CCIA Comments on Brazil National Data Center Policy[1] "Connectivity and Infrastructure Axis"

The below represents CCIA's submission to the filing, "Política de Data Centers Eixo CI." CCIA has previously raised concerns regarding digital trade barriers in the Brazilian market, including through comments made in response to Brazil's initiation of Section 301.

1) **What principles, values, and strategic axes should guide a national data center policy to ensure its alignment with national interests and industry challenges? *(e.g. Data sovereignty, economic development, innovation, security, sustainability, etc.)***

A national data center policy should be grounded in principles that apply consistently across different technologies, such as non-discrimination, transparency, and predictability. These principles are essential for aligning the policy with both national interests and international commitments, while ensuring that the industry has a stable and fair environment in which to operate. Brazil should avoid regulatory approaches that amount to *de facto* protectionism, such as discriminatory tax treatment, burdensome certification requirements, or vague and overlapping obligations that create barriers to entry. In addition, such a policy should avoid advancing concepts of data sovereignty tied to mandated local presence, infrastructure, and data storage, which are well documented to hinder economic development, undermine consumer access to cross-border services, and undermine cybersecurity.

2) **What long-term goals should be pursued to consolidate Brazil as a reference in digital infrastructure?**

The most important long-term goal should be to create a predictable and stable regulatory environment that fosters investment in digital infrastructure. Brazil should commit to best regulatory practices, such as joining the WTO domestic regulation of trade in services schedule, conducting public consultations and regulatory impact assessments before imposing new obligations. It should also avoid abrupt reversals of established policy, such as changes in spectrum allocation or new levies adopted without notice or dialogue.

a) **What are the main challenges to be faced in the development of the data center sector?**

The main challenges include overlapping and unpredictable regulatory measures that increase costs and uncertainty for operators. These measures include stricter requirements under the "ex-tarifário" import regime, and abrupt regulatory changes imposed by ANATEL on data centers through a new certification scheme, adopted without prior consultation. Other challenges include proposals for network usage fees (which ultimately have to be passed on to consumers and thus suppress demand for hosting, or incentivise offshoring of storage), which

[1] https://www.gov.br/participamaisbrasil/tomada-de-subsidios-sobre-a-politica-nacional-de-data-centers

raise the costs for OTT providers to be able to rely on data centers to host and deliver services to consumers. In addition, a precondition for achieving regional diversity in the distribution of infrastructure is the availability of reliable electricity and high-quality connectivity, which must advance in parallel with data center deployment.

b) What specific guidelines to overcome them effectively?

Brazil can overcome these challenges by adopting transparent and evidence-based policymaking, taking into account best practices from other successful economies. New obligations should be clearly scoped, tailored specifically to data centers, and adopted only after robust public consultation and regulatory impact assessment. Compliance obligations should be realistic and accompanied by reasonable transition periods, such as the three-year transition provided in ANATEL's recent resolution. Tax and tariff measures should be simplified and harmonized to avoid duplication and overlap that disproportionately burden cross-border services. The government should continue to explore new tax incentive structures that lower the costs of investment and incentivize long-term, intensive capital investments required for data center infrastructure.

3) How should this policy be linked with other public policies and/or national development strategies? *(e.g. National Artificial Intelligence Strategy, Cybersecurity Policy and Digital Government Strategy)*

This policy should be integrated with Brazil's broader strategies in areas like telecommunications, spectrum allocation, digital government, payments, competition, content regulation, and data protection. At present, these areas are often fragmented, with different agencies such as ANATEL, ANPD, CADE, and ANCINE imposing overlapping or conflicting obligations. Better coordination would prevent duplicative mandates, ensure that policies reinforce one another, and provide clarity and legal certainty to both domestic and international investors.

With respect to Brazil's National AI Strategy, it will be critical that the data center policy prioritize enabling sufficient compute capacity to meet national objectives in advancing the AI technology stack. Achieving these goals requires a regulatory environment that maximizes available infrastructure and investment. To that end, Brazil should avoid imposing restrictions that condition the eligibility of data centers to support national AI projects on the basis of their ownership, control, or corporate headquarters being domestic versus foreign. Such limitations would risk reducing available compute resources, discouraging investment, and ultimately slowing progress toward the very AI innovation and competitiveness targets the strategy seeks to promote.

4) **Which areas of research and development should be prioritized to boost technological innovation in Brazilian data centers?**

5) **What initiatives can be adopted to improve the training of specialized labor in the sector?**

6) **What are the main challenges and opportunities in the regulatory field for the sustainable and competitive development of data centers in Brazil?**

The biggest regulatory challenge is the tendency to adopt broad, vague, or unconsulted rules that impose new obligations without clarity or stability. These measures undermine investor confidence and create unnecessary risks for operators. The main opportunity lies in improving predictability and proportionality in regulation. Brazil can do this by requiring regulatory impact assessments, ensuring that rules are risk-based and proportionate, and avoiding abrupt reversals or prior policy decisions.

a) **Does the current legal and regulatory framework offer adequate legal certainty for the sector's investments and operations?**

No, the current legal and regulatory framework does not provide adequate certainty. ANATEL's Resolution 780/2025 was adopted without consultation or regulatory impact assessment and imposes obligations with an unclear scope. The Supreme Court's reversal of the liability shield under Article 19 of the Internet Law has also created uncertainty.

b) **Are there legal rules or requirements that hinder or discourage new investments in the sector?**

c) **Are there existing devices that have proven effective in promoting the sector and that could be strengthened?**

Yes. Mechanisms such as public consultation, regulatory impact assessment, and the use of reasonable transition periods have proven effective in creating stability and supporting compliance. These tools should be strengthened and consistently applied to all policies affecting the digital economy. For example, ANATEL's commitment to publishing an operational procedure within 240 days provides clarity that should be a model for other regulatory processes.

7) **In your view, which regulatory issues should have priority? Please classify them from the most to the least priority.**

1. Ensure that obligations imposed on data centers are predictable, proportionate, and properly scoped;

2. Reduce cumulative tax burdens such as IOF and CIDE;
3. Reject network usage fees that unfairly target large content and application providers;
4. Avoid discriminatory video-on-demand levies;
5. Make AI regulations clear, risk-based, and consistent with international approaches.

8) How to improve the synergy between federal policy and state and municipal initiatives?

9) What mechanisms can ensure transparency, social participation and continuous evaluation of the policy, in order to ensure its effectiveness and legitimacy over time?

Transparency and participation can be ensured by making public consultation and regulatory impact assessment mandatory for all measures affecting the digital economy. These processes should be applied consistently and should not be bypassed through expedited or closed procedures. Continuous evaluation should be built into the policymaking process to ensure that rules remain effective and proportionate over time.

10) How can politics foster partnerships and international cooperation on strategic issues, such as cybersecurity, technological innovation, harmonization of technical standards and knowledge exchange?

Brazil can foster international cooperation by aligning its policies with regional and global best practices. Brazil should also uphold its trade commitments and avoid measures that function as barriers to cross-border digital services. Such cooperation will strengthen cybersecurity and technological innovation and enhance Brazil's credibility as a partner in the digital economy.

11) How should the guideline for the location of these infrastructures in the national territory be?

12) Should the policy encourage the concentration or geographical dispersion of data centers?

13) Should zones of interest be established for the installation of data centers?

a) If so, what criteria should guide the definition of these zones, considering the performance and availability of telecommunications networks?

b) What about other conditions, such as energy, climate, security, and regional development?

14) What specific strategies and incentives can be adopted to stimulate the installation of data centers in less developed regions?

a) How can politics be articulated with the economic vocations, geographical characteristics and specific needs of each region?

15) How could the existing synergy between the existing fiber optic connectivity in the country's electricity networks and greater decentralization be enhanced, with the possible location of data centers near such infrastructures (hydroelectric plants, wind farms, substations, access roads, etc.)?

16) In situations of critical support infrastructure deficit, such as electrical networks, telecommunications and water resources, how to support their development?

Development should be supported through proportionate, risk-based regulation that secures networks while avoiding unnecessary burdens on providers. Regulatory requirements should be clearly scoped, coordinated across agencies to prevent duplication, and implemented with realistic timelines that allow operators to comply without disrupting supply chains or ongoing services.[2]

17) Is it possible to adopt technical standards of quality, safety, energy efficiency and environmental sustainability for the different elements that make up the data centers, such as physical structure, equipment, software and processes?

Yes, it is possible to adopt such standards, but they must be designed specifically for data centers rather than borrowed wholesale from other sectors such as transmission networks. They should be developed transparently, grounded in evidence, and implemented in a proportionate and risk-based manner. To the extent applicable, regulators should rely on relevant international standards, including the extensive work of the ISO/IEC. Compliance should be phased in through reasonable transition periods to allow operators to adjust effectively.

18) How does the quality and resilience of connections affect or encourage the deployment of data centers?

Customers will not move workloads to data centers without reliable and fast connections. Stable connectivity policies are therefore essential, and abrupt reversals undermine investor confidence and long-term planning.

[2] https://ccianet.org/library/ccia-comments-to-fcc-on-preserving-our-nations-networks/

19) **How to enhance the use of subfluvial infoways in installation in the Amazon for the development of data centers aimed at serving the Northern Region and the surrounding countries?**

20) **How to strengthen the physical and logistical security of data centers, ensuring data protection and the continuity of critical services?**

21) **How can the policy promote the resilience of data center infrastructure in the face of natural disasters and other contingencies?**

22) **How can issues related to cybersecurity be addressed, especially with regard to data privacy and national sovereignty?**

With respect to cybersecurity, Brazil can build off the significant work done in industry-led voluntary standardizations bodies, particularly the ISO/EIC's 27000 series of standards. With respect to data privacy and national sovereignty, Brazil should look to participate in data transfer frameworks, such as the Cross-border Privacy Rules System, that allow national requirements to be enforced in a cross-border context. Brazil should avoid replicating the problematic approach taken under the EU Cybersecurity Certification Scheme for Cloud Services (EUCS). EUCS introduces localization and ownership-based requirements under the guise of cybersecurity, which in practice reduce competition, limit access to best-in-class services, and fragment global markets without delivering corresponding security benefits. Brazil's framework should focus instead on outcomes-based standards and internationally recognized best practices, rather than prescriptive requirements that discriminate on the basis of provider nationality or corporate structure.