPARENCY: EXPECTATIONS AND FRUSTRATIONS</p> <p>Goldman, Eric, Zauderer and Compelled Editorial Transparency (2023). Iowa Law Review Online, Forthcoming, Santa Clara Univ. Legal Studies Research Paper No. 4246090, Available at SSRN: https://ssrn.com/abstract=4246090 or http://dx.doi.org/10.2139/ssrn.4246090</p> <p>Paddy Leerssen, An end to shadow banning? Transparency rights in the Digital Services Act between content moderation and curation</p> <p>Netchoice v Paxton, US Supreme Court decision (1 July 2024), at https://www.supremecourt.gov/opinions/23pdf/22-277_d18f.pdf</p> <p>Suggested readings:</p> <p>Keller, Daphne, Platform Transparency and the First Amendment (March 3, 2023). Available at SSRN: https://ssrn.com/abstract=4377578 or http://dx.doi.org/10.2139/ssrn.4377578</p> <p>Rieder, B. & Hofmann, J. (2020). Towards platform observability. Internet Policy Review, 9(4). https://doi.org/10.14763/2020.4.1535</p>
XII	13/06/2025	<p>REGULATING AI PLATFORMS: NEW SUBSTANTIVE AND PROCEDURAL CHALLENGES</p> <p>EU AI Act https://artificialintelligenceact.eu/the-act/</p> <p>João Quintais, Generative Ai< Copyright and the AI Act https://copyrightblog.kluweriplaw.com/2023/05/09/generative-ai-copyright-and-the-ai-act/</p> <p>Lee, Katherine and Cooper, A. Feder and Grimmelmann, James, Talkin' 'Bout AI Generation: Copyright and the Generative-AI Supply Chain (July 27, 2023). Forthcoming, Journal of the Copyright Society 2024, Available at</p>

		<p>SSRN: https://ssrn.com/abstract=4523551 or http://dx.doi.org/10.2139/ssrn.4523551</p> <p>Suggested readings:</p> <p>Robert Gorwa and Michael Veale Moderating Model Marketplaces: Platform Governance Puzzles for AI Intermediaries. https://doi.org/10.31235/osf.io/6dfk3</p>
XIII	27/06/2025	<p>LIABILITY AND REGULATION IN THE PLAFORM ECONOMY</p> <p>Lobel, Orly, Coase and the Platform Economy (2018). in The Cambridge Handbook of the Law of the Sharing Economy (Nestor M. Davidson, Michèle Finck & John J. Infranca, eds., 2018), San Diego Legal Studies Paper No. 17-318, Available at SSRN: https://ssrn.com/abstract=3083764 or http://dx.doi.org/10.2139/ssrn.3083764</p> <p>McPeak, Agnieszka, Sharing Tort Liability in the New Sharing Economy (December 12, 2016). Connecticut Law Review, Vol. 49, No. 1, 2016, University of Toledo Legal Studies Research Paper No. 2017-02, Available at SSRN: https://ssrn.com/abstract=2776429</p> <p>Suggested readings:</p> <p>Hacker, Philipp, UberPop, UberBlack, and the Regulation of Digital Platforms after the Asociación Profesional Elite Taxi Judgment of the CJEU (February 1, 2018). European Review of Contract Law (Forthcoming), Available at SSRN: https://ssrn.com/abstract=3116143</p> <p>Filatova-Bilous, N. (2021). Once again platform liability: on the edge of the ‘Uber’ and ‘Airbnb’ cases. Internet Policy Review, 10(2). https://doi.org/10.14763/2021.2.1559</p>
XIV	04/07/2025	<p>PLATFORMS AS PRIVACY REGULATORS</p> <p>Joris van Hoboken, R Ó Fathaigh, Smartphone platforms as privacy regulators. Computer Law & Security Review, Volume 41, 2021, 105557, ISSN 0267-3649, https://doi.org/10.1016/j.clsr.2021.105557</p> <p>Dan Jerker B. Svantesson, Between a rock and a hard place – An international law perspective of the difficult position of globally active Internet intermediaries, Computer Law & Security Review, Volume 30, Issue 4, 2014, Pages 348-356, ISSN 0267-3649, https://doi.org/10.1016/j.clsr.2014.05.005.</p> <p>Czerniawski, Michal and Svantesson, Dan, Challenges to the Extraterritorial Enforcement of Data Privacy Law – EU Case Study (January 16, 2024). Dataskyddet 50 år – historia, aktuella problem och framtid, 2024, Available at SSRN: https://ssrn.com/abstract=4698122</p>

		<p>Suggested readings: Chen, Jiahong and Edwards, Lilian and Urquhart, Lachlan and McAuley, Derek, Who Is Responsible for Data Processing in Smart Homes? Reconsidering Joint Controllership and the Household Exemption (November 18, 2019). International Data Privacy Law (2020), Edinburgh School of Law Research Paper Forthcoming, Available at SSRN: https://ssrn.com/abstract=3483511 or http://dx.doi.org/10.2139/ssrn.3483511</p>
XV	11/07/2025	<p>THE PLATFORMIZATION OF EDUCATION</p> <p>Emma Nottingham, Caroline Stockman , Maria Burke. Education in a datafied world: Balancing children’s rights and school’s responsibilities in the age of Covid 19 https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8958095/</p> <p>Angiolini, Chiara and Ducato, Rossana and Giannopoulou, Alexandra and Schneider, Giulia, Remote Teaching During the Emergency and Beyond: Four Open Privacy and Data Protection Issues of ‘Platformised’ Education (November 13, 2020). Opinio Juris in Comparatione, vol. 1 (2020), http://www.opiniojurisincomparatione.org/opinio/article/view/163/171, Available at SSRN: https://ssrn.com/abstract=3779238</p> <p>Suggested readings:</p> <p>Developing and matching skills in the online platform economy. Findings on new forms of digital work and learning from Cedefop’s CrowdLearn study (2020). Available at https://www.cedefop.europa.eu/files/3085_en.pdf</p>

▪ **Informações complementares:**

As aulas da disciplina/Grupo de Pesquisa poderão ser realizadas via remota (zoom), até o limite de 3 aulas no semestre, mediante formalização e autorização prévia da Coordenação. Os comunicados sobre os ajustes dos encontros serão realizados exclusivamente pela Secretaria do PPGD.