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# HEMISPHERES

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## Internet

By Members of the Internet Working Group



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## ABSTRACT

This exploratory policy paper analyzes the evolving dynamics of internet governance between the European Union (EU) and Latin America and the Caribbean (LAC), focusing on regulatory influence, infrastructure, and digital sovereignty. It critically examines the Brussels Effect - the EU's ability to shape global digital norms - and contrasts it with local regulatory learning in LAC. While many countries in the region draw inspiration from EU frameworks like the General Data Protection Regulation (GDPR), they adapt these norms to fit distinct institutional and socio-economic realities. The paper also highlights some LAC pioneering models, such as Chile's net neutrality law and Brazil's multistakeholder governance body (CGI.br). It emphasizes the role of community networks and digital inclusion efforts in shaping regional notions of digital sovereignty. Through a layered model of internet governance, this policy debate identifies opportunities for greater EU-LAC cooperation that is participatory, rights-based, and context-sensitive. The findings suggest that such collaboration could foster a more equitable and democratic global digital order.

*This exploratory paper is a product of HEMISPHERES, an international collaboration exploring technology, policy, and regulation across the EU and Latin America and the Caribbean. It represents the culmination of a joint effort by a Working Group of academics from both regions, reflecting the rich diversity of their experiences and opinions. While individual contributors express their views in a personal capacity and may not agree with every statement, they are united by a shared commitment to fostering mutual learning between these distinct regulatory landscapes.*

# 1. INTRODUCTION

This document aims to provide a critical examination on how internet governance has been shaped in the last decades by digital regulations, specifically from the EU, and by internet infrastructure projects. It looks at the influence of European Union (EU) digital regulations - through the Brussels Effect - and if they influence (or not) LAC internet governance. The document also addresses other practices and forms adopted by this governance through the development of internet infrastructure projects, specifically community networks.

While LAC has been adopting EU-style rules (e.g. GDPR-inspired privacy laws) these are also being adapted to local contexts and the dialogue with non-EU rules, particularly those stemming from the U.S. is permanent as different platforms, infrastructures and norms are being developed.

The HEMISPHERES Internet Working Group highlights key points of convergence and divergence across the internet policy spectrum between the EU and LAC. While both regions value an open internet, there are different implementation approaches, regulatory capacity as well as political and economic constraints.<sup>1</sup>

This document seeks to set the stage for collaborative governance that respects both LAC and EU expertise and interests. By looking at the different approaches concerning data protection (GDPR), and net neutrality approaches, it will empirically bring forward a first mapping exercise of how these issues are being discussed in both regions and the regulatory learning opportunities and challenges.

## 1.1. Context

The EU and the LAC regions have distinct regulatory capabilities in many sectors, including the digital domain, but they share common technical, scientific and to a certain degree some normative orientations concerning the role that a general purpose technology such as the internet plays in both regions.

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<sup>1</sup> See <https://www.accessnow.org/press-release/theres-still-time-to-safeguard-mexicos-net-neutrality/>

A shared tradition of legal codes, a history of joint regulatory convergence efforts and ongoing dialogues on trade associations, as well as Association Agreements (Sanahuja, 2023), among others, are some of the instruments that in the past have served to ascertain collaboration and cooperation on several matters, including the digital domain between both regions.

While Europe is a geographic region and a jurisdiction, LAC as a whole is a more fluid and ideational construction, rather than a political or economic project. Even though some sub-regions in LAC have been organized around economic blocs, some have attempted to define a contour of their digital agenda priorities. This is the case with the Mercosur Digital Agenda, and the Pacific Alliance Digital Agenda Group, these are far from having binding obligations for the member countries.

Part of the EU power in the governance of the digital domain has been exerted through norms and regulations. The so-called “Brussels Effect” that will be explored in the next section partially aims to address this specific feature that provides guardrails for the disruption of digital developments beyond its own borders. While the term is not devoid of contestation, it is a useful approach to characterize some of the efforts from the EU that have extraterritorial effects, as well as geopolitical implications. This is especially relevant since the effects of EU norms beyond their jurisdiction is questioned from both techno-optimists - as a derailer of innovation - as well as from critical perspectives, as it is a form of power.

In the digital domain, the Brussels Effect has been evident in the adoption of the General Data Protection Regulation (GDPR), which has become a global benchmark for data protection (Carrillo and Jackson, 2020). It is also still early to exert the real impact of this effect on many of the digital regulations that have emanated from the EU in the last years. The EU suite of digital regulation, specifically the AI Act (Regulation (EU) 2024/1689 - AI Act, 2024) has emerged as a landmark ruling as it is the first major comprehensive regulatory effort in the world covering a significant market. But its effects should be considered in tandem with the Digital Markets Act (Regulation (EU) 2022/1925 - DMA, 2022), the Digital Services Act (Regulation (EU) 2022/2065 - DSA, 2022), Data Act (Regulation - EU - 2023/2854 - DA, 2023) and Data Governance Act (Regulation -

2022/868 - DGA, 2022) among others, which are all cornerstones of the digital network environment.

While there is evidence of past shared governance instruments, regulatory convergence and cooperation between both regions in several policy domains, there is not a systematic approach that may allow to depict the bridges of cooperation, collaboration and other governance mechanisms between both regions for AI. This is particularly relevant for empirical as well as conceptual reasons. In the empirical terrain, this work will provide evidence on how relevant policy actors in both regions are envisaging the opportunities for collaboration and cooperation concerning AI systems in a shifting geopolitical context. It will also contribute to refining the understanding and application of the Brussels Effect as a relevant concept for how power, collaboration and cooperation unfold in inter-regional and global AI governance.

In this context, it is essential to consider the persistent digital divide in LAC as a structural limitation for deeper interregional cooperation. Although digital transformation efforts have advanced in the region - particularly in education and public administration (Mendoza Cuzcano, 2025) - access to basic infrastructure and digital skills remains uneven. Studies show that rural and marginalized communities continue to face substantial barriers, not only in terms of connectivity but also in digital literacy and effective use of technology (Alva de la Selva, 2015).

The digital divide in LAC encompasses access, use, and quality of use (Alva de la Selva, 2015), and its persistence reflects broader inequalities in public service provision and educational opportunity. For example, while countries like Brazil and Chile have led initiatives in internet governance and net neutrality, many other countries still lack adequate broadband coverage or the institutional capacity to support digital governance. As Rodríguez-Alegre et al. (2021) emphasize, the lack of digital readiness in public administration and the absence of dual-digital education strategies widen the gap between the region and global digital leaders, undermining long-term competitiveness and inclusion in the digital economy.

According to the United Nations Development Programme (UNDP, 2024), in 2022 only 67.3% of households in LAC had internet access, compared to 91.1% in OECD countries. Nearly one-third of households lack broadband subscriptions, and fewer than half of rural residents have fixed internet access. These disparities,

rooted in both economic and infrastructural inequalities, hinder the region's capacity to engage fully in the global digital economy. The UNDP report highlights the need for sustained investment in connectivity and digital education to avoid deepening social exclusion in the age of AI and other emerging technologies. Without addressing these structural gaps, efforts toward interregional digital governance will remain uneven and incomplete.

## 2. THEORETICAL BACKGROUND

We look into two main theoretical constructs to examine how regulatory processes have been conceived and evolved in both regions. We start with the Brussels Effect as an approach that addresses more bluntly the issue of incentives, power and institutional conformity. We then turn to the regulatory learning approach, which sheds light on the human side of decision-making and experimentation in different contexts. Finally we turn to consider how the layered and modular approach of internet governance should be taken into account to consider the different and ongoing issues that have shaped the internet governance agenda both globally and between both regions.

### 2.1. The Brussels Effect

The "Brussels Effect", a concept prominently introduced by Anu Bradford (2012, 2019), describes the EU's unique and often underestimated global power to shape markets through its regulatory standards. According to this theory, this "unilateral regulatory globalization" has allowed EU rules to become embedded in legal frameworks worldwide without the need for traditional international institutions or direct cooperation from other nations through two mechanisms: (i) a de facto effect when Multinational Enterprises (MNEs) unilaterally adjust their global business conduct and production processes to comply with EU regulations, even for operations outside the EU, due to the high value of accessing the large EU market and the economic inefficiencies of maintaining multiple standards; and (ii) de jure effect, a phenomenon where third countries formally adopt EU-style regulations which happens because MNEs, having already conformed to strict EU standards for their export activities, subsequently lobby their domestic governments to adopt similar rules, thereby "levelling the playing field" against their non-export-oriented domestic competitors.

For the particular domain of the digital, the Brussels Effect in Bradford's study had already contemplated antitrust laws which in the last decade we have seen that they have been specifically targeting Big Tech, and including provisions such as the Digital Markets Act (DMA), Digital Services Act (DSA), as well as privacy regulation through the GDPR and its influence on global data handling). We can also see it unfolding in the Budapest Convention, and more recently with the EU

AI Act, though both these last two domains are out of the scope of this work and are examined by other Working Groups of HEMISPHERES.

More recent reconceptualizations concerning the Brussels Effect include Matt Ylönen's work (2024) which argues that while Bradford's original framework was groundbreaking, it lacked a systematic engagement with the concept of power and overlooked how external forces, such as corporate lobbying and third countries, might influence or even 'erode' the Brussels Effect. To address these "analytical blind spots", Ylönen proposes to reconceptualise the Brussels Effect by incorporating systematic political economy conceptions of instrumental and structural power. The EU's ability to automatically influence MNEs' global conduct through its rules is redefined as an "automatic capacity" of the EU's structural power, which reflects the inherent influence the EU wields due to the size and attractiveness of its market and the nature of its regulations and is aligned with the original concept of Bradford of a de facto effect. He adds that the de jure effect can be assessed as the Instrumental or Structural Power of MNEs: their lobbying for EU-style regulations abroad can be an exercise of their instrumental power (direct influence) if their structural prominence in a given jurisdiction is negligible, or their structural power if their lobbying efforts are amplified by their structural importance (e.g., a credible threat of 'exit' or offshoring workplaces).

This reconceptualisation offers significant advantages for understanding global power dynamics, including enhanced measurability: by framing the Brussels Effect in terms of instrumental and structural power, it becomes more empirically measurable. Ylönen claims that this allows for assessing the credibility of disinvestment threats, quantifying "digital power resources" of tech firms, and comparing the resources actors have for information production and dissemination. It also allows us to move beyond overly simplistic or "essentialist" views of the EU as a unitary entity, enabling more comparative research and bridging academic divides between studies of business power and third-country influence, such as the LAC region.

Relevantly for our work, this dimension also aids in comparing power resources related to "digital sovereignty" between the EU, LAC and other regions, as well as the role and influence of Big Tech. Using the language of "power" broadens the political imaginaries associated with the Brussels Effect beyond the expert-dominated EU institutions, which can foster wider demands for

accountability, transparency, and representation, particularly regarding the influence of private actors like digital platform firms, civil society networks and other transnational actors.

## **2.2. Regulatory Learning and Experimentation: From the Global to the National**

Regulatory Learning stands out as one of the approaches concerning policy diffusion theories (Blatter et al, 2022). When the appropriate regulatory goals and mechanisms are not yet clear, regulatory experimentation becomes an appropriate strategy. While regulatory learning (facilitated by experimentation) is crucial for discovering effective solutions, it does not "necessarily prompt regulatory convergence" or eliminate diversity on its own (Gasser & Mayer-Schönberger, 2025). However, if through experimentation and robust inter-jurisdictional learning, a truly superior regulatory solution is discovered (regardless of its origin, even if it emerged from the EU's "experiment"), then other jurisdictions might eventually adopt it. In this theoretical sense, the Brussels Effect could be a mechanism for the spread of a "best practice," though it is rather a premature push for such a standard before widespread learning and convergence of understanding. For convergence to occur, "additional incentives, supported by effective processes and institutions different from the ones that stimulate regulatory experimentation and learning will be needed" (Gasser & Mayer-Schönberger, 2025).

Though the Brussels Effect and regulatory experimentation are conceptual responses to the perceived need to govern powerful and cross-cutting general purpose technologies such as AI, they propose radically different strategies to achieve effective governance. In essence, regulatory experimentation advocates for embracing the current "cacophony of regulatory means and ends" as an opportunity for learning and discovery. Whereas the Brussels Effect exemplifies one powerful jurisdiction pushing its comprehensive solution, potentially leading to de facto harmonisation before the global regulatory community has converged on the optimal goals and means through widespread experimentation and learning, experimentation and learning provide more nuanced approaches. Specifically for this HEMISPHERES Working Group, we are convinced that several challenging governance issues concerning AI could benefit from raising a greater

awareness of the lessons learned with internet policy and governance 20 years ago, when the global ecosystem began to take shape during the WSIS phase.

In those years both LAC and the EU considered and assessed the challenges of policy making at the national-regional level for a cross-border technology which challenged jurisdictional concerns. Over the last two decades several mechanisms ranging from institutional coordination, national laws and norms, digital infrastructure projects, research and development initiatives and market ecosystems have flourished, and radically transformed pre-existing sectors in the regions under study. At the global level, the engagement of the UN Secretary General over the last five years with the digital technology sector through different processes and new institutional mechanisms, including the appointment of a UN Tech Envoy, and the formation of a consultation process that has led to the Global Digital Compact in 2024 are all acknowledging the transformative power of technologies such as AI, quantum computing, biotechnology. These shifts are at the same time sustained and nurtured by the internet ecosystem where over 80,000 networks are interconnected and exchange data over this global infrastructure. Without an understanding of this still global interconnection which allows users in most countries to experience generative AI platforms or virtual worlds in the still incipient 'Metaverse'.

In effect, both approaches shed light on how LAC which does not export regulatory, nor technical standards is not able to either copy-paste regulations coming from the EU due to its different institutional capabilities, administrative, budgetary and human resource constraints, but significantly also since it is sandwiched between EU and the United States which has a historical, economic and political influence in the region.

### **2.3. Lessons From the History of Cooperation on Internet Policy Between Both Regions**

The processes of local adaptation and reinterpretation of internet-related regulations and governance more broadly have involved a more complex approach that contemplates legal transfers, but also local approaches and interpretations that are more than adaptations. Though ideas travel across borders and are re-shaped by domestic contexts it is also relevant to highlight

that LAC has developed its own mechanisms and approaches to key internet policy issues over the last two decades which have served as a light post for other countries and regions.

One is the case of the Brazilian approach to multistakeholder internet governance, the Brazilian Internet Steering Committee (CGI.br); the other is the Chilean legislation of net neutrality (Vargas-Leon, 2016). The first is relevant as it enables one to trace the influence of international norms and process on the formation of national multistakeholder internet environments, when these did not exist before WSIS (Siganga, 2005). The Brazilian CGI, established in 1995, has been the most formal and institutionalized response to date from a national policy environment to address the multistakeholder governance of the internet.

A second example addresses the activism of parliaments and the legislative measures that may be undertaken to face different challenges from the internet domain. The case of the Net Neutrality Bill of Chile, which was the first of its kind passed in 2010, exemplifies a more traditional normative approach from a national policy environment. What is more striking is that this measure was adopted by a country that is not a major cyberpower, and the relevance of international principles and their effects on local policy responses in a region as LAC.

A central feature of internet diffusion policy is concerned with the outcomes of the first WSIS process (2003-2005), which prompted governments to define a more prominent role in national policies and regulations concerning Information and Communication Technologies (ICT, as was the language back then for what is labelled as the digital environment today). This was a vital enabler for LAC policy makers to become more invested in the discussions on this issue and attempt to frame some of the policy debates into tangible programs. eLAC is a case in point that continues to this day to develop as a “governance platform” (Ansell and Gash, 2019) that enables public policy interaction on digital policy, as well as multi stakeholder dialogue. It has had significant support from several financial instruments from the European Union, rendering visible the specific knowledge and expertise for digital policy making. One of the most significant and comprehensive programs from the last two years has been the EU-LAC Digital Alliance (March 2023), as part of the European Global Gateway. Among the objectives to develop jointly are fostering good governance, transparency, participation and accountability, promoting demand-driven digital dialogue

between policy makers from both regions, ensuring secure, affordable high-speed connectivity to reach the full potential of the digital economy; and more multi stakeholder collaboration and private-public approaches (European Union, 2024).

Another relevant milestone of digital policy cooperation between the EU and LAC have been the internet academic networks. Since 2002 there have been intense collaborations between academic networks in both regions. The Toledo Workshop together 15 leading representatives of organisations dedicated to the development of research and education networks from twelve LAC countries, representatives of the European National Research and Education Networks (NREN) Policy Committee, representatives of DANTE (Delivery of Advanced Network Technology to Europe), and delegates from the European Commission to discuss the issue of continental interconnection. Since then, cooperation among the internet academic networks in both regions has evolved, including the formation of the LAC regional organization to foster academic networks, RedClara. Different projects have included ALICE1(2003) and ALICE 2 (2008), Bella 2 (2023) and SUBMERSE (2023), which foster networking activity cooperation and major infrastructure development projects, including the development of undersea cables connecting both regions.

A major development of the internet governance ecosystem that was consolidated after WSIS was the recognition of the role of national policy making (Aguerre, Dodel, Rosso, 2025). During the WSIS process, the Working Group on Internet Governance (WGIG) noted in its paragraph 73 that international coordination needed to build on policy coordination at the national level, and that “global internet governance can only be effective if there is coherence with regional, subregional and national-level policies”. The principle of subsidiarity stipulates that decision-making and implementation priorities should be as close as possible to the local level. In a world of growing interdependencies at the turn of the 21st century, governments were deemed more effective in serving their country and constituencies if they could take their operational sovereignty (our own emphasis) to the source of the problem (Kaul, Grunberg and Stern, 1999).

While during WSIS there were no discussions concerning digital sovereignty as a term, the foundations for national policies for the internet and the broader digital domain were laid then as subsidiarity became enacted. This concept of

sovereignty is now a cornerstone of contemporary digital policy debates, as will be examined in the next section.

## **2.4. Digital Sovereignty**

Digital sovereignty has become a strategic priority for many states seeking to strengthen their control over digital content and infrastructure in order to protect their national values and interests. This concern is not only a response to geopolitical dynamics between countries, but also to the growing power wielded by a small number of large technology corporations. However, despite its centrality in political and regulatory debates, the concept of digital sovereignty remains vague and controversial, as although it is generally linked to some form of control over digital technologies, there is no unified definition or agreement on its true scope or implications.

The European Commission has defined digital sovereignty as Europe's ability to act independently in the digital environment while protecting fundamental European values (Madiaga, 2020). The concept encompasses elements such as the development of secure, accessible and sovereign technologies, services and infrastructure. It also involves strengthening the European digital industrial sector and establishing a political and regulatory framework that ensures competitiveness and sustainability (European Commission, 2023).

Pohle and Thiel (2020) consider that digital sovereignty implies the ability of organisations, states and individuals to define and control the conditions under which digital information is processed and used, guaranteeing autonomy from external actors. The authors consider that it is a balance between technological autonomy, democratic governance and the protection of rights in the digital age in order to achieve an open and global digital ecosystem, while avoiding technological dependence and loss of control over data and services.

Moreover, the diversity of digital cultures and user profiles also conditions how sovereignty is conceptualized and implemented. Recent research highlights how distinct “digital archetypes” shape engagement with digital environments, reinforcing the need to tailor governance models to local cultural contexts (Viloria-Núñez, Tovar & Millán, 2023).

De Gregorio (2021) argues that digital sovereignty cannot be understood solely as state control, but as part of a process of ‘digital constitutionalism’ that aims to protect fundamental rights in the digital environment through the regulation and supervision of large digital platforms. This digital constitutionalism reflects how the EU intends to guarantee the freedom, privacy and security of citizens against the risks arising from technological concentration, mass surveillance and disinformation.

LAC scholarship on digital sovereignty has stressed its decolonial origins (Lehuede, 2022, Avila Pinto, 2018). The region shows an important absence of active cyber-nationalism or digital sovereignty policies, and has mostly adopted a pragmatic and deregulated approach, aligned with the interests of large American or Chinese platforms (Becerra & Waisbord, 2024). In fact, LAC accounts for less than 5% of global data centres and less than 1% of the market value of global digital platforms, which means that it ranks at the bottom of indices such as the Network Readiness Index and the Global Cybersecurity Index (2021). However, the region has adopted data protection laws inspired by the GDPR. Countries such as Uruguay and Argentina have obtained adequacy decisions that allow data flows with the EU; others such as Brazil, Chile, and Colombia are updating their regulations driven by that framework. In the field of digital rights and platform regulation, there are examples of growing interest: Chile has legislated on neuro-rights, and several countries (Brazil, Argentina, Mexico, Chile, Peru) are promoting ethical AI policies in line with international standards (European Council on Foreign Relations, 2022). Initiatives such as the EU-LAC Digital Alliance (Digital Alliance EU-LAC) have also emerged, with the aim of promoting regulatory dialogue, shared infrastructure, joint innovation and collaborative digital governance (European Commission, s.f.).

In this context, it is worth mentioning community networks for digital sovereignty. Community networks in LAC, such as those implemented by Rhizomática in Mexico, Red del Viento in Colombia, and Soldati Conectada in Argentina, function as self-managed connectivity infrastructures that provide internet access or telephone services in underserved areas. These initiatives are built, operated, and maintained locally, using free software, low-cost GSM antennas, and cooperative logic to ensure affordable rates and technical self-sustainability. This is what authors such as Parks et al (2021) define as ‘network sovereignty’: community technological appropriation with collective ownership of the infrastructure,

integrated with local culture and where digital education is a priority for the sustainability of the project. In contexts where access to the internet or telephony is limited - due to commercial or governmental disinterest - these networks emerge as autonomous alternatives built and managed by the communities themselves. Their objective is to provide connectivity and guarantee the right to communication. These experiences embody the concept of digital sovereignty because they avoid dependence on transnational corporations or centralised infrastructures, giving communities back control over their data, networks and tools. In contrast to an extractive and concentrated digital model, these initiatives propose forms of local, inclusive and contextualised technological governance. They not only solve access problems, but also reconfigure digital power: they empower local actors, prioritise free software, build resilient community networks and promote a vision of the internet as a common good. They are, in short, forms of technological reappropriation that connect social justice with digital autonomy.

In EU, there are also community networks created and managed by the communities themselves, which act as models of digital sovereignty from the bottom up. A prime example is Guifi.net in Catalonia (Spain), founded in 2004 as a community response to the lack of connectivity in rural areas near Barcelona, evolving into one of the largest community networks in the world with more than 37,000 active nodes, 71,000 km of links and the participation of more than 20 local providers operating on this shared infrastructure. Other relevant examples include the Athens Wireless Metropolitan Network (AWMN), launched in 2002, which connects citizens through wireless nodes, promoting technical education, voluntary participation and cooperative expansion from urban areas to islands and remote regions, even linking up with community networks in other EU countries. In Portugal, a community network for digital sovereignty created in 2011 is WirelessPT, a grassroots project promoted by citizens seeking to offer free and decentralised wireless access, independent of large operators or centralised infrastructures.

A key difference between consolidated EU community networks and those in other developing economies is that many of them have become significant alternatives to commercial providers, including the provision of services to educational and scientific organizations, among other purposes. In most majority of the world contexts and specifically in LAC, these initiatives have greater struggles to escalate beyond their initial community boundary (that of an informal

settlement, or a rural or indigenous community) and usually face challenges to become sustainable and technologically competitive (Aguerre, 2026).

While distinct in their geopolitical positions, both the EU and LAC articulate digital sovereignty projects that challenge the prevailing dominance of US-centric models of internet governance, as well as contest the state-centric Chinese approach. The EU's pursuit of digital sovereignty is grounded in the ambition to ensure competitiveness in the global digital economy while promoting fundamental rights, democratic values, and technological self-determination (Floridi, 2020). LAC frameworks, though more fragmented, increasingly emphasize transparency, community participation, and resistance to technological opacity—highlighting the need for inclusive and locally grounded models of digital governance (Lehuede, 2022).

Despite differences in institutional capacity and regulatory tradition, both regions share a commitment to reconfiguring digital governance in ways that move beyond a monocentric global order. This alignment creates fertile ground for bi-regional cooperation. Specifically, EU-LAC digital collaboration holds the potential to advance a polycentric, rights-based, and participatory vision of digital sovereignty, one that integrates state-level governance with bottom-up, community-driven practices. While China's state-centric cyber sovereignty model also critiques US dominance, its statist orientation contrasts with the EU-LAC emphasis on pluralism, democratic oversight and the rule of law.

In this context, digital cooperation between the EU and LAC offers a unique opportunity to co-develop normative and technical frameworks that foreground data justice, human rights, and community agency in a context of fragmenting global digital governance.

## **2.5. Bringing the Layered Model of Internet Governance Back In**

While the Brussels Effect and the Regulatory Learning approach offer valuable pathways to examine recent approaches to internet governance, our work understands that this should be examined bearing in mind the layered and modular approach of internet governance as a vital analytical tool that helps understand the different governance issues and points of tension that emerge.

A layered approach as an analytical device to understand how internet governance unfolds in the contemporary domain is critical to understand the different types of technologies and approaches that may be concerned in each of these. Scholars expanding on the sociolegal implications of this model, such as Yochai Benkler (2006) and Lawrence Lessig (1999), have differentiated the infrastructure layer, the logical layer and the content layer. The modular layered model characteristic of the internet (Yoo, 2003, Clark, 1982) emerges as one of the main mechanisms for governing complex systems, including other related technologies such as AI (Gasser and Almeida, 2017). Modularity can be defined as a mechanism that seeks to reduce the number of interdependencies that must be analysed, identifying which tasks are highly interdependent and which are not. Highly interdependent tasks are grouped within modules, while points of low interdependence become the natural location for interfaces between modules (Yoo, 2003), thus limiting a process to one layer rather than the entire system.

Interoperability as a key attribute of the internet ecosystem is essential for the understanding of several critical contentions in the internet governance domain. These include cross-border data flows as a requisite for the interconnection and interoperability of nearly 100,000 networks connected to the internet. The fragmentation of the internet or the splinternet is another manifestation of how the layered modular approach of the internet is currently being challenged by approaches concerning digital sovereignty, as previously examined. Key challenges to the interoperability and its challenges will be discussed in the analysis of this work, with the development of national data protection mechanisms on the internet and the Net Neutrality debate.

### **3. ANALYSIS<sup>2</sup> AND DISCUSSION**

The agenda of internet policy and governance covers from infrastructure, to protocols, to content-related aspects. While historically the concerns about

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<sup>2</sup> Further versions of this work could incorporate other domains on platform regulation, including digital rights as well as anti-trust mechanisms, as well as AI governance initiatives vis a vis the EU AI Act through the lens of the Brussels Effect and regulatory learning.

internet governance were concentrated in the protocol layer, what was deemed the “narrow approach” to the field, that agenda has been expanded to cover all the layers of the digital stack since WSIS. In this work we will touch upon two aspects of the layers that comprise the internet to address the Brussels Effect and regulatory learning and experimentation that could be potentially harnessed from these two examples: data protection laws (content layer) and the net neutrality approaches (infrastructure layer).

### **3.1. Data Protection: Between the Brussels Effect and Regulatory Learning Dynamics**

Data protection has been at the core of the EU policy making scenario and is a key example of the unfolding of the Brussels Effect, even before the advent of the GDPR. As noted by several scholars, there is a significant overlap between the EU Data Directive Data Protection Directive 95/46/EC and the GDPR (Kimberley et al 2018). Yet the regulation was enacted as there were emerging and significant concerns with the expansion of the digital ecosystem and its reliance on personal data that was crossing borders.

A significant number of countries in LAC have considered or have enacted changes to their legislations since the approval of the GDPR in 2016. In 2022 12 countries in the region have at least debated legislative initiatives related to data protection, if not actually reformed their legal regimes in this respect (Carrillo and Jackson, 2022). At the same time, the approaches taken by these legislative changes vary in certain substantive aspects. For instance, not all the key new elements of the Regulation are taken on board by the LAC legislatures enacting reform, and when GDPR-style provisions are introduced, “it is often with key omissions, variations or nuances. Across the board, countries in the region have tended to adopt the elements of the GDPR in a more general way, meaning they prefer higher-level norms with fewer details, which they tend to leave to the regulatory process” (Carillo and Jackson, 2022: 187).

This idea of a higher-level adoption of the orientation of the law, but with differences in the implementation of the regulatory process is a relevant issue that needs further empirical unpacking. Nonetheless it points at a significant practice in the regulatory learning and experimentation process: that of following the high

level orientation but with different approaches concerning the institutional trajectories, financial and human capabilities and overall mix of the national stakeholder preferences. An empirical observation which underscores the wide margin of the influence of the GDPR on national data protection laws in the region is that the same two countries that have been ratified as adequate for digital data transfers with the EU from the last two decades, Argentina and Uruguay, both are the only ones that still retain the status in the latest revision.

It is a relevant example of how the Brussels Effect is not purely “copy-paste”, and that LAC countries frequently adapt EU models to local context - a process of legal transfer with modifications. For example, while Brazil’s LGPD closely tracks GDPR, it instituted a phased implementation and a governance structure suited to Brazil’s reality. Similarly, other regulations may diverge in enforcement or scope.

A relevant challenge for our empirical work is to map how the regulatory learning process takes place in the region for this issue. We have unpacked the following mechanisms for data protection laws:

- Citation of EU debates and legislation when crafting domestic policies, including laws;
- workshops and training sessions organized by different national data protection authorities;
- participation in conferences for knowledge sharing, eg. CPDP (EU and LAC versions); participation in IAPP conferences.
- participation in the Red Iberoamericana de Protección de Datos Personales (RIPD), a multi stakeholder policy network that comprises all the national data protection authorities from LAC, Spain and Portugal as well as relevant experts and stakeholder groups, including civil society organizations.

While not exhaustive, this is a preliminary list of some of these regulatory learning mechanisms that have played an important role in the region.

### **3.2. Net Neutrality and Infrastructure Regulation**

Net neutrality, as a regulatory principle, requires Internet Service Providers (ISPs) to treat all data traffic equally, without discriminating or prioritising content, platform, origin, destination, device or application, except for reasonable network management reasons such as congestion or spam blocking. The EU has a

regional regulation (2015/2120) - the Open internet in Europe - enforced by guidelines from the Body of European Regulators for Electronic Communications (BEREC). It generally prohibits blocking, throttling, and unfair prioritization while allowing reasonable traffic management and “specialised services” under strict conditions. LAC, in contrast, has a patchwork of approaches towards the issue. Chile pioneered the first net neutrality law in 2010 as discussed previously, Brazil enshrined it in the Marco Civil (2014), Mexico included it in its 2014 telecom law, and others followed - but rules and enforcement vary by country (Correa, 2018). Both regions endorse the core idea that ISPs should not discriminate among internet traffic on the basis of the origin of the traffic. There is mutual recognition that an open internet encourages competition and user choice - for example, Chile’s experience shows net neutrality policy correlated with more diverse services and consumer benefits. In trade agreements (like the recent Pacific Alliance provisions), LAC countries collectively affirmed net neutrality, echoing principles similar to the EU’s stance. This indicates a normative convergence on preserving an open internet environment.

Since 2022 though, the EU policy debate has incorporated a notion that is commonly referred to as “fair share”. This marks a resurfacing of the debate on net neutrality, but one which is taking place in a scenario that presents substantive differences from the one which enshrined Net Neutrality a decade ago (Barata, 2022). Since then, the power of internet (tech) companies has significantly increased, with changes to how content is delivered to end users via ISPs.

LAC has been affected by the EU fair-share debate, unfolding the logic of the Brussels Effect via the interests of telecom operators that have a significant market share in the region (notably Telefonica). Through relevant organizations such as ETNO and GSMA, the debate has permeated into the regional internet ecosystem (Estrada, 2024), and captures the agenda of regulators and the technical community, for example in LACNIC forums.

The tech innovation perspective places significant pressure on the deployment of 5G, central to the EU horizon for digitization and one which is used in the contemporary debates on fair share in both regions. It is not so convincingly adopted in LAC, where the business case for 5G for telecom operators is still not clear. Major cities will be in most cases the most benefited from this technology,

not the small urban settlements and the vast swaths of territory that are sparsely populated and currently lack relevant connectivity.

The practices of mobile operators on zero-rating, where data consumed in privileged applications is not counted against subscribers' internet data allowance, has been forbidden in several EU court rulings, but is a practice in LAC mobile operators. While net-neutrality laws have some zero-rating limitations in many LAC countries, these are not absolute and remain ambiguous. One of the most recent and comprehensive studies in the region (Triviño et al, 2024) includes zero-rating practices in Brazil, Chile, Colombia and Ecuador. The findings highlight uneven consequences for these policies. In contexts where internet access is more limited to wider population groups, such as Colombia and Ecuador, these policies expand access and connectivity; in countries such as Brazil and Chile, the opportunities that zero-rating may bring in terms of broadening access to other sectors is not compensated in terms of expanding innovation capabilities and digital skills, and “there is no positive relationship between zero-rating and increased mobile access or lower prices” (Triviño et al, 2024: 21).

Net neutrality debates in both regions also share a common ground concerning multi stakeholder perspectives:

- Digital rights movements in both regions share the concern posed by a less open and “tiered” internet;
- regulators need relevant evidence to assess the claims provided by telecom operators that the current model stifles investment and innovation and that there is an unfair use of the infrastructure by large tech platforms - a dynamic that is very context specific and where local access variables, market share and the diversity of actors play an important role;
- telecommunications operators demand a greater compensation for their investment in infrastructure as demand and use intensify;
- internet platforms and tech firms claim that they invest in infrastructure and that the edge services they provide through cloud investments and CDNs in IXPs change the dynamics of data consumption through the networks.

Regulatory Learning in the current process of revisiting the investment scheme of connectivity and infrastructure is a vital issue.

EU markets generally have higher broadband penetration and more resources for enforcement, whereas LAC faces resource constraints and pressing access gaps in much more contexts. This can lead LAC regulators to prioritize access opportunities (even if it means tolerating practices currently banned in the EU) - a divergence born of socio-economic context. This gap is further illustrated by evidence from Colombia, where prioritization of ICT investments has been essential to address persistent connectivity challenges and the digital divide, particularly in underserved regions (Jimeno, Vilorio-Núñez, Manosalva, & Coll, 2023).

The balance of power among stakeholders can differ. For example, in some LAC countries, telecom incumbents wield significant political influence, potentially diluting neutrality enforcement, whereas the EU's supranational oversight (European Commission, BEREC) can more uniformly curb ISP practices.

### **3.3. Comparative Analysis and Policy Convergence Opportunities**

Both regions see value in strong user protections and an open internet. Privacy and net neutrality are enshrined as guiding principles in EU regulations and in cornerstone LAC laws (e.g. Brazil's internet Bill of Rights). This creates common ground for collaboration.

Mutual recognition of each other's frameworks is increasing. For instance, the EU granting "adequacy" status to countries like Argentina and Uruguay for data protection acknowledges LAC's alignment with EU standards. Regulatory and digital sovereignty become relevant lenses from which to address some of the challenges concerning justice, equity and capabilities.

However, some notable divergences remain and need to be addressed. In the first place, the scope and pace of regulation differ - the EU tends to legislate comprehensively (covering all member states with one stroke), whereas LAC adoption is uneven and sometimes slower, leading to patchy implementation. This can create mismatches for some cooperation in policy and regulatory opportunities that would need to be addressed from the start (for e.g., if some Latin countries lack a law equivalent to an EU norm, coordination is harder). In the second place, the regulatory capacity of both regions and countries is markedly

different. The direct transposition of rules from the EU to LAC is not only not feasible, but it is also not recommended as there are some policy issues, such as internet access, that are highly context-specific. Regulatory Learning offers in this regard a valuable lesson for policy makers and different stakeholders in both regions.

Cross-cutting themes that are both causes and effects to be further unravelled from these cases include a nuanced discussion on interoperability in the current geopolitical context and the opportunities for collaboration across both regions. In specific policy domains this includes:

- Acknowledging the co-existence of different instruments, processes and approaches that sustain a live ecosystem of actors, content, networks and devices that make up its governance.
- Identifying the role played by net neutrality approaches, zero-rating and fair share in providing increased opportunities for access. Questioning how net neutrality has played a role in maintaining a generative internet for users as producers, empowerment.
- Community empowerment: how will these bottom-up approaches that have favoured access and alternative governance models may be promoted and flourish.
- Recognizing the multi-dimensional component of digital access, and the lingering legacy of the digital divide in new forms. These include re-thinking what digital citizens are in both regions.

## **4. TAKING STOCK OF CONCEPTUAL AND POLICY APPROACHES**

Learning from the history and evolution of internet governance offers valuable lessons for an environment where increased regulation is deemed as necessary in many contexts. As the backbone of several of the disruptive technologies and socio-technical artifacts that are being deployed, the evolution of internet

governance approaches remains crucial for its learning opportunities, as well as due to the interoperable and layered nature of the digital ecosystem. Further work is needed to understand what could be accomplished from the internet governance experience at global, regional and national levels into the regulatory experience of contemporary digital policy challenges, and how EU and LAC policy makers and relevant stakeholders could work together to address this. Reducing the challenges, exploitations and power consolidation mechanisms due to network effects while obliterating the immense opportunities for community lead voices for experimentation, innovation, citizen empowerment and multistakeholder approaches remain not only critically relevant, but also legitimate policy avenues in the regulatory visions and the technological design of these networks and artefacts.

Unpacking the different mechanisms involved in the regulatory learning experience, including participation in international fora, including standard-setting organizations, bilateral approaches, regulatory sandboxes, are all key for the discussion of how learning and experimentation occur in these topics, and how power and influence is exerted. It would be relevant to assess how different regulatory learning and experimentation processes that we identify for different policy issues play a role in the Brussels Effect. To what extent do these processes hamper a direct “hypo-dermic” transposition of a legal framework and how do notions of knowledge and power may play a significant role in diluting the Brussels Effect.

Future work could also examine the implications of the proliferation of EU-style rules for LAC’s digital sovereignty. On the one hand, adopting robust regulations (privacy, competition, content standards) can empower LAC states to assert control over digital markets and protect citizens’ rights, aligning with democratic values and reducing dependence on Silicon Valley’s laissez-faire approach. On the other hand, leaning heavily on EU frameworks might limit indigenous policy innovation, create reliance on external standards or simply prove unrealistic as the LAC region is a fragmented market in what concerns international internet tech firms and digital platforms.

Internet governance requires close alignment with the principles of democratic systems, given that the internet is a fundamental infrastructure for political participation, the free flow of information, and the exercise of citizens' rights. The

incorporation of democratic values -such as inclusion, transparency, and accountability- into governance processes ensures that decisions related to the regulation, management, and use of digital technologies are legitimate, representative, and open to diverse social actors, preventing the concentration of power in the hands of private actors or authoritarian governments (DeNardis, 2014). This correspondence between democracy and digital governance is essential to protect fundamental digital rights, such as privacy and net neutrality, as well as to promote plurality of voices and points of view, which in turn strengthens citizen trust and the legitimacy of institutions in the digital environment. In the absence of a solid democratic foundation, internet governance can lead to practices that favour particular interests and generate inequalities in access to and control of information, compromising digital equity and justice (Mueller, 2010). Consequently, strengthening democratic systems is a sine qua non condition for the development of inclusive, equitable and human rights-respecting Internet governance in the contemporary digital context.

Overall, we have an optimistic outlook that through continued dialogue and concrete cooperation, the EU and LAC can converge on high-standard internet governance frameworks that may allow past experience to shape future policy cooperation in the current digital environment. The time is ripe to intensify EU-LAC cooperation in internet governance, turning the observed Brussels Effect into a deliberate partnership for shaping a fair, free, rights-based digital order.

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## PROJECT INFORMATION

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