



**Food Delivery and online marketplace
platforms in Latin America:**
*An exploration using Ranking Digital Rights
standards*

Food Delivery and online marketplace platforms in Latin America:

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Researcher: Pedro Mizukami.

Research assistant: Mayra Osorio.

Research supervision: J. Carlos Lara, Michel Souza, Lucía Camacho.

Style editing: Lucía Camacho

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1. Introduction

Online marketplaces and food delivery services are increasingly a staple of everyday life across the globe and have witnessed a substantial period of growth and adoption during the Covid-19 pandemic. In Latin America, where informal labor is a perennial issue, consumer markets are large, and internet penetration rates, despite unequal access conditions, represent millions of people—especially through mobile devices—opportunities for companies seeking to extract value from platform-based intermediation are plentiful.

While platform labor has been a topic of concern for workers, academia, civil society, and governments ever since Uber started to aggressively expand its services globally, with attention only increasing over the past decade, the Covid-19 years have highlighted the need for a systematic examination of how online marketplaces and food delivery platforms, specifically, operate, in what ways they may impact the lives of users interacting with them, as well as their level of commitment with basic human rights.

The Ranking Digital Rights (RDR) project, which completes 10 years of existence in 2023, has set a high standard for thorough corporate accountability and transparency reviews of digital and telecommunication companies, with scorecards published yearly ranking 26 companies on 58 indicators focused on governance, freedom of expression and information, and privacy. Adaptations of the RDR indicators and methodology have also been published, with a narrower focus on specific regions, sectors, and issues. The present report is one such adaptation, it represents the first of its kind in our region, and the first time RDR indicators have been applied to food delivery platforms. Throughout 2022, we collected data on three online marketplaces—Mercado Libre, Sea Limited’s Shopee, and Alibaba Group’s AliExpress—and six food delivery services—iFood, PedidosYa, DiDi Food, Rappi, Yaigo/Yummy, and Magazine Luiza Group’s aiqfome—all with a substantial presence in Latin America, and evaluated them based on a subset of the broader collection RDR standards.

While we have produced a ranking of these companies—with the exception of Yaigo/Yummy, excluded for reasons detailed in the next section—our primary use of the indicators is, first and foremost, a starting point for a systematic analysis of these two e-commerce sectors, revealing commonalities and differences, and identifying problems that need to be addressed in terms of corporate policy, civil society advocacy, and government action. We call it an exploration, rather than a ranking, and have attempted to offer contextual information that we feel is invaluable for a proper comprehension of the numbers and charts presented in the following pages.

The RDR indicators are all centered around the concept of **disclosure of information**. Disclosure does not mean compliance, or lack thereof, in practical terms, in relation to whatever is disclosed. Still, a lot can be understood just by looking at publicly available documentation and information, regardless of potential mismatches between company discourse and practice.

Despite the seemingly narrow focus of this study, the “superapp” model—inspired by the WeChat model—is strong in all companies selected for our ranking. In simple terms, this entails the aggregation of additional services to the original core businesses of online marketplaces or food delivery—especially financial services—making these companies much more than mere online

marketplaces or food delivery platforms. Nowadays, almost every tech company seems to be building a “superapp” or rebranding itself as such, including the platform formerly known as Twitter.¹

Superapps can be understood as *platform ecosystems*, with potential for growth or failure, but data intensive to a dangerously high degree, and thus deserving of special consideration. It might sound strange to ask, for instance, why an online marketplace or food delivery service is being assessed for freedom of expression, if one does not take into consideration, for example, that influencer marketing and live shopping are on the rise, and that even existing functionalities within these platforms often require at least some measure of content moderation, which occurs through processes that are even less transparent than those of big social networks.

While our study is focused on Latin America, and has an undeniable Latin American flavor, the problems we tackle are global in nature. The insights that can be gleaned from this report will be of interest to an international audience, because these businesses are all global, even when they advertise as being local. When one looks at corporate ownership structures and considers the fluidity of the financial capital backing companies from early, seed stage, to IPO or acquisition by another company, it is difficult to ascribe nationality to most corporate entities. Our analysis also brings to the forefront phenomena that are universal in nature, such as difficulties involved in implementing privacy legislation against the moving targets established by technology, the surveillance and data collection methods built into the architecture of platforms and services, as well as the narratives of personal success, entrepreneurship, and illusory autonomy that are indissociable components of how these platforms market themselves.

Looking at these companies from a Latin American perspective can be especially interesting to readers located elsewhere. The region is historically well-acquainted with informality, the gradual erosion of worker rights, low or declining rates of industrialization, and an innumerable list of structural problems derived from a history of colonization, which constantly result in political turmoil and institutional instability. On the other hand, Latin America is also characterized by significant mobile connectivity penetration rates—with room for expansion, since the digital divide remains broad—with Internet-savvy populations, heavy users of messaging apps and social media, exposed to a constant influx of online advertising and content that is ancillary to platform expansion. Despite extreme inequality in wealth distribution, consumer markets are substantial in absolute numbers, even if most of the population is relatively poor. In many ways, the situation of a gig worker in Latin America may serve as a window into the future for workers stably employed in mid to high-income countries, depending on how governments and civil society tackle the problems associated with platformization. In any case, as far as consumers are concerned, we are all deeply integrated to the platform economy, regardless of where we live.

Local peculiarities, of course, matter. The Covid-19 pandemic shifted substantial amounts of already vulnerable workers to the even more precarious forms of labor of driving for ridesharing platforms,

¹ As stated by Elon Musk in a May 2022 podcast and reported by The Verge: “[...] I think that WeChat’s actually a good model. If you’re in China, you kind of live on WeChat. It does everything. It’s sort of like Twitter plus PayPal plus a whole bunch of other things all rolled into one with actually a great interface. It’s really an excellent app. We don’t have anything like that outside of China.” See Peters, J. (2023, July 26). For Elon Musk, X equals everything. *The Verge*. <https://www.theverge.com/2023/7/26/23808796/elon-musks-x-everything-app-vision>. This seems to still be the plan, as signaled by recent developments. See Murphy, H. (2023, October 2). X signs live shopping deal with Paris Hilton in bid to revive its fortunes. *Financial Times*. <https://www.ft.com/content/c25f21e9-8ec3-421a-9b6b-559232d81320>.

delivering food, and selling small items bought in bulk from China in online marketplaces. The transition from the idea of *workers* as individuals, with rights and needs, to disembodied *work* as a resource that is just tapped into—much like electricity, controlled by the pressing of a button—managed by online systems under varying degrees of automation, was greatly accelerated by the pandemic. From the point of view of companies, workforce is made granular, available on demand, subject to unilateral policy enforcement, often carried out automatically through algorithms, producing massive amounts of data for the benefit of platform owners. From the point of view of workers and consumers, the deal is certainly not as attractive, and from the perspective of governments and national economies, red flags have been hoisted for quite a long time. Ignoring them for much longer may prove to be costly.

The countries included in this study, Bolivia, Brazil, Colombia, and Ecuador, are certainly not representative of the entire Latin American region and its considerable diversity. Even so, they offer enough variety to capture a general sense of how both online marketplaces and food delivery services operate in the region. The selection also has the benefit of considering countries with different trajectories towards data protection and privacy. Colombia's general data protection law dates back to 2012, before the GDPR was approved (2016) and came into effect (2018), but still follows the European model, drawing inspiration from the Data Protection Directive (1995). Brazil's law was approved in 2018 and came into force late 2020. Ecuador adopted its law even more recently, in 2021. Bolivia, despite active civil society demands, still lacks a general data protection law.

This report is structured in two main parts, following a methodological note explaining our use of the RDR standards, the rationales for company and country selection, and a few terminological remarks (section 2). The first part provides detailed company histories and analyses (section 3) and is a fundamental component of the research we carried out. Companies were selected to represent relevant players in Bolivia, Brazil, Colombia, and Ecuador, but include entities of different sizes, corporate and ownership structure, and country of origin, as well as trajectories that highlight issues which directly affect the interpretation of the rankings and indicators. Without the information provided in this section, a mere look at the numbers tells, at best, half the story, and, at worst, the wrong story. The other major section is a deep dive into the indicators and our assessments (sections 4, 5, and 6).

In the final part of the report (section 7), we offer recommendations to governments, civil society, and companies, hoping that they prove useful in advancing a transparency and accountability agenda, grounded on the recognition and respect for human rights. Color-coded grid tables are presented for each group of indicators to facilitate comparisons between companies, and an appendix includes all the indicators selected for the ranking, matched with the report sections where readers can find our detailed analyses for each indicator element listed.

References adhere to a slightly modified version of the APA 7th ed. citation standards, and are separated into different categories: books, scholarly articles, and reports; news articles and blog posts; videos; and company documents. For the first category, we use simple author-date references throughout the text. For the remaining categories, full citations are included in the footnotes, as well as in the references section. Company documents are included as full citations in footnotes the first time they are referenced but appear in shortened form for the remainder of the report, give or take a few exceptions. The transitory nature of some of these documents required us to make frequent use of

the Internet Archive or archive.ph, and links to the archived versions are provided whenever necessary.

2. Methodology

2.1 RDR indicators and company assessment

The Ranking Digital Rights (RDR) Corporate Accountability² methodology evaluates and ranks companies based on three groups of indicators: G, for **corporate governance**, F, for **freedom of expression and information**, and P, for **privacy**. All indicators, regardless of group, are composed of a varying number of *indicator elements*, which ask questions that are centered on **disclosure** of information. Evaluation for the G indicators is carried out at the parent company or group level, whenever applicable. The F and P assessments relate to specific services (e.g., Mercado Libre is the parent company for the Mercado Libre online marketplace and for Mercado Ads, but we only assess the marketplace service in this report).

The G indicators aim to gauge whether companies commit to international human rights standards—particularly, but not exclusively, the Universal Declaration of Human Rights and the UN Principles on Business and Human Rights, —and whether or not companies have published *articulated* policies concerning freedom of expression and information, privacy, and the development of algorithmic systems, in a coherent framework that takes those standards into consideration. The indicators also ask a series of questions associated with the enforcement of those commitments. A total of 3 indicators from the G group were selected for this report, with a total of 13 indicator elements.

The F indicators, despite the emphasis on freedom of expression and information, can be considered as an evaluation of the platform’s terms of service on several aspects, such as availability and clarity, whether users are adequately informed about what is allowed or not by the platform, how rules are enforced, how transparent the company is in relation to content or user account restrictions, procedures for addressing government requests for takedown of content or user’s accounts, among other topics. A total of X indicators from the F group were selected for this report, with a total of X indicator elements.

The P indicators are centered on privacy, and evaluate availability and clarity of privacy policies, transparency regarding data demands from governments and requests from third parties, data retention policies, information on types of information collected and inferred from users, data minimization and purpose limitation, and so on. A total of X indicators from the P group were selected for this report, with a total of X indicator elements.

Since the full set of RDR standards include 58 indicators, covering a wide range of issues, and each indicator is composed of several elements, each asking for disclosure on specific information, the process of applying the entire set can be time consuming. Adaptations of the RDR’s standards usually select a few indicators from the complete list and apply them to specific issues or types of companies.

² <https://rankingdigitalrights.org/2020-indicators/>

Results, consequently, are not comparable with those of the RDR Scorecards, and are only valid internally, within the adaptation itself.

Our approach was to be as comprehensive as possible, but trade-offs were inevitable, and important indicators were not included in our assessment. Nonetheless, we selected a list of 24 indicators, with the general guideline of compensating for omissions by highlighting problems that are generally representative of corporate disclosure practices and stand for issues that take precedence over topics that are dealt with by indicators we had to abandon.

Each indicator element assesses whether companies disclose specific items of information related to what the indicator is evaluating. Indicator elements are assigned one of three scores: 0, when there is no disclosure found, or when the company explicitly states that it does not disclose the information required by the indicator element; 50, when there is some disclosure, enough to partially meet what is asked by the indicator element; and 100, for full disclosure. The score for each indicator is the average (mean) of the scores for all its elements.

Indicator G.1 (Policy Commitment) as an example, is composed of three elements, G1.1, which evaluates commitment to freedom of expression in the context of a well-articulated human rights policy; G1.2, which does the same for privacy; and G1.3 for the development and use of algorithmic systems. If a company provided partial disclosure for G1.1 and G1.2, and no disclosure could be found for G1.3, the score for G1 would be $50 + 50 + 0 \div 3 = 33.33$. The overall score for G is the median of the scores of all indicators pertaining to the G set.

The process we applied in ranking companies was drawn from the RDR methodology process³, with adaptations to account for team size, and for the fact that this is an initial effort, and does not involve the evaluation of changes occurring after a previous ranking process:

Step 1. Primary data collection and evaluation.

One of our two main researchers collected data from company websites, documents, and additional sources, whenever appropriate (e.g., interviews with company representatives published by media outlets). Based on the data collected, which must be accessible to the public and not too difficult to locate, the researcher conducts an initial evaluation of all the indicators, assigning each a Yes (100), No (0), Partial (50), or No Disclosure Found (0) mark.

The cutoff date for primary data collection was 31st December 2022. We did not consider any disclosure published after that date for the purposes of scoring, but did use some of that material, whenever appropriate, in our final report to provide additional context: Despite the centrality of apps in some of these platforms, we mainly sourced information from company websites. Users should be able to access information via both the web and the mobile application. Additionally, apps are often geolocked, and not accessible to our reviewers through legal means. Likewise, information gated behind sites that require documentation to be accessible—e.g. government-issued IDs and driver's licenses, often required by food delivery services—was deemed to be not available to the general public, and excluded from consideration

³ <https://rankingdigitalrights.org/2020-research-process/>

Step 2. Secondary review

The researcher acting in step 1 for a company assumes the role of reviewer for the work carried out by the other researcher, related to companies for which they did not carry out primary data collection and assessments. A secondary review involves both fact checking and analysis of the evaluation itself.

Step 3. Synthesis and preliminary score.

Based on agreements and disagreements over the evaluation, a score is reached.

Step 4. Company feedback.

Results are sent for the companies, with a timeframe for feedback. Depending on the feedback received, scores might be reconsidered if there was an oversight or clear misinterpretation of disclosed information. None of the companies we contacted responded to our requests.

Step 5. Consistency checks.

Research supervisors analyze the results, the rationales for each indicator element, acting as reviewers of the process as a whole and its results.

Step 6. Final rankings.

Scores are declared final, and are included, with accompanying analysis, into a summary report, and a longer, more detailed study.

When we initiated data collection, we had the intention of carrying out the effort for all of the jurisdictions we selected, if a given company maintained operations there during 2022 (e.g. carrying data collection for Mercado Libre in Brazil, Colombia, Ecuador, and Bolivia). During the process, we realized that rankings would demonstrate negligible variance between countries, apart from Rappi and, to a lesser extent, PedidosYa. We opted, then, to work with a specific jurisdiction for each company, and detail relevant jurisdiction-specific differences in the report.

For companies headquartered in one of the countries we selected for this ranking, the documents used for assessment were those of that jurisdiction. In cases where the company was headquartered elsewhere, we had to resort to other criteria. Mercado Libre, for instance, has more than half of its net revenues for 2022 originating from Brazil, and on top of that, claims to adopt Brazilian legislation as the standard across all jurisdictions it operates. Since Argentina is not part of our group of jurisdictions, Brazil was the clear choice for analysis. After its failed attempt to establish a local Colombian operation, Shopee exited the country, and is now available strictly as a cross-border platform. It did not, however, exit Brazil, so that was the model jurisdiction for the assessment. The charts included in this report for the F and P indicators specify the jurisdiction that served as reference for the assessment. Indicator G is carried out at the group or parent company level, and the G charts include that information, whenever applicable.

Yaigo, a Bolivian startup later acquired by a company with Venezuelan founders, but incorporated in the United States, was so lacking in terms of disclosure, that we opted to exclude it from the ranking, since it scored zero for most indicators—Yaigo's privacy policy is short enough that it could be included here, in its entirety, as a footnote, and a terms of service document could not be found, Rebranded as Yummy during the later part of 2022, the company's overall score, all indicators

considered, was 5. The bottom ranking company in our assessment, DiDi Food, scored 11.30, which is around double of Yummy/Yaigo's score, but that might say more about Didi Chuxing, in the end, than it does about Yummy/Yaigo. Regardless, at least we had material to work on.

2.2 Companies and countries: selection and rationale

The primary factor influencing our decision to work with food delivery and online marketplace platforms was the pandemic, during which the relevance and role of these services in everyday life became more pronounced, and along with the need for accountability in how they protect, or fail to protect, the human rights of their users.

Some of these companies may seem distant from usual RDR companies, focused on big tech social media and telcos. But RDR has been expanding the types of companies for assessment, and marketplaces have already been included in the rankings. Other sectors should follow suit, due to the pervasiveness of the digitalization of everyday services, often tied to a social media component or app usage.

But how did we end up with the specific set of companies present in the ranking? Some picks are obvious, due to their market presence and history, such as Mercado Libre and iFood. Shopee, despite being a relatively new player, was equally an attractive target for analysis, since it seemed to appear out of nowhere, and was in a process of global expansion that ultimately proved to be too optimistic. A company like Brazil's aifome or what was then Bolivia's Yaigo, on the other hand, are less obvious choices, and the decision to drop OLX and Amazon, but include AliExpress might raise a few eyebrows.⁴

Our process for selection involved mostly looking at the top charts for the Google Play store using Sensor Tower data,⁵ and evaluating what the most downloaded apps in the Food & Drink and Shopping categories, in the first months of 2022. We reached a list that, despite suffering a few casualties along the way, is representative of key actors in both sectors during 2022, as well as of relevant trends and structures that seem to be consolidating in the first half of 2023, the time we are writing this report. After the year closed, by looking at the full Sensor Tower dataset for 2022, we could confirm our selection was adequate.

Mobile app popularity is certainly not an ideal proxy for market share, considering these companies also operate through the web—marketplaces to a greater degree, historically. But even marketplaces are either shifting to an app-centric model or were already conceived with apps as a central element, while food delivery, since inception, has been app-centric. Since reliable market share data is unavailable, and some of these companies are privately held, and do not publish balance sheets, app popularity is a good way to at least get a sense of which companies deserve attention. Regardless, a Financial Times list of the top 100 companies that most profited during the pandemic, includes most of the companies selected for this report, directly or indirectly: Alibaba occupies position 22, followed

⁴ OLX is an e-commerce platform, but in a different segment than the one we are examining: online classifieds. Amazon, on the other hand, is now an online marketplace comparable to AliExpress and Shopee, but it is already covered by the RDR Big Tech Scorecard, and only maintains a local Latin American operation in Brazil. This report already has enough evaluations carried out using Brazil as the reference jurisdictions, so we ended up dropping Amazon from the ranking, even though it is extremely relevant in Brazil. As is Magazine Luiza, the parent company of aifome, but this is not a report on Brazil.

⁵ <https://sensortower.com/>

by Shopee's owner Sea Group at 23, Prosus—the investment company that owns iFood and around 30% of Delivery Hero, owner of PedidosYa—at 27, and Mercado Libre at 37.⁶

Besides app popularity, another criterion for selection was presence across the 4 countries surveyed/ This proved to be a challenge outside of a few major players (Alibaba and Mercado Libre were the only companies to reach all 4 jurisdictions). Some companies that were selected due to being present in more than one, but not all countries, ended up shutting down some of their operations during the period we conducted the research: Shopee closed its local Colombian offices,), 99Food, part of Brazilian company 99, acquired by Didi Chuxing in 2018., ceased operations, and IFood abandoned its attempt to compete with Rappi in Colombia.

As for the rationale behind the selection of companies, we followed a less systematic approach, and one that was limited due to budgetary, personnel and time constraints. Four seemed like the minimum number for at least a general sense in what is region that is diverse, even though they share similar challenges inherited from their colonial past, levels of development, and economic and political conditions. Brazil, due to its size, is the only obvious choice for inclusion, but in the end our choices were guided by different levels of maturity in terms of the implementation of privacy and data protection policies and institutions, expressed in the introduction. The results we obtained are interesting, considering what we found in Bolivia with Yaigo and Colombia with Rappi, even though we do not encourage interpretations that draw causal relations between scores and legislation enacted. These relationships, nonetheless, deserve further investigation, and further analytic work that is not present in this report.

2.3 Limitations

Readers must be aware of a few limitations in our research. The ranking provided here is not comparable with the global RDR ranking, due to the selection of a narrower set of indicators. This needs to be highlighted especially in relation to Alibaba, which is in the RDR's Global Tech Card, with evaluations of Taobao and AliGenie. with the full set of indicators applied. We have used the group level assessments for the 2022 Big Tech Score Card for Alibaba Group, but diverged in indicators G1.1, G1.3, G.2.2, G.3.3, for reasons explained in section 4 of this report. Bear in mind we have worked with data from a period that is more recent than that used in the 2022 scorecard, but even so, our opinions may be different than those of RDR's reviewers for the next official ranking.

We provide a ranking that includes two types of core business: online marketplaces and food delivery services. Marketplaces have performed better, but they are also, Shopee excluded, operations with a longer history, and subject to a wider range of laws and regulations, and comparison should be carried out between the companies of each category first, before comparisons that include all of them are made.

The RDR assessment is strictly an evaluation of public-facing documents made available by the companies; indicators do not evaluate the actual implementation of practices, nor their efficacy. For instance, while a company may claim to provide training on privacy and data protection to its

⁶ Prospering in the pandemic: The top 100 companies. (2020, June 19). *Financial Times*.
<https://www.ft.com/content/844ed28c-8074-4856-bde0-20f3bf4cd8f0>

employees, the rankings do not assess the adequacy of the training, nor whether or not they take place in actuality.

Also, our selection of companies is not representative of the entire sector of online marketplaces and delivery services. Important companies were left out, and while Amazon, for instance, is covered by RDR's Big Tech Scored and readers can be referred to that ranking—bearing in mind the limitation brought up in the first item above—since its local operations in Latin America are restricted to Brazil, and it operates cross-border for the rest of region. On the other hand, while not an online marketplace, it would be interesting to have OLX in the report, as well as Magazine Luiza's online marketplace, but both were left out. Our sampling tried to highlight companies that would provide an interesting insight into each sector, as opposed to the entire field.

2.4 Terminological issues

2.4.1 RDR terminology: a few definitions to keep in mind

Readers should be aware that some terms and concepts appear repeatedly throughout the questions raised by indicator elements, and knowing the RDRs definitions provided below will come in handy when reading or interpreting our results. The definitions reproduced below are particularly important given their centrality in multiple indicators and are here provided for convenience. They will be repeated and analyzed in specific sections of the report, along with other definitions not included in this section, but readers are advised to have the official RDR reference material at hand.⁷

- **Clearly disclose:** “The company presents or explains its policies or practices in its public-facing materials in a way that is easy for users to find and understand”.
- **User information:** “Any data that is connected to an identifiable person, or may be connected to such a person by combining datasets or utilizing data-mining techniques. User information may be either collected or inferred. As further explanation, user information is any data that documents a user's characteristics and/or activities. This information may or may not be tied to a specific user account. This information includes, but is not limited to, personal correspondence, user-generated content, account preferences and settings, log and access data, data about a user's activities or preferences collected from third parties either through behavioral tracking or purchasing of data, and all forms of metadata. User information is never considered anonymous except when included solely as a basis to generate global measures (e.g. number of active monthly users). For example, the statement, ‘Our service has 1 million monthly active users,’ contains anonymous data, since it does not give enough information to know who those 1 million users are”.
- **Content:** “The information contained in wire, oral, or electronic communications (e.g., a conversation that takes place over the phone or face-to-face, the text written and transmitted in an SMS or email)”.
- **Content restriction:** “An action the company takes that renders an instance of user-generated content invisible or less visible on the platform or service. This action could involve removing the content entirely or take a less absolute form, such as as hiding it from only certain users (e.g. inhabitants of some country or people under a certain age), limiting users' ability to interact with it (e.g. making it impossible to “like”), adding counter speech to it (e.g.

⁷ <https://rankingdigitalrights.org/2020-indicators/>

corrective information on anti-vaccine posts), or reducing the amount of amplification provided by the platform's curation systems".

- **Account/user account:** "A collection of data associated with a particular user of a given computer system, service, or platform. At a minimum, the user account comprises a username and password, which are used to authenticate the user's access to his/her data".
- **Account restriction/restrict a user's account:** "Limitation, suspension, deactivation, deletion, or removal of a specific user account or permissions on a user's account".

We use "data" and "information" interchangeably, aware that distinctions between these terms can be drawn. The main category of analysis is "user information", as per RDR's indicators and methodology, but we are examining policy documents, and sometimes legislation, that is agnostic towards the issue of differentiating "data" and "information". Countries with European-inspired legislation, which is the case of Colombia, Brazil, and Ecuador, also make use of "processing" (translated as "tratamiento"/"tratamento") to encompass multiple types of use of information, and we take that into account when analyzing terms of service and privacy policies with regard to *collection, inference, sharing*, and other specific uses that are mentioned in RDR indicators, whenever the context authorized us to interpret "processing", as inclusive of what is required by RDR definitions.

2.4.2 "Platforms", "ecosystems", "services"

"Platform" is a word that is a ubiquitous term, used by users of online services, journalists, and academics, often with different meanings, or focusing on specific components of the assemblage of elements that are evoked by the term. Academics tend to explicitly acknowledge the complicated nature of the term, and opt to either offer a specific definition, or use the word in a more general sense, when deep conceptual and theoretical are not necessary and tangential to their research.

It is not, however, a neutral word. As Gillespie (2010) highlights, the strategic use of the term can mean a lot and nothing at all at the same time, allowing companies to emphasize or de-emphasize certain aspects of their practices, as convenient for their economic or political interests. A definition, therefore, is necessary; or at least a general notion of what we mean when we use the word "platform" in this report.

Poell et al. (2019) define platforms as "[...] *(re-)programmable digital infrastructures that facilitate and shape personalised interactions among end-users and complementors, organised through the systematic collection, algorithmic processing, monetisation, and circulation of data*" (emphasis in original). This definition is part of a broader theoretical framework focused on processes of "platformization", understood as "[...] *the penetration of the infrastructures, economic processes, and governmental frameworks of platforms in different economic sectors*" (emphasis in original), a phenomenon that is accompanied by datafication and the commodification of "[...] online *and* offline objects, activities, emotions, and ideas into tradable commodities", valued in terms of attention, data, users, and money (Dijck et al., 2018; emphasis in original). .

When we refer to "platforms" in this report, we mean something similar to what Poell, Nieborg & van Dijck propose, but use the term in a looser sense. We understand platforms as services built around networked, two-sided or multisided markets (Rochet & Tirole, 2003; Armstrong, 2006; Hagiu & Wright, 2015), controlled by a company or group of companies, and characterized by data

accumulation and heavy use of algorithmic processes to automate operations and enforce rules. Our use of the term, however, is deliberately inconsistent throughout the text, which frequently refers to "platforms" in the simpler, stricter sense of "services" or "companies". We do this to avoid repetition, but also to highlight that, ultimately, this is a report about specific companies, operating in specific economic sectors, and not a disembodied, efficient, intelligent system that merely intermediates the otherwise autonomous agents that interact with it.

Platform-based companies tend to describe themselves as providers of technology and intermediation services, first and foremost, and talk about "platforms" as being the software systems that they build and maintain to make intermediation possible. This is a statement usually found as clauses in terms of service, and part of legal and marketing strategies that seek to position companies as innovators outside the reach of existing regulatory arrangements. This allows companies to buy time and gain scale before they ultimately are forced to deal with existing or newly approved laws and regulations "blitzscaling", to use a popular buzzword among venture capitalist firms.⁸ The corporate narrative, nonetheless, sticks around even after companies suffer regulatory setbacks and workers' protests make it clear that platforms' core businesses go beyond mere intermediation; Uber, for example, still calls its drivers "partners".

We also make frequent use of the term "ecosystem"—a word with definitional problems of its own—but as a complementary notion, and not as an alternative to "platform".⁹ By "ecosystem" we mean an ensemble of multiple services, under the control of a specific company or group of companies, with varying degrees of integration and complementarity, but conceived as part of a cohesive whole, and aiming to harness the users and data captured from existing services to expand into other activities and sectors, counting on network effects and user lock-in in order to dominate or occupy a substantial portion of a market.¹⁰

⁸ The term was conceived by Reid Hoffman—cofounder of LinkedIn, and partner of venture capital firm Greylock Partners—and refers to the strategy of skipping organic growth in favor of "getting very big very fast". As noted by Hoffman, the "very fast" part of the sentence means that "[y]ou throw yourself off a cliff and assemble your airplane on the way down"; basically what Mark Zuckerberg's "Move fast and break things" motto suggests. The idea of blitzscaling, however, puts the constant need for venture capital front and center: in order to keep the machine running, so that it can break things as it quickly as possible to position itself as the first mover in a market, fuel has to be constantly added to the engines. Venture capital, of course, can also be used for organic growth, or for a growth strategy centered on acquisitions; but it also accounts for the inevitable legal costs of breaking things and infringing laws and regulations, as the only thing that matters is achieving scale quickly, at any cost necessary. Hoffman's use of the German word "Blitz" is interesting, to say the least: "I have obvious hesitations about the World War II association with the term 'blitzkrieg.' However, the intellectual parallels are so close that it is very informative", he states. We would dispute that it is informative, since there is no consensus among experts on the concept of "Blitzkrieg", no evidence supports the existence of a German "Blitzkrieg doctrine", and the term does not appear in official Nazi documents of the period (Harris, 1995; Mosier, 2003). We would, however, call it revelatory in ways that are probably unintentional. For both of the preceding Hoffman quotes, taken from an interview, see Sullivan, T. (2016, April 1). Blitzscaling. *Harvard Business Review*. <https://hbr.org/2016/04/blitzscaling>. While a book-length account of the strategy is hardly necessary, readers can find one in Hoffman & Yeh (2008), which is superfluous at a conceptual level, but illuminating as an analysis of the corporate ethics of companies blitzscaling their way into market dominance.

⁹ Birch and Cochrane (2022) opt for the term "ecosystem" instead of platform, making a point that the idea of "platform" includes aspects of techno-economic and social-legal, nature, and involve a wide range of heterogeneous components, such as technical devices, companies, users, contracts, rights, developers, payment systems, metrics, etc.

¹⁰ Dijck et al. (2019) also refer to "platform ecosystems", in the context of their concept of "platformization", to highlight the need to go beyond current regulatory frameworks—including, but not limited to, antitrust law—in order to address problems derived from the concentration of power established by the integration of platforms: "[...] we question the suitability of prevailing legal-economic concepts to capture undue accumulation of platform power. We argue that power concentration and asymmetry can only be remedied if we widen the scope of legal frameworks to include the sociotechnical and political-economic relations in which these frameworks are embedded."

To summarize, when we refer to “platforms”, “ecosystems”, and “services”, we want to bring attention to the following:

- The multisided nature of platforms is important to highlight that there are different agents offering or purchasing services and goods, using an online, networked service provided by a corporate entity, which can be a standalone company, or part of a larger group.
- Each of these agents maintains a different relationship with the "platform" and with other categories of platform users, and this has a clear impact on some of the indicators we have chosen. The position of a person delivering food is different from that of the person who placed the order, in terms of how platform rules are enforced, and the consequences for perceived infringements of these rules have drastically different consequences. Delivery workers can be deplatformed and lose a source of income, while consumers can simply purchase directly from restaurants, and thus are less impacted by lack of transparency or clarity in enforcement.
- The idea of a “platform ecosystem” is important because these companies often operate multiple services, or platforms, integrated in a variety of ways, with business models that depend on the extraction of massive amounts of personal data from platform participants.
- The companies operating these services establish and enforce the rules that govern the services that compose the ecosystem, often through automated means, in constant tension with the social and human elements of the businesses they operate, which involve the complex relationships established between users and companies stressed above, as well as the relationships established between companies and the social, material, and institutional environments in which they operate.

The next section of this report is devoted to profiles of each of the companies whose services we have assessed, delving into corporate history and business models. We provide concrete illustrations of the general points listed above, as well as contextual information that is invaluable for a nuanced interpretation of results in specific indicators, as well as the ranking itself, taken as a whole.

3. Company profiles

Table 1, presented below, offers an overview of the platforms selected for this study, describing their core services, parent company or group, date of foundation or launch, country of origin, and jurisdictions where services are provided.

Broadly considered, all of them can be classified as e-commerce platforms, but represent two specific, well-defined segments within that category. Online marketplaces are platforms mediating sellers and buyers, and can be B2C (business-to-consumer), with sellers matched with end consumers, B2B, with sellers matched with buyers that are, themselves, a business that will use or resell the product; and C2C (consumer-to-consumer), with consumers matched with consumers, usually via classifieds or an auctions-based model.

A platform can be solely B2C/B2B/C2C or adopt mixed models. B2C platforms, furthermore, may or may not include the platform provider itself as one of the sellers. Amazon started as a B2C company selling books, with the company itself as the sole retailer, and then expanded to include third-party sellers and other types of products—the “everything store”— becoming an online marketplace along the lines of Mercado Libre and AliExpress, albeit one that competes against third-party sellers, with the advantage of having lots of data produced by these very sellers.

Another distinction specific to online marketplaces relates to whether or not the platform is open to sellers in a specific jurisdiction. If only buyers are admitted, online marketplaces operate as a cross-border service in that country, and goods are imported from sellers located abroad. Shopee, the online marketplace of Singaporean group Sea Limited, adopted an aggressive global expansion strategy in 2021-2022, opening local operations in France, India, and a number of Latin American countries, only to revert to a strictly cross-border model in all of these locations, with the exception of Brazil, where it remains a fully-fledged online marketplace, and Argentina, where it exited completely.¹¹

Table 1 Company profiles

Platform	Core service	Parent company	Founded or launched	Country of origin	Countries where available
AliExpress	B2C (business-to-consumer) marketplace, connecting third-party sellers in China to consumers outside of China. Open to sellers in a few other select jurisdictions. Alibaba.com is the B2B counterpart of AliExpress.	Alibaba Group	2010 (Alibaba: 1999)	China	Globally available a cross-border market, with the exception of China (where Alibaba has other platforms) and Southeast Asia, where Alibaba has Lazada as its main B2C marketplace. AliExpress is mostly directed at consumers in Latin America, Europe, US and Canada.
Mercado Libre	B2C (business-to-consumer) marketplace for local businesses. Integrated with a suite of other products that compose an ecosystem that includes logistics, advertising, virtual storefronts and financial services.	Mercado Libre	1999	Argentina	18 countries, focused on Latin America. The Brazilian, Mexican and Argentinian operations represent most of the platform's revenues.
Shopee	B2C (business-to-consumer) online marketplace, with an integrated financial services in select jurisdictions.	Sea Limited	2015 (Sea Limited: 2009)	Singapore	Singapore, Indonesia, Taiwan, Thailand, Malaysia, Vietnam, Philippines, Brazil, Mexico, Colombia, Chile. After failed expansion plans, Shopee is only available as a cross-border market in Mexico, Colombia, and Chile, but did not exit the Brazilian market.
aiqfome	Food ordering, mostly connecting restaurants to consumers, targeting cities with a low population (< 300k). Does not intermediate delivery workers, only	Magazine Luiza	2007 (Magazine Luiza: 1957)	Brazil	Brazil

¹¹ Lee, Y., & Poh, O. (2022, September 9). Sea's Retail Arm Pulls Out of Argentina in Latin America Retreat. *Bloomberg*. <https://www.bloomberg.com/news/articles/2022-09-09/sea-s-retail-arm-pulls-out-of-argentina-in-latin-america-retreat>

	restaurants and consumers.				
DiDi Food	Food ordering/delivering, connecting restaurants to consumers via gig workers. Launched as an extension of Didi's core ridesharing business, following the example set by Uber with its Uber Eats service.	Didi Chuxing	2018 (DiDi: 2012)	China	Colombia, Mexico, Costa Rica. Formerly available in Brazil (as 99Food) and in Japan.
iFood	Food ordering/delivering, connecting restaurants and other types of establishment, such as grocery stores, to consumers via gig workers. Operates as a seller of groceries and other products in select cities.	Prosus	2011 (Prosus: 2019)	Brazil	Brazil. Formerly available in Colombia.
PedidosYa	Food ordering/delivering, connecting restaurants and other types of establishment, such as grocery stores, to consumers via gig workers.	Delivery Hero	2009 (Delivery Hero: 2011)	Uruguay	Argentina, Bolivia, Chile, Dominican Republic, Paraguay, Uruguay, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, Peru, Venezuela, Panama, Nicaragua
Rappi	Food ordering/delivering, connecting restaurants and other types of establishment, such as grocery stores, to consumers via gig workers. Brands itself as "super-app", and also includes financial and travel agency services.	Rappi (privately held, with considerable investments made by SoftBank)	2015	Colombia	Argentina, Brasil, Chile, Colombia, Costa Rica, Ecuador, Mexico, Peru, Uruguay
Yaigo/Yummy	Food ordering/delivering, connecting restaurants and other types of establishment, such as grocery stores, to consumers via gig workers. Also brands itself as a "super-app", with ridesharing and financial services.	Yummy (privately held, information on investors is scant; with Y Combinator is the most notable funder)	2019 (Yummy: 2020)	Bolivia	Bolivia, Venezuela, Peru

The above companies all operate against the background of what Srnicek (2016) calls "platform capitalism": capitalism built around firms operating multisided platforms, with the extraction and

analysis of massive amounts of user data in mind, benefitting from the network effects obtained by scale, offering products that often are used to cross-subsidize each other, constructed on top of software architectures that provide users with some generative capacity, but also enable companies to determine governance rules, , with the capacity to operate anywhere, given their focus on digital interactions. Extraction of data, is at the center of platform capitalism because “[...] data have come to serve a number of key capitalist functions: they educate and give competitive advantage to algorithms; they enable the coordination and outsourcing of workers; they allow for the optimization and flexibility of productive processes; they make possible the transformation of low-margin goods into high-margin services; and data analysis is itself generative of data, in a virtuous cycle.”

Srnicek calls attention to the most important characteristics of the types of companies we assess in this report. Closely related theoretical frameworks that are also useful to our analysis are plentiful, accentuating or further developing some of the above aspects, sometimes narrowing the focus on specific business models, themes, or engaging with technology itself, and the social arrangements technology creates. Lots of good references could be mentioned here both at a macro level, with a predominantly theoretical bent (e.g Zuboff, 2019; and Ekbja & Nardi, 2017) , or at a micro level, and a more empirical orientation, focused on countries, communities, or groups of individuals, following a variety of methods, including survey-based analyses, use of census data, ethnographies, and interview-based qualitative research.¹² ,.

More specific to our work, which involves food delivery companies, previously categorized as being part of the “sharing economy”—a term that proved to be as misleading as it appeared to be when it was popularized in the initial stages of Uber’s expansion— but also evaluates online marketplaces, which have a longer history and would not be characterized as such, the notion of “platform work” (Woodcock & Graham, 2020; Vallas & Schorr, 2020) is particularly helpful—Vallas & Schorr’s article includes a thorough literature review, which we will avoid here—and in line with our rationale for selecting these two sectors: the growth experienced by these companies during the Covid-19 period, driven by a spike in unemployment rates, and social isolation increasing demand for electronically mediated shopping.

The corporate profiles in this section provide invaluable context for the interpretation of the rankings we obtained by using the RDR standards, and illustrate, in concrete terms, problems that demand greater attention from platform users, regulators, as well as companies, if they want to adopt a culture that fosters increased accountability and transparency.

Each company has its share of peculiarities, and some are more representative of a specific issue than others. Before getting to the specifics, however, we should keep in mind the following points, closely related to our discussion on the platforms, ecosystems, and services in the previous section:

- **All companies maintain multisided platforms**, with business models that depend on mediation of activities that were previously performed by well-established incumbent players, operating in, and shaped by, specific legal, regulatory, and social contexts. When we mention *social* in this report, we also refer to the “the market”, which, as argued by Polanyi (2001), is not an entity that exists disembodied from society—something that should be

¹² A more recent trend, directly related to the raw materials we have worked with, is the analysis of large datasets of privacy policies extracted from the web (with use of the Internet Archive to cover reasonable periods of time) as well as datasets extracted from mobile apps (e.g. Amos et al., 2021; Berke & Calacci, 2022; Scoccia et al., 2022). We made use of many of these works throughout our research, but certainly have missed out on research that would have enriched this report, given how much interesting material is available.

always kept in mind, since corporate discourse often operates under the assumption that markets exist above society, as self-regulating structures subject to rules dissociated from social, political and cultural institutions.

- The countries included in this report can generally be considered, despite differences in degree, places where **inequality provides great opportunities for platform capitalism**: big markets on the demand side, and unemployment or precarious work conditions at the lower strata of the population, ensuring access to a cheap labor market and consumer with money to spend on higher strata.
- Idle workforce, in the platform work model, is a fluid, easily controllable, malleable resource, which can be channeled into algorithmically managed systems, in a dynamic, cost-effective way. **Platforms match humans selling their labor force with consumers wanting to buy goods or services, and as a byproduct, extract massive amounts of data**, which are then used to the platform's advantage against competitors, as well as users themselves. Data intensiveness leads to data advantage.
- **Scale trumps regulation**, and the aggressive approach adopted by Uber in its expansion is the clearest illustration of this approach. The "move fast, break things" motto applies, with "move fast" meaning "growing fast" and "breaking things" meaning "ignoring legal or regulatory constraints", up to the point where regulation is inevitable. By the time this takes place, the company can then lobby for a favorable outcome, or adapt to unfavorable legislation, having established itself as a recognizable brand, with a large userbase. It may or may not be lucrative when this occurs, but venture capital is often available to keep the engine running until the business is profitable or venture capitalist themselves can exit with a profit.
- **The venture capital model adopted for growth is typically American, but inspiration is drawn from both the US and China**. Chinese companies are at the forefront of the current cycle of innovation of platform capitalism—as trendsetters, funders, and active competitors—and one of the major consequences of this influence, at the product level, is the **integration of several services into big ecosystems, with "super-apps" as platform integrators**.
- **Financialization is a characteristic that goes beyond corporate funding and the fluidity of company ownership: it is a key component of the super-app model itself**. Most of the companies we assess are either advertising themselves as super-apps, are owned by a group that seeks to integrate them into a super-app, or have followed the model without explicitly announcing they were doing so, with financial services being a key module in the assemblage of super-apps. AliExpress, included in our report, is part Alibaba, one of the first wave of big Chinese companies to establish the trend.¹³
- **Financial services are particularly promising for a company seeking to expand activities into Latin America**. They are particularly attractive in regions in which portions of the population are **a)** excluded from basic financial services, such as checking/savings accounts, loans, and investments; **b)** can be convenient even to individuals that have access to the traditional banking system; **c)** have great synergy with a variety of core business models; and **d)** provide opportunities to extract particularly useful data from users.

¹³ On financialization, generally, see Mazzucatto (2018). On financialization, mediatization, and datafication, see Grohmann (2019).

The profiles presented below are more illustrative of some of the above points than others, and we will concentrate our discussion of certain themes in the sections where they are more eloquently expressed. Financialization, for example, is a topic that is fleshed out in sections dedicated to Mercado Libre, Prosus, and Delivery Hero/PedidosYa; the super-app narrative will be analyzed in more detail when we examine AliExpress/Alibaba and Rappi; inequality, and the consequences of algorithmically mediated for workers, will be explored when we delve into iFood. This does not imply, however, that these issues are not relevant to the other companies; only that they are more salient in some of the trajectories we present below than in others.

3.1 Online marketplaces

The growth in demand for the e-commerce sector was already a trend at the beginning of the pandemic, according to a brief published by the OECD in October 2020,¹⁴ and greatly intensified in the months that followed. The most obvious reason for that are the restrictions necessary for social distancing, self-imposed or otherwise. But the growth of online marketplaces, specifically, was also bolstered by the search for alternative sources of revenue by individuals who lost their jobs, or found the need to supplement income with a secondary occupation.¹⁵

In addition to driving for ridesharing platforms such as Uber or 99, and delivering food for PedidosYa, Rappi, iFood and the like, another way to make ends meet was to become a small merchant, setting up a virtual shop on an online marketplace, and selling a variety of products. Speaking to Brazilian newspaper *Folha de São Paulo*, the president of the Brazilian Association of Electronic Commerce (Abcomm) claimed that around 150,000 new "virtual stores" were opened between April and September of 2020, a tenfold increase over pre-pandemic estimates. He continues:

"The legacy of the pandemic for ecommerce is the entry of many people and companies that, under normal conditions, would not have come to the online shopping sector. What happened wasn't digital transformation; it was digital obligation, and this brought a new competition model to the sector, opening up opportunities."¹⁶

According to data from the General Administration of Customs of the People's Republic of China, Brazil was the main buyer in 2 among 10 categories in China's list of most exported items in January-September 2022: 1) solar panels and 2) low-cost, budget items of a variety of types—such as cheap kitchen utensils, cell phone accessories, or novelty products like fidget spinners—counted as a single category.¹⁷ This is a phenomenon that can be plausibly linked to the growing popularity of cross-border online marketplaces such as AliExpress and Shopee, as well as an increase in the number

¹⁴ "Despite persistent cross-country differences, the COVID-19 crisis has enhanced dynamism in the e-commerce landscape across countries and has expanded the scope of e-commerce, including through new firms, consumer segments (e.g. elderly) and products (e.g. groceries). Meanwhile, e-commerce transactions in many countries have partly shifted from luxury goods and services towards everyday necessities, relevant to a large number of individuals" (Organisation for Economic Co-operation and Development, 2020)./

¹⁵ The development of a vibrant YouTube community on importing and selling goods via asian online marketplaces is one of the visible manifestations of this phenomenon. See, for example: Ecommerce na Prática. (2021). Aliexpress Brasil: Vale a pena Vender no Marketplace? *YouTube*. <https://www.youtube.com/watch?v=kTfHiLJOIHQ>
Gilmar Theobald - Academia do Ecommerce. (2021). O SEGREDO PARA VENDER MAIS NA SHOPEE! *YouTube*. <https://www.youtube.com/watch?v=Qpydr1e1nfc>

¹⁶ Búrigo, A. (2021, March 28). Ecommerce explode durante pandemia, mas deve continuar crescendo no país. *Folha de S. Paulo*. <https://www1.folha.uol.com.br/seminariosfolha/2021/03/ecommerce-explode-durante-pandemia-mas-deve-continuar-crescendo-no-pais.shtml>

¹⁷ Watanabe, M., & Fagundes, Á. (2022, November 9). Brasil importa da China 'modernidade' e 'miudezas.' *Valor Econômico*. <https://valor.globo.com/brasil/noticia/2022/11/09/brasil-importa-da-china-modernidade-e-miudezas.ghtml>

of small merchants selling goods on these platforms. The Alibaba.com B2B platform was also extremely popular throughout the period, even exceeding the popularity of B2C AliExpress.com in some jurisdictions, according to the Sensor Tower app data we analyzed. This suggests the purchase of small items in bulk, for resale, by very small enterprises, or even by individuals with less entrepreneurial objectives, up to the limits imposed by importation tax regimes, which would require the formal registration of a company and additional burdens incompatible with informal work.¹⁸

Demand within online marketplaces spiked in the early stages of the pandemic, and contracted in later periods, tying the phenomenon to the ebbs and flows of isolation policies. A NielsenIQ|Ebit survey claims that 54% of Brazilians have purchased items from cross-border marketplaces in the first semester of 2022, less than the 68% figure for the same period of 2021, probably a result of a more lenient attitude toward the COVID-19 pandemic. The most searched stores were Shopee (42%), AliExpress (34%), Amazon US (31%), SHEIN (16%), and Wish (7%).¹⁹

3.1.1 Mercado Libre

Argentina's Mercado Libre was founded in 1999, part of the first wave of dotcom companies, has a history of success and expansion that mirrors those of big Silicon Valley companies, complete with a “founded in a garage” trope woven into its origin myth.²⁰

After opening operations in Argentina, Brazil, Mexico, and Uruguay, and establishing an alliance with competitor eBay in 2001, Mercado Libre gradually expanded to cover 18 countries, and expanded early on into financial services, with the launch of Mercado Pago in 2003. While the company's headquarters would remain in Buenos Aires, the company carried out its IPO on Nasdaq, in 2007, a trend that would be followed by other Latin American companies, such as Nubank, with its NYSE listing in 2021.

Since 2002, the company has also been acquiring several startups in the auctions, classifieds, logistics, payments, and software sectors, while working towards the construction of a suite of well-integrated services, gravitating around its core online marketplace product.²¹

Mercado Libre currently operates as a set of services offered through a single user account, in what the company calls “The MELI Ecosystem”. Mercado Libre runs the online marketplace, as well as logistics and shipping service Mercado Envios, advertising platform Mercado Ads, and Mercado Shpos, a virtual storefront service tied to the Mercado Libre marketplace. Mercado Pago, which is incorporated as a separate company, operates a set of financial products, and Mercado Crédito, a loans service listed as a separate component of the ecosystem.²²

¹⁸ See, for an explanation on the differences and requirements between importing bulk from Alibaba.com and smaller amounts in AliExpress, for the purposes of resale: China Link Trading (Director). (2019). *ALIEXPRESS OU ALIBABA? - Qual a diferença? Qual é o melhor para você?* <https://www.youtube.com/watch?v=hnGBNzQyjFO>

¹⁹ Madureira, D. (2022, September 13). Brasileiro compra menos eletrônico e mais comida pela internet. *Folha de S.Paulo*. <https://www1.folha.uol.com.br/mercado/2022/09/comercio-eletronico-desacelera-no-brasil-no-1o-semester.shtml>

²⁰ "Since its founding in Mr Galperin's parents' garage in a leafy neighbourhood of Buenos Aires, MercadoLibre's heady growth is all the more impressive given the particular difficulties of starting an internet company in Latin America." Mander, B., & Stott, M. (2020, November 23). *How MercadoLibre emerged as an ecommerce titan*. <https://www.ft.com/content/446558a8-c0b2-449c-97a5-53b3956cd427>

²¹ Mercado Libre. (2019). *Mercado Libre Business Overview*. <https://investor.mercadolibre.com/static-files/c9c7e0d2-ec16-45b2-bf0b-0630e944c0b7>

²² Mercado Libre. (2023). *We are Mercado Libre*. Mercado Libre. <https://api.mziq.com/mzfilemanager/v2/d/098a2d95-0ea8-4ed5-a340-d9ef6a2b0053/f2059a18-ce55-5433-09-09-05e0866e7cf0?origin=2>

The general terms of service for Mercado Libre state that “[...] when registering on Mercado Livre, the User will not be automatically registered for the other services provided by the group's companies.”²³ Nevertheless, the full integration of the MELI Ecosystem services into a single account is made clear in the company’s privacy policy; the terms of service concept of “registration” is somewhat misleading, considering the bluntness of the paragraphs quoted below:

“The goal of Mercado Livre is to democratize commerce, money, payments, shipments, and credit. To achieve this, it has created an ecosystem of integrated services through its platforms: Mercado Livre (Marketplace), Mercado Pago, Classifieds, Advertising, Mercado Envios, Mercado Créditos, Mercado Shops, and Mercado Pontos. **All these platforms make up a whole and are necessary and indispensable for the services offered by Mercado Livre.**

For this reason, it's important to keep in mind that when you register on any of these platforms, **you are creating a user that will allow you to operate on all the others.** For this to be possible, **it's necessary for your data to be shared among all the Mercado Livre companies that make up the platforms.**” (emphasis ours)²⁴

The key role performed by data accumulation in each of these services for the provision of the others is eloquently exemplified by the media kit presentation available on Mercado Ads site, which in slides dedicated to programmatic advertising, stresses the importance of data acquired from user interactions on the marketplace as an enabling factor in efficient off-site campaigns: “Every searched category and every viewed product reveal **important information** about the **behavior** of our users”.²⁵

Unlike some of the other companies in this report, Mercado Libre does not advertise itself as a “super-app”. From the point of view of a discerning investor, this is a good sign, particularly considering the “Swiss army-knife” approach some super-app companies have adopted (see section 3.2.4, below, on Rappi). It points towards a more focused, articulated, and coherent expansion into complementary services, instead of haphazard growth, or the use of a buzzword for the purposes of marketing and fundraising. Even so, a case can be made that, out of all companies in our selection, Mercado Libre is the only one to have actually set up solid foundations for the building of a super-app, and seems to be headed in that direction, as suggested by the integration of a media streaming service into its platform in August 2023.²⁶

In its 2022 Impact Report, Mercado Libre claims to have tripled in size over the past three years,²⁷ and CEO Marcos Galperín, speaking to the Financial Times, highlights Covid-19’s role as a catalyst for

²³ Mercado Libre. (2022, August 8). *Termos e condições gerais de uso do site*. Mercado Libre. https://web.archive.org/web/20221225054145/https://www.mercadolivre.com.br/ajuda/Termos-e-condicoes-gerais-de-uso_140, item 4.

²⁴ Mercado Libre. (2021). *Declaração de privacidade e confidencialidade da informação do Mercado Livre*. <https://www.mercadolivre.com.br/privacidade/declaracao-privacidade>, item 1.

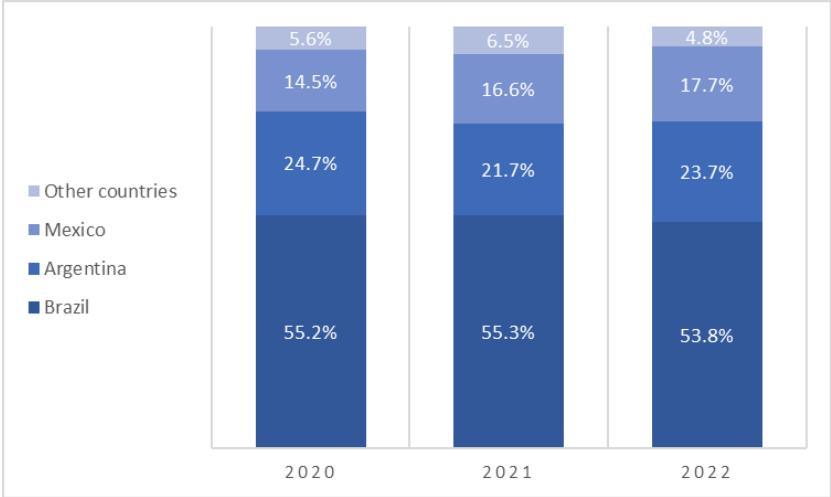
²⁵ The presentation continues: “We create strategies based on **real actions and people with the right mindset** to boost your campaigns outside of Mercado Libre.” Mercado Ads. (2022). *Media Kit 2022*. Mercado Libre, p. 26, emphasis in original.

²⁶ At launch, Mercado Play included a catalog of around 1600 movies and TV shows and was announced as part of a strategy for user acquisition, directly tied to Mercado Ads’ business: a portion of the content offered for free, supported by advertising, and users can upgrade to have access to the entire catalog by paying a monthly fee. Sacchitiello, B. (2023, August 4). Mercado Livre lança serviço de streaming gratuito na América Latina. *Meio & Mensagem*. <https://www.meioemensagem.com.br/midia/mercado-livre-streaming>

²⁷ Mercado Libre. (2023). *2022 Impact Report*. Retrieved July 19, 2023, from <https://api.mziq.com/mzfilemanager/v2/d/098a2d95-0ea8-4ed5-a340-d9ef6a2b0053/3e91a799-f66d-438b-a80d-0436131ff737?origin=2>. p. 12.

growth: “This pandemic has moved us forward maybe three to five years.”²⁸ Reported revenues have, indeed, increased substantially over the 2020-2022 period, with the caveat that it is highly dependent on the Brazilian market. Despite reaching 18 jurisdictions, most of the profits come from Brazil, Argentina, and Mexico, with Brazil consistently representing 50% of revenues. The drop from Brazil to Argentina is dramatic (around 30%), and from Argentina to México less intense, but still substantial (around 10%). The remaining jurisdictions amount to an average of 5.60%.²⁹

Figure 1. Mercado Libre % of net revenues by country (2020-2022)



Source: Mercado Libre' SEC 20-F filing, 2022 fiscal year

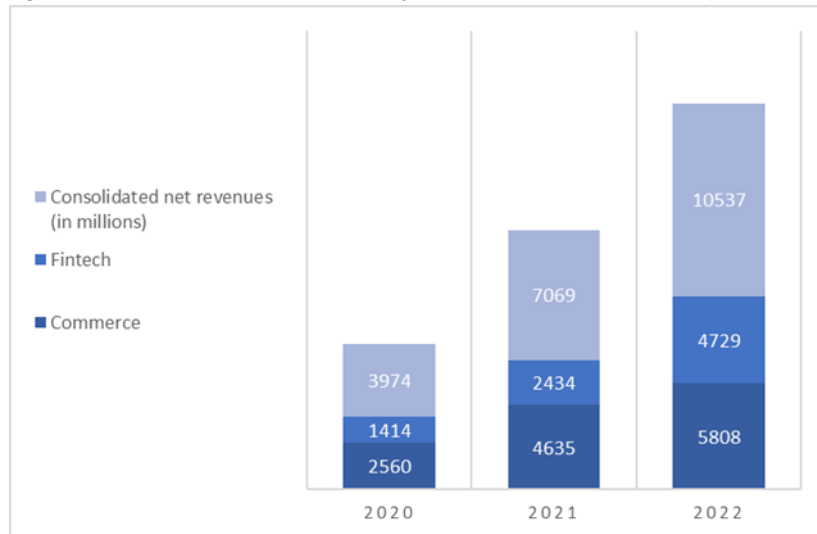
Mercado Pago’s share in the figures presented in Mercado Libre’s annual reports has also increased over the years, to the point that it would not be surprising if it eventually surpasses the profitability of the marketplace operation:³⁰

²⁸ Mander, B., & Stott, M. (2020, November 23). *How MercadoLibre emerged as an ecommerce titan.* <https://www.ft.com/content/446558a8-c0b2-449c-97a5-53b3956cd427>

²⁹ Mercado Libre. (2023). *Annual report (Form 10-K, 2022 fiscal year).* U.S. Securities and Exchange Commission. <https://dd7pmep5szm19.cloudfront.net/2831/0001099590-23-000007.htm>

³⁰ *ibid*, p. 43.

Figure 2. Fintech and e-commerce as % of Mercado Libre's net revenues (2020-2022)



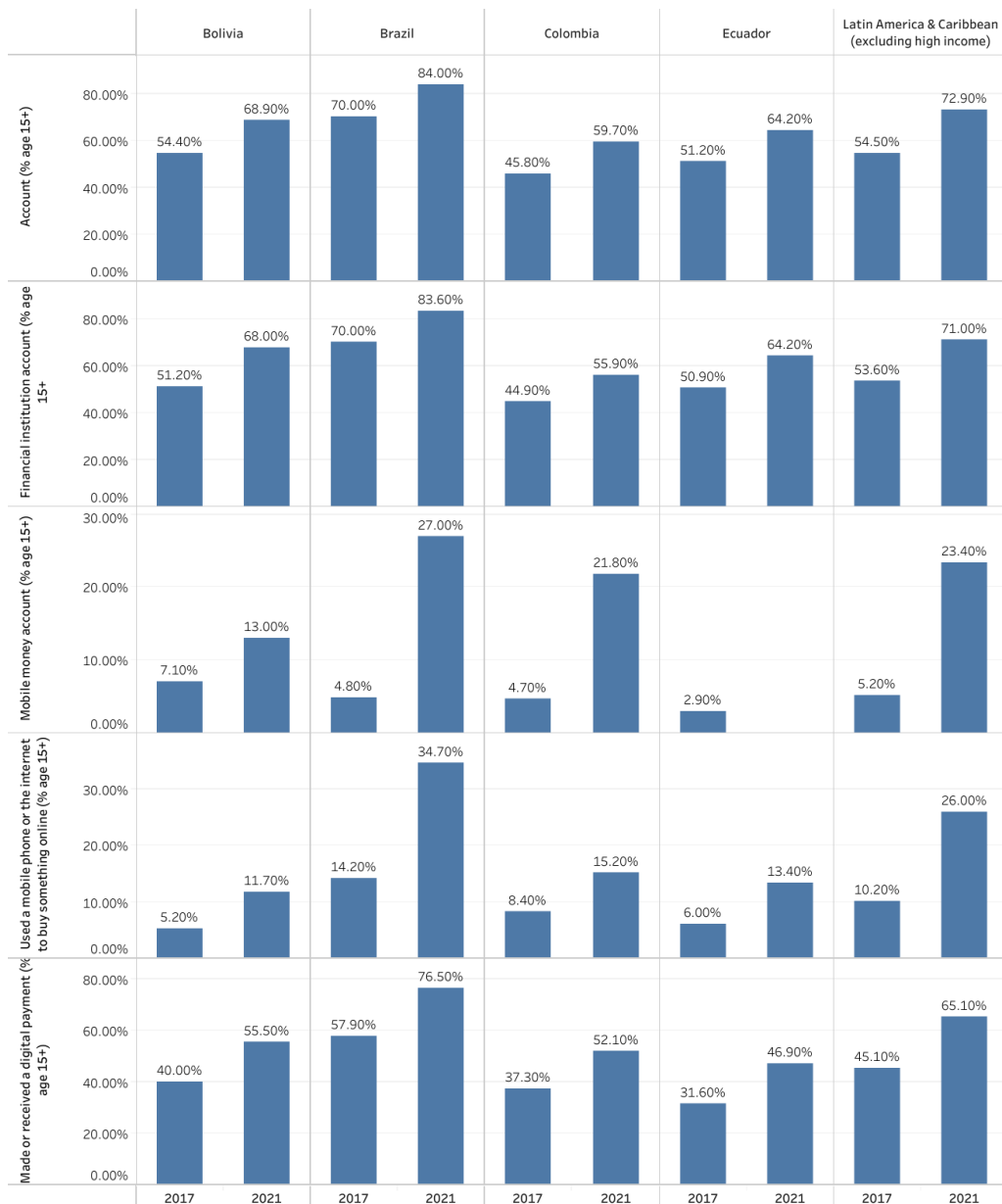
Source: Mercado Libre' SEC 20-F filing, 2022 fiscal year

The growing relevance of Mercado Pago, both strategic and financial, can hardly be understated. The Mercado Libre investor relations page currently describes the company as “The E-commerce and Fintech leader in Latin America”, with the mission of “using technology to democratize commerce and financial services in Latin America”. Mercado Libre’s corporate narrative, in its current form, is heavily based on ideals of social inclusion through entrepreneurship and access to financial services, mediated by technology that presents itself as neutral and efficient, with automation enabled by software and machine learning, providing critical infrastructure and services to underserved populations in Latin America.

As Mercado Pago grew in relevance, so did the use of the “banking the unbanked” trope in Mercado Libre’s materials, presentations, and interactions with the press. This is an existing problem, as the World Bank data presented below, related to the countries in this studio and the Latin America and Caribbean region illustrates (one datapoint, for Ecuador, is missing).³¹

³¹ Data extracted from: <https://www.worldbank.org/en/publication/globalindex>. For the full report and analysis see (Demirgüç-Kunt et al., 2022).

Figure 3. Access to financial services in Bolivia, Brazil, Colombia, and Ecuador (World Bank)



Source: World Bank Global Findex Database 2021

Intentions, however, are obviously not charitable: the provision of financial services to underserved customers in the developing world is a tremendously attractive opportunity to any player able to exploit it, and a blueprint for success can be drawn by examining the trajectories of Tencent’s Weixin/WeChat Pay and Alipay³², which provided masses of Chinese citizens without access to accounts in traditional financial institutions with basic financial services. The case of Brazil’s Nubank is also indicative of how “banking the unbanked” propositions lead to growth, even if the company operates at a deficit.³³

³² Alipay started as an Alibaba company and was later spun off as sister company Ant Financial (later renamed Ant Group). See section 3.1.2, below, and McMorrow, R., Liu, N., & Ju, S. F. (2020, August 26). The transformation of Ant Financial. *Financial Times*. <https://www.ft.com/content/c636a22e-dd3f-403e-a72d-c3ffb375459c>

³³ Mota, C. V. (2021, December 9). Como Nubank se tornou banco mais valioso da América Latina sem dar lucro. BBC News Brasil. <https://www.bbc.com/portuguese/brasil-59602754>

While providing excluded, marginalized populations with access to financial services is a good thing, the platform, tech-company, app-based model of inclusion raises serious issues that tend to be set aside when the positive framing of “banking the unbanked” infiltrates public discourse. An obvious issue is that of debt, and the provision of products with a level of risk that is incompatible with the degree of financial literacy of newly onboarded consumers.³⁴ Another complication, explored in-depth by this report, relates to impact on privacy rights. Mercado Libre’s integration with Mercado Pago is an eloquent example of the latter.

Brazilian customers were taken by surprise in 2020 when requests for photographs of their government-issued IDs started to pop up on the Mercado Livre app. As reported by news site Tilt UOL,³⁵ users did not feel comfortable with providing the company with additional data that was previously not required, and flooded consumer complaints site Reclame Aqui to express their distaste. Protests continued into 2021, aggravated by the insecurity caused by a massive Serasa Experian early that year.³⁶

While users joining Mercado Livre had a Mercado Pago account automatically associated with their profile from 2004 onwards, the company obtained a license to operate as a digital bank in Brazil in 2020, and KYC/AML requirements opened the door for additional data requests. Some users of the marketplace only realized they were, in fact, clients of a digital bank after they had provided photographs of their documents. Mercado Libre responded to UOL stating that documents are required in specific circumstances, and, indeed, one of the researchers working in this report only received a request for a photograph of a government-issued ID when initiating the process for requesting a copy of his user information (see 6.8.4, below). In the end, nonetheless, users of the marketplace will eventually need to submit photographs of government-issued IDs, as well as biometric data—which our research also had to submit via the app— no matter if they intend to make use of Mercado Pago’s services or not.

Expansion into financial services goes beyond a simple checking account, and includes credit, as mentioned above, and more exotic offerings, such as digital currencies. Mercado Libre announced that it would issue its own cryptocurrency in 2022, in an initiative that describes MercadoCoin as an internal currency, offered as cashback on purchases, and not tradeable outside of Mercado Libre; in other words, an add-on to a loyalty program, and not an actual cryptocurrency, even though it is described as such, and is issued as tokens on the Ethereum blockchain. Customers will receive some of this currency as cashback rewards, and then use them in Mercado Libre transactions to offset

³⁴ Mercado Pago list of products has gradually evolved over the years. As described by Mercado Pago CEO Osvaldo Gimenez to Brazilian newspaper Valor Econômico: “We started with payments, then began offering credit, first to merchants, then to consumers. So about a year ago, we launched the first credit card in Brazil, followed by insurance products, and more recently, some investment products. Today, we are present in seven countries, but we first learned from our operations in Brazil, Argentina, and Mexico.” Tauhata, S. (2022, June 9). Nubank mira América Latina como estratégia de crescimento, diz cofundadora Cristina Junqueira. *Valor Econômico*. <https://valor.globo.com/financas/noticia/2022/06/09/nubank-mira-amrica-latina-como-estrategia-de-crescimento-diz-cofundadora-cristina-junqueira.ghtml>

³⁵ Carvalho, L. (2021, June 18). Enviar foto do seu RG para o Mercado Livre é um grande problema; entenda. *Tilt UOL*. <https://www.uol.com.br/tilt/noticias/redacao/2021/06/18/mercado-livre-pode-exigir-foto-de-rg-para-cadastro-especialistas-criticam.htm>

³⁶ Urupá, M. (2021, February 18). Serasa diz investigar vazamento de dados pessoais de 220 milhões de brasileiros. *Teletime News*. <https://teletime.com.br/18/02/2021/serasa-diz-investigar-vazamento-de-dados-pessoais-de-220-milhoes-de-brasileiros/>

some the value of purchases, with the possibility of converting them to reais credited in users' Mercado Pago accounts.³⁷

Mercado Pago also offers its users the option of buying and selling Bitcoin and Ethereum, on a strictly custodial basis: no transfers outside of Mercado Pago are allowed.³⁸ This is the same model adopted by other companies bundling fintech services into their ecosystem, including 99Pay (owned by DiDi and part of 99 ecosystem) and Magazine Luiza's superapp, as well as of online banks, such as Nubank.³⁹ These platforms allow consumers to dip their toes into extremely risky investments, but only within a walled garden environment.

Since the crypto services do not offer users the option to withdraw cryptocurrencies to self-custody wallets, they so far represent just another item in a broader menu of financial products, connected to other services provided by the ecosystem. This allows companies to surf on cryptocurrency hype whenever a sudden move upwards by Bitcoin or Ethereum is reported by news media, attracting potential customers that they can then potentially lock into their ecosystems.

While company tokens are openly described by Mercado Libre as an accessory to a loyalty program, and as a tool to incentivize user engagement with the platform, they arguably signal, in the long run, a strategic (or defensive) play, based on a hypothetical scenario in which the regulatory environment stabilizes favorably, and profitability prospects are good enough to justify the conversion of the token into an actual cryptocurrency, tradeable outside the platform.⁴⁰

Considering the trajectory of Facebook's failed Libra/Diem project,⁴¹ and the current state of crypto regulation in China and the US, this is a remote possibility. Enough, however, to provide a rationale for maintaining an actual cryptocurrency, a process that involves more effort than an internal points system would reasonably require. Company tokens, as well as digital payments generally speaking, have been a topic of substantial concern: China's fast tracking of its CBDC (Central Bank Digital Currencies) was partly a consequence of the tremendous market dominance in digital payments established by Alipay and WeChat Pay—94% of the Chinese mobile payments market in 2019—and

³⁷ See Fleischmann, I. (2022, August 18). MercadoLibre Launches MercadoCoin, Adds Crypto to Its Loyalty Programs. *Bloomberg Línea*.

<https://www.bloomberglinea.com/english/mercadolibre-launches-mercadocoin-adds-blockchain-to-its-loyalty-programs/> and Brandão, R., & Bonfim, R. (2022, August 19). Mercado Livre busca fidelizar com criptomoeda. *Valor Econômico*. <https://valor.globo.com/empresas/criptomoedas/noticia/2022/08/19/mercado-livre-busca-fidelizar-com-criptomoeda.ghtml>

³⁸ Stablecoin Pax Dollar, pegged to the US dollar, is also available in Mexico. See Crooks, N. (2023, June 28). Paxos joins Mercado Libre to offer Pax Dollar stablecoin in Mexico. *The Block*. <https://www.theblock.co/post/236789/paxos-joins-mercado-libre-to-offer-pax-dollar-stablecoin-in-mexico>

³⁹See Moura, C. (2022, May 11). Brazilian fintech unicorn Nubank to start offering crypto services. *The Block*. <https://www.theblock.co/linked/146409/brazilian-fintech-unicorn-nubank-to-start-offering-crypto-services> and Campos, Á., & Moreira, T. (2022, June 9). Para cofundador do Nubank, cripto tem potencial para aumentar inclusão e reduzir custos. *Valor Econômico*.

<https://valor.globo.com/financas/criptomoedas/noticia/2022/06/09/para-cofundador-do-nubank-cripto-tem-potencial-para-aumentar-inclusao-e-reduzir-custos.ghtml>

⁴⁰ Mercado Libre's bet on cryptocurrencies appears to be sincere, considering the company's investments in American company Paxos, and 2TM, the holding company that owns Brazil's Mercado Bitcoin, both substantial players in the field. See Engler, A. (2022, January 21). E-Commerce Giant Mercado Libre Invests in Crypto Firms Paxos, 2TM. *Yahoo Finance*. <https://finance.yahoo.com/news/e-commerce-giant-mercado-libre-060453723.html>

⁴¹ For an analysis of Libra/Diem, characterized as a “[...] a corporate-led attempt to launch, what is paradoxically a “private” supranational currency, see Vasudevan (2020). Parallels with projects that are similar in nature but less conspicuous are evident, however improbable their success.

Facebook's project, despite being a failure, initiated a period of increased CBDC activity after its announcement (Auer, et al., 2020).

As easy as it is to dismiss cryptocurrencies as folly or doomed to fail due to regulatory action, it is important to keep in mind that individuals in countries with a history of economic instability, hyperinflation, or political turmoil may find digital currencies extremely useful, even if on a provisional, transitory basis, and it makes perfect sense for a company to maintain a presence in the sector, even if that also means potentially exposing customers to substantial losses due to uninformed investments.⁴²

3.1.2 AliExpress (Alibaba Group)

Founded 1999 in Hangzhou, Alibaba was initially created as a B2B online marketplace targeting SMEs (small and medium-sized enterprises), with international wholesale commerce in mind. Over the following decades, what was initially Alibaba.com grew into a massive conglomerate, Alibaba Group, the “A” in BAT (Baidu, Alibaba, Tencent)—less awkward than GAFAM, FANG, FAANG, used for US companies before “Big Tech” emerged as the dominant replacement for those acronyms—part of the first wave of Chinese national champions in the tech sector. BAT would later be joined by BMD (ByteDance, Meituan, Didi Chuxing, and, some would add, Pinduoduo), the second wave in a continuous flux of tech companies that would turn out to have tremendous global impact. Alibaba’s 2014 IPO at the NYSE was the largest ever held at the time, a record it kept until 2019, when dethroned by Saudi Aramco.⁴³

Without Alibaba’s success, incidentally, some of the companies we evaluated would have had drastically different trajectories. Masayoshi Son, CEO of SoftBank Group Corp.—founded as a software distributor in 1981, and now an investment holding company—lost almost all his investments in the dot-com crash of 2001, but was lucky enough to strike gold with an early investment in Alibaba, which secured a future for SoftBank, and allowed it to establish its controversial Vision Fund in 2017, whose portfolio includes Didi Chuxing, Rappi,⁴⁴ and Indian food delivery company Swiggy, a venture in which SoftBank is a partner of Prosus, owner of iFood (see

⁴² See Lankes, A. (2022, August 20). Crypto Is Tumbling, but in Argentina It’s Still a Safer Bet. *The New York Times*. <https://www.nytimes.com/2022/08/20/world/americas/argentina-cryptocurrency-value.html> and Luján, R. (2022, February 28). [Cripto, una opción de pago paralela en Venezuela. Bloomberg Línea. https://www.bloomberglinea.com/2022/02/28/cripto-una-opcion-de-pago-paralela-en-venezuela/](https://www.bloomberglinea.com/2022/02/28/cripto-una-opcion-de-pago-paralela-en-venezuela/)

⁴³ Chinese tech companies frequently carry out IPOs in US stock exchanges—NYSE and Nasdaq—where capital and liquidity are plentiful, through a convoluted process involving shell companies classified as VIEs (variable interest entities). These companies are incorporated outside of China, in jurisdictions such as the Cayman Islands, and sign contracts with the actual corporations located in China, representing a 100% stake in the original company. This is done in order to avoid restrictions on foreign ownership imposed by Chinese law, and is not without controversy both in the US and China (Lin & Mehaffy, 2016; Mainous, 2022). Currently, after the Didi Chuxing incident described in section 3.2.5, below, Chinese companies are not using the VIE model. See Yang, J. (2023, August 29). Chinese Regulator Stalls IPOs, Frustrating Investors. *The Information*. <https://www.theinformation.com/articles/chinese-regulator-stalls-ipos-frustrating-investors>

⁴⁴ Investments also include Uber, ByteDance, and, infamously, a 10 billion stake in WeWork. To put things into perspective, Vision Fund I was set up with a total of 100 billion dollars, with funds raised from Saudi Arabia and the United Arab Emirates sovereign funds, as well as Apple, Qualcomm and Foxconn. A Vision Fund II was later established, as well as a Latin America Fund, from which additional capital was poured into Rappi. See Efrati, A., & Weinberg, C. (2020, February 7). Inside the Vision Fund’s Civil War: Deal Conflicts, Leak Suspicions. *The Information*. <https://www.theinformation.com/articles/inside-the-vision-funds-civil-war-deal-conflicts-leak-suspicions> and Jin, B. (2021, 020). SoftBank’s Prodigal Son Struggles in New Era. *The Information*. <https://www.theinformation.com/articles/softbank-vision-funds-comeback-marred-by-rivals-partner-exits>. For the Vision Fund I and II’s portfolio, check <https://visionfund.com/portfolio>. For the Latin America Fund, <https://www.latinamericafund.com/portfolio>.

sections 3.2.1 and 3.2.2, below).⁴⁵ During a critical period, an early investment in Alibaba was also a boon for Yahoo's balance sheet.⁴⁶

We have applied our selection of RDR indicators strictly to AliExpress, a B2C platform launched in 2010 with the idea of connecting SMEs in China with consumers located in the rest of the world,⁴⁷ to complement the B2B Alibaba.com. AliExpress would later expand to also admit sellers from a small selection of other countries, including Brazil,⁴⁸ but much like Amazon and Shopee, operates as a cross-border marketplace for the rest of Latin America. During the early stages of the pandemic, as was the case for Mercado Libre, AliExpress experienced substantial growth.⁴⁹

It is easy to draw parallels with Amazon, but Alibaba's trajectory is both similar and dissimilar to that of the US company, making the comparison not very informative if it is not further unpacked. Unlike Amazon, Alibaba is not itself a retailer on its online marketplaces, which were set from the ground up as matchmakers between businesses, and between businesses and end-consumers. Amazon would only later turn to the full online marketplace model, but in direct competition with the third-party sellers it integrated into the platform.

Both companies adopted expansion strategies that seem similar at a surface level, but differ considerably in terms of scope, in the sectors they choose to emphasize, and in how they integrate different company properties. While both companies invested in cloud computing and fintech, Alibaba entered the fintech sector earlier, introducing Alipay in 2004, paving the way for what would be critical infrastructure in the integration of several Alibaba properties, and fundamental to the company's growth; Amazon's fintech projects, starting with Amazon Payments (now Amazon Pay) in 2007, are much less substantial than Alibaba's. The opposite is true when it comes to cloud computing, with Amazon moving earlier, launching AWS in 2006, a key component of its overall business, and Alibaba launching Alibaba Cloud in 2009, dominating the Chinese market and significant portions of Southeast Asia, but lagging behind AWS in other regions.

Both companies are heavily invested in media, but approach the sector differently, with Amazon aiming for a global market and Alibaba focusing on China. Amazon Prime Video, Amazon Studios, Amazon Music, Audible, Kindle Direct Publishing, Amazon Publishing, Twitch, and Amazon Game Studios, are all recognizable to a Latin American audience, but an average individual from the region would hardly have heard about YouKu Tudou (a video platform along the lines of YouTube), Alibaba Pictures, microblogging platform Sina Weibo, and Hong Kong newspaper South China Morning Post,

⁴⁵As of 2023, SoftBank has sold most of its stake in Alibaba, for reasons that will be clear by the end of this section. See McMorrow, R., Olcott, E., & Inagaki, K. (2023, April 13). SoftBank moves to sell down most of its Alibaba stake. *Financial Times*. <https://www.ft.com/content/15d54d29-ba32-4cd5-8002-5279b77d6e4a>

⁴⁶ See Efrati, A. (2014, January 28). How Alibaba Helps Yahoo Mask Business Woes. *The Information*. <https://www.theinformation.com/articles/how-alibaba-helps-yahoo-mask-business-woes>

and Pepitone, J. (2013, October 29). Meet Alibaba, Yahoo's Chinese secret weapon: An e-commerce giant with bits of Amazon, eBay and even Groupon. *CNN Business*. <https://money.cnn.com/2013/10/29/technology/yahoo-alibaba/index.html>.

⁴⁷ With the exception of Southeast Asia, where Alibaba maintains another platform, Lazada. Alibaba's e-commerce ventures for the Chinese market operate under other brands (Taobao, Tmall).

⁴⁸ Knoth, P. (2021, August 17). AliExpress abre marketplace para todos os vendedores no Brasil. *Tecnoblog*. <https://tecnoblog.net/noticias/2021/08/17/aliexpress-abre-marketplace-para-todos-os-vendedores-no-brasil/>

⁴⁹ McMorrow, R., & Liu, N. (2020, April 28). How a pandemic led the world to start shopping on Alibaba. *Financial Times*. <https://www.ft.com/content/4b1644b1-ae4e-4d02-805a-c3ac26291412>

one of several traditional media outlets the group owns.⁵⁰ Amazon and Alibaba, however, equally integrate these media properties into their core businesses.

Logistics, of course, as an important element to both companies' core business, are given equal importance. But offline retail, for example, is a small part of Amazon's portfolio, with its Whole Foods acquisition in 2017, and the still very limited Amazon Go project, while Alibaba went on a shopping spree and acquired large supermarket and big retailer chains, all of which use Alipay's infrastructure at the backend. Amazon has not ventured into food delivery, while Alibaba acquired Ele.me, the second largest company in the sector, following Meituan Dianping.

Food delivery is not necessarily profitable,⁵¹ but China's big tech companies find the sector attractive as a means to obtain more data, and as another service to integrate with their financial products.⁵² Data-intensive business models are another point of convergence between Amazon and Alibaba—with artificial intelligence playing a major role—but this is true for all companies maintaining large-scale online platforms. As reported by *The Information*, Alibaba founder Jack Ma once told a group of investors: "Walmart sells things, then they study data in order to sell better. We sell things because we want to collect data. We want data from consumers; we want data from businesses."⁵³

Diversification of businesses, all of which can be integrated by as simple a data point as a phone number, is perhaps the defining characteristic of the Chinese model for tech company giants. The idea of a "superapp", in its essence, is representative of an integration of services made possible by pervasive smartphone use, with careful consideration of cultural and social needs in defining product/market fit, and the construction of walled gardens that can benefit from network effects and user lock-in.

Another driver for the establishment of the Chinese model was the savage competition environment in which startups found themselves in, which made the strategy of empire building through the integration of platforms a matter of survival, "[...] like an octopus with tentacles reaching from a core business or platform to many other related or even unrelated areas and extending its reach upstream and downstream, often in competition as well as collaboration with competitors and companies like themselves" (Keane et al., 2021).

It was only after this type of integration, based on an app-centric and mobile forward approach, took hold of the Chinese market and diaspora communities (Chen et al., 2018; Sun & Yu, 2022), that the notion of a "superapp" started to become widespread, exemplified by Tencent's WeChat/Weixin, which grew to become almost unavoidable in China. Starting as a simple messaging app, WeChat gradually accreted functionalities to that simple core, including mobile payments, e-commerce storefronts, the option to book doctor appointments, flights and hotel rooms; pay utility bills; call for rides; make restaurant reservations, and so on integrated directly as main app functions, or through installable "mini programs". WeChat's trajectory began with "platformization" of these activities, but

⁵⁰ For a more detailed overview of the initial years of Alibaba's expansion into media, see Shih & Qi (2016).

⁵¹ Even with the backing of Alibaba's might, Ele.me was not able to take over Meituan's dominance of the market, mirroring the difficulties Lyft has had in flipping Uber's position in the US, and signaling that once platform scale turns the market into a duopoly, the dice are basically cast, as mentioned by Osawa, J. (2022, February 11). Jack Ma's Alibaba Heir Faces Growing Doubts. *The Information*. <https://www.theinformation.com/articles/jack-mas-alibaba-heir-faces-growing-doubts>

⁵² See Zhang, Y., & Osawa, J. (2018, July 31). Alibaba's Ele.me Gears Up for Costly Subsidy War With Meituan, Didi. *The Information*. <https://www.theinformation.com/articles/alibabas-ele-me-gears-up-for-costly-subsidy-war-with-meituan-didi>

⁵³ Osawa, J. (2021, April 28). Alibaba Frets Over Apple Privacy Policy. *The Information*. <https://www.theinformation.com/articles/alibaba-frets-over-apple-privacy-policy>

soon turned into "infrastructuralization", given the app's scale and role as main enabler in access to public services, online payments, and a series of activities that are essential or commonplace to citizens' in everyday life (Plantin & Seta, 2019).

The trendsetting potential of Chinese companies, nonetheless, is something to be reckoned with—TikTok and SHEIN's growth in the past few years are just an example—and new modes of platform and content integration coming from the East will make analysis of potential privacy risks even more complex. Live e-commerce, livestopping, or shopstreaming, in close association with influencer marketing and content production, is already a major phenomenon in China and Southeast Asia (Cunningham et al., 2019; Chen et al., 2023), and heading to Latin America soon, opening an entirely new realm of opportunities for data extraction, the capture of consumer attention, and platform growth.⁵⁴

This trendsetting characteristic of Chinese companies can also be felt any time a US or Latin America-based company mentions it is building a "superapp". As mentioned, in section 2.2, above, even Elon Musk's current plan for the platform formerly known as Twitter is turning it into a superapp, but it is questionable how successful non-Chinese companies may be in simply copying what was born out of a very specific cultural, economic and political context, beyond what is already commonplace among US companies. Even if no popular app from Silicon Valley manages to do what WeChat does in China, the idea of platform integration itself is hardly unfamiliar to major tech players, regardless of where they are located. Using the example of Amazon, Lina Khan has published articles directly tackling the deficiencies found in traditional antitrust law when faced with the anticompetitive potential of integrated platforms (Khan 2017, 2019). Khan later came to occupy the position of Chairperson of the FTC in 2021, a signal from the Biden administration that big tech's growth is a matter of concern.⁵⁵ The European Union, in turn, passed the 2022 Digital Markets Act (DMA) and Digital Services Act (DSA), also responding to issues raised by increasing platform power.⁵⁶

This is a topic that is also dear to the Chinese government, and China being China, the response has been much swifter, targeting Alibaba and several other tech corporations, in many fronts, after a period where they were given relatively free reign to expand, grow, internationalize, and secure themselves the status of tech giants. The sign that a change in approach from Beijing was coming dates at least back to 2015, when fintech regulation became more stringent after a period of

⁵⁴ See Fleischmann, I. (2022, October 26). AliExpress Aims to Replicate 'Lipstick King' Livestream E-Commerce Success in Brazil. *Bloomberg Línea*. <https://www.bloomberglinea.com/english/aliexpress-aims-to-replicate-lipstick-king-livestream-e-commerce-success-in-brazil/>;

Souza, K. (2021, November 5). Mercado Livre entra na onda do live commerce com nova plataforma de vendas. *Exame*. <https://exame.com/negocios/mercado-livre-entra-na-onda-do-live-commerce-com-nova-plataforma-de-vendas/>;

and Menezes, F. Z. (2020, June 25). AliExpress' strategy to take e-commerce live streaming fever to the world. *Latin America Business Stories* (LABS). <https://labsnews.com/en/articles/business/aliexpress-strategy-to-take-live-commerce-fever-worldwide/>

⁵⁵ Brustein, J. (2021, June 16). Lina Khan's Appointment Is Riling the Tech World. *Bloomberg*. <https://www.bloomberg.com/news/newsletters/2021-06-16/lina-khan-s-appointment-is-riling-the-tech-world>

⁵⁶ Particularly relevant is the DMA's concept of gatekeeper, included in article 3(1), designating entities (broadly defined, from single companies to corporate groups), that have "significant impact on the internal market", provide "a core platform service which is an important gateway for business users to reach end users", and enjoy "an entrenched and durable position, in its operations, or it is foreseeable that it will enjoy such a position in the near future". Once classified as gatekeepers, entities are subject to a number of obligations and prohibitions, which include interoperability requirements, and restrictions related to the combination of data across different platform services. On September 6 2023, the European Commission designated Alphabet, Amazon, Apple, ByteDance, Meta, Microsoft as gatekeepers, and 22 core platform services provided by these corporations. See *Digital Markets Act: Commission designates six gatekeepers*. (2023, September 6). European Commission. https://ec.europa.eu/commission/presscorner/detail/en/ip_23_4328

accentuated liberalization in 2013-2014 (Wang, 2021). But the shift in fintech was only a foreshadowing of what would later become a major crackdown targeting tech companies in other sectors, including social networks, education technology, gaming, media, and cryptocurrencies (Ye, 2022). Only now, in 2023, the situation seems to be stabilizing.⁵⁷

An episode involving Ant Financial the holding company Alibaba created in 2010 to hold Alipay and its other fintech enterprises—later rebranded Ant Group—marked the beginning of the process.⁵⁸ In November 2020, Ant Group was about to hold an IPO in the Shanghai and Hong Kong stock exchanges,⁵⁹ in what would be the largest share offering in history at 37 billion USD, hyped by a valuation of 316 billion USD—a number exceeding those of any major bank in China and the US—only to see the plan canceled by the Chinese government at the eleventh hour.⁶⁰ Some attribute the suspension to a speech made by Jack Ma a few days earlier, critical of China’s regulatory approach to fintech companies, as well as of traditional financial institutions.⁶¹ While the speech certainly did not help, the writing had long been on the wall for Alipay.

Along with competitor WeChat Pay, Alipay was responsible for a radical shift from cash to digital payments in China (Chong, 2019), with both Ant and Tencent dominating the entire segment.⁶² Market dominance in digital payments—and, potentially, other financial products—by private corporations, is something much different than market concentration in e-commerce, and would not be left uncontested for long.⁶³ In fact, both companies had already been singled out for regulatory attention in the preceding years.⁶⁴

Following the suspension of the Ant Group IPO, the Alibaba Group received a massive 2.8 billion USD fine in an unrelated antitrust case,⁶⁵ and the company immediately switched gears and went into appeasement mode. Ant Group started to restructure its business in order to comply with regulatory demands,⁶⁶ spun off some of its properties into other companies,⁶⁷ and began to share customer data

⁵⁷ See He, L. (2023, January 9). China’s crackdown on tech giants is “basically” over, top official says. *CNN Business*. <https://www.cnn.com/2023/01/09/economy/china-economy-guo-shuqing-ant-group-intl-hnk/index.html>

and Olcott, E. (2023, March 27). Jack Ma returns to China in sign of political easing on Alibaba. *Financial Times*. <https://www.ft.com/content/854b1b63-74a9-4ce4-ad60-6d1970e35a13>

⁵⁸ To get a sense of how big of a deal Ant Financial was (perhaps still is), see Xie, S. Y. (2018, July 29). Jack Ma’s Giant Financial Startup Is Shaking the Chinese Banking System. *Wall Street Journal*. <https://www.wsj.com/articles/jack-mas-giant-financial-startup-is-shaking-the-chinese-banking-system-1532885367> and McMorrow, R., Liu, N., & Ju, S. F. (2020, August 26). The transformation of Ant Financial. *Financial Times*. <https://www.ft.com/content/c636a22e-dd3f-403e-a72d-c3ffb375459c>

⁵⁹ Xie, S. Y., & Yang, J. (2020, August 25). Inside Ant Group’s Giant Valuation: One Billion Alipay Users and Big Profit Margins. *The Wall Street Journal*. <https://www.wsj.com/articles/jack-mas-ant-group-files-ipo-listing-documents-11598349802>

⁶⁰ Kyngé, J., Sender, H., & Yu, S. (2020, November 5). ‘The party is pushing back’: Why Beijing reined in Jack Ma and Ant. *Financial Times*. <https://www.ft.com/content/3d2f174d-aa73-44fc-8c90-45c2a554e97b>

⁶¹ Yang, J., & Wei, L. (2020, November 12). China’s President Xi Jinping Personally Scuttled Jack Ma’s Ant IPO. *Wall Street Journal*. <https://www.wsj.com/articles/china-president-xi-jinping-halted-jack-ma-ant-ipo-11605203556>

⁶² Osawa, J., & Sullivan, M. (2017, April 18). In China, Tencent’s WeChat Threatens Alibaba’s Alipay. *The Information*. <https://www.theinformation.com/articles/in-china-tencents-wechat-threatens-alibabas-alipay>

⁶³ Sender, H. (2020, November 6). How Jack Ma lost his spot at China’s business top table. *Financial Times*. <https://www.ft.com/content/87883923-e321-4632-a1cb-dc2663a00456>

⁶⁴ Wildau, G. (2018, July 15). Tencent and Alipay set to lose \$1bn in revenue from payment rules. *Financial Times*. <https://www.ft.com/content/b472f73c-859e-11e8-96dd-fa565ec55929>

⁶⁵ Lockwood, M. T., Pauline. (2021, April 10). China hits Alibaba with record \$2.8 billion fine for behaving like a monopoly. *CNN Business*. <https://www.cnn.com/2021/04/10/tech/alibaba-china-record-fine/index.html>

⁶⁶ Toh, M. (2021, April 30). China orders Tencent and other big tech firms to curb their finance businesses. *CNN Business*. <https://www.cnn.com/2021/04/30/tech/china-tech-crackdown-finance-intl-hnk/index.html>

⁶⁷ Yang, J. (2023, August 22). Ant Group Will Cut Foreign Investors Out of Fast-Growing Database Business. *The Information*. <https://www.theinformation.com/articles/ant-group-will-cut-foreign-investors-out-of-fast-growing-database-business>

with China's central bank.⁶⁸ Jack Ma left China for a sabbatical in Japan,⁶⁹ and relinquished control of Ant Group, reducing his voting rights from 50 to 6.2%⁷⁰ Alibaba Group announced a new organization and governance structure, consolidating its properties under six business groups, still under the holding company, but each with its own CEO and board of directors, paving the way for a potential split.⁷¹

The crackdowns were even more drastic for Didi Chuxing, as described in section 3.2.5, and in the case of Sina Weibo and ByteDance—the Beijing company, which does not hold TikTok, a subsidiary of a Cayman Islands offshore—they resulted in the Chinese government acquiring stake in the companies, and a seat at the board.⁷² From 2013 onwards, the Chinese's government approach to the governance of state corporations has become progressively financialized, with firms mainly controlled by financial means; instead of direct management, government-managed funds and financial instruments are used as tools to steer companies (Naughton, 2019). Private companies are also subject to financial modes of control, as the ByteDance and Sina Weibo cases demonstrate, and the idea of owning small stakes with special rights in strategic companies has been openly discussed by the Chinese government since at least 2016.⁷³

Parallel to the crackdowns, China introduced a Data Security Law and a Personal Information Protection Law in 2021 (Belli & Doneda, 2023), as well as Internet Information Services Algorithm Recommendation Management (IISARM) regulations (Albrecht, 2022; Su et al., 2023). In the following year, the country's Anti-Monopoly Law was amended to increase liabilities for infringement, and to include provisions directly aimed at tech companies, with express acknowledgment of the possibility

⁶⁸ Kharpal, A. (2021, September 23). Ant Group to share consumer credit data with China's central bank as regulatory overhaul continues. *CNBC*. <https://www.cnbc.com/2021/09/23/ant-group-to-share-consumer-credit-data-with-chinas-central-bank.html>

⁶⁹ Inagaki, K., McMorrow, R., Mitchell, T., & Lewis, L. (2022, November 29). Alibaba founder Jack Ma living in Tokyo since China's tech crackdown. *Financial Times*. <https://www.ft.com/content/2f7c7a10-2df3-4f1b-8d2a-eea0e0548713>

⁷⁰ McMorrow, R., & Leng, C. (2023, January 7). Jack Ma cedes control of Ant Group. *Financial Times*. <https://www.ft.com/content/a8d94d9b-ce0f-4924-9183-7cd01d36762c>

⁷¹ The groups are described as follows: "1. Cloud Intelligence Group (including cloud, AI, DingTalk and other businesses), with Daniel Zhang serving as chief executive officer in addition to his responsibilities as Alibaba Group's chairman and chief executive officer; 2. Taobao Tmall Business Group (including Taobao, Tmall, Taobao Deals, Taocaicai, 1688.com and other businesses), with Trudy Dai serving as chief executive officer; 3. Local Services Group (including Amap, Ele.me and other businesses), with Yongfu Yu serving as chief executive officer; 3. Local Services Group (including Amap, Ele.me and other businesses), with Yongfu Yu serving as chief executive officer; 4. Global Digital Business Group (including Lazada, AliExpress, Trendyol, Daraz, Alibaba.com and other businesses), with Fan Jiang serving as chief executive officer; 5. Cainiao Smart Logistics, with Lin Wan serving as chief executive officer; and Digital Media and Entertainment Group (including Youku, Alibaba Pictures and other businesses), with Luyuan Fan serving as chief executive officer". Alibaba Group. (2023). *Alibaba Group Announces New Organizational and Governance Structure*. https://web.archive.org/web/20230906011342/https://fis-yhq-data-service.oss-accelerate.aliyuncs.com/ir_filings/HKEX/09988/en/202303282023032801133/2023032801133.pdf?Expires=1693966266&OSSAccessKeyId=LTAI5tCvEqTs8MjhwE1yGjK&Signature=MkHLC%2F7sjdGOHCCjvJSZARNKBL0%3D

⁷² See Osawa, J., & Oster, S. (2021, August 16). Beijing Tightens Grip on ByteDance by Quietly Taking Stake, China Board Seat. *The Information*. <https://www.theinformation.com/articles/beijing-tightens-grip-on-bytedance-by-quietly-taking-stake-china-board-seat> and Oster, S., & Osawa, J. (2021, August 23). After Beijing Takes ByteDance Board Seat, Tencent and Alibaba May Be Next. *The Information*. <https://www.theinformation.com/articles/after-beijing-takes-bytedance-board-seat-tencent-and-alibaba-may-be-next>

⁷³ Yuan, L. (2016, April 27). China Wants to Own Small Stake in Web Firms. *Wall Street Journal*. <http://www.wsj.com/articles/china-wants-to-own-small-stake-in-web-firms-1461781500>

of abuse of dominant market position through technological means, including the anticompetitive exploitation of data and algorithms.⁷⁴

These new regulatory regimes and approaches to Big Tech can be interpreted as a sign that China is finally ready to "kick away the ladder", to use the expression adopted by Chang (2002). Once countries reach a high level of development through certain strategies and policies, they impose rules, procedures, and good practice standards on developing nations to block them from using the same path. In the Chinese case, more than deliberately blocking others from using the ladder, the crackdowns are a consequence of the country joining the club of those who have *already* kicked away the ladder, after using an elevator to get to the top. When it comes to antitrust measures, China can even move with an efficacy that the rest of the world is unable to match, since antitrust law's current conceptual toolkit is not able to deal with the sort of anticompetitive behavior coming from Big Tech.⁷⁵ To begin with, how does one define a "relevant market" in the case of a superapp or integrated platform covering markets as diverse as food delivery and video streaming? China can skip this controversy and simply intervene, in a variety of ways, if things seem to get out of hand. At any event, the ladder has been kicked away a lot of times for Latin American countries, and this needs to be taken into consideration if platformization is to be addressed seriously.

An analysis by Vila Seoane (2020) of Jack Ma's public statements on global trade, made in the context of China's plans for the internationalization of Chinese companies,⁷⁶ shows the executive depicting the SME global commerce network enabled by Alibaba's platforms, based on the shipment of small parcels, as exemplifying a model of "inclusive globalization", in opposition to a US model of "exclusionary globalization", benefitting large corporations working with big container shipments. Vila Seoane is skeptical of how inclusive this model can be, in part due to the large-scale data harvesting that comes along with the mediation provided by the company: "[...] the key resource that Alibaba is extracting from partner countries is data, which might enmesh them in a new type of digital dependence."

Silicon Valley's techno-libertarianism and China's techno-nationalism may be diametrically opposed in ideological terms (Davis & Xiao, 2021), but both have financial capital as their main engine, running at the background of a series of more visible disputes involving platform and trade regulation at the global and local levels. From a Latin American perspective, the underlying ideology matters less than the evocative notions of data colonialism (Couldry & Mejias, 2019) and of datafication as a component of a new cycle of capital accumulation (Sadowski, 2019), with the entire region, after years of a fairly *laissez faire* approach to platform power consolidation (Becerra & Waisbord, 2021), now attempting to catch-up at the regulatory level. Playing the game as lead actors, of course, despite anecdotal stories of startup success, is no longer a possibility: the region is plagued by low

⁷⁴ Huld, A. (2022, July 11). China Anti-Monopoly Law: What's New in the New Amendment? *China Briefing News*. <https://www.china-briefing.com/news/what-has-changed-in-chinas-amended-anti-monopoly-law/>

⁷⁵ Despite the Biden's administration willingness to address the issue of Big Tech from an antitrust angle, and appointing Lina Khan as chair of the FTC, results are not encouraging so far, and could backfire. See Wolfe, J., & Kruppa, M. (2023, November 28). Secrecy of Google Antitrust Trial Leads to Blame Game. *The Wall Street Journal*. <https://www.wsj.com/tech/secrecy-of-google-antitrust-trial-leads-to-blame-game-b14b739d/>.

⁷⁶ The Belt and Road Initiative (BRI), announced in 2012, initially contemplated infrastructure projects connecting China to countries in Africa, Asia, and Europe, with the later inclusion of Central and Latin America. The BRI also has a "Digital Silk Road" component, which is loosely defined, but involves the expansion of China's global protagonism in e-commerce, and represents a variety of "going out" initiatives, in a reversal of the "bringing-in" of foreign direct investment in ICTs that characterized the early stages of the sector in China. See Keane & Yu (2019), Vila Seoane (2020), Tang (2020), Cheng & Zeng (2023), and Chung (2023).

levels of industrialization or increasing deindustrialization, varying histories of political turmoil, and an open disdain for industrial policy—an inglorious offspring of 80s neoliberalism that surprisingly lingers on as mainstream conventional wisdom, years after it proved to be a grave mistake.⁷⁷

Attention to company practices and how corporations approach disclosure on privacy and other human rights, nonetheless, can be a meaningful way to understand and address some of the problems we face, and offer some resistance to further dependence. Applying and interpreting the RDR indicators from a Latin American perspective, however, runs the risk of turning into a simple exercise in descriptive absences—“Yaigo’s privacy policy barely exists, and Didi’s policies are a pain to find”—or policy deficiencies, unless we consider development, sovereignty, and autonomy as fundamental pieces in a puzzle that integrates these corporate practices to a history of colonial exploitation and a general lack of direction in national projects for the tech sector, which so far tend to be naive, subservient extensions of the VC dynamics that dominate the field.

3.1.3 Shopee (Sea Limited)

A story published by news portal G1 depicting the daily lives of delivery workers in São Paulo tells the story of Cadu, a 22-year-old from Capão Redondo, a low-income district in São Paulo. Cadu has a day job at a fast-food restaurant but works an additional shift on top of a bicycle, making deliveries for iFood. The little free time he has is spent in church, or hunched over a cell phone, sitting close to the gate of his garage—the only place where he can access reliable Internet coverage—playing Free Fire, an immensely popular mobile game published by Singaporean company Garena in 2017.

G1's profile of Cadu is representative of the type of the type of precarious work enabled by food delivery apps, but it is particularly interesting because it contains a point of connection between two corporate entities we assess in the report: iFood and Shopee, which is owned by Sea Limited, a group that also owns Garena and fintech SeaMoney.

In fact, Sea Limited sprung out of the success of Garena (a portmanteau of "global" and "arena"), founded in 2009 as a game developer and as a host for Riot's League of Legends (LoL) tournaments—the "arena" in Garena comes from the "arena" in MOBA (multiplayer online battle arena), the game genre LoL and Free Fire fall into. Sea Limited was established in 2017 as a holding company for Garena, Shopee, and SeaMoney, and was listed that same year as ADSs (American Depositary Shares) on the New York Stock Exchange, describing itself as having "[...] developed an integrated platform consisting of digital entertainment (focused on online games), e-commerce, and digital financial services (focused on e-wallet services) [...]".

Digital financial services began in 2014, before Garena made the move to establish Sea Limited, with AirPay, rebranded SeaMoney in 2019. Shopee also dates back to the pre-Sea Limited days, launching in 2015 across Southeast Asia, where merchants were mostly using Facebook to arrange sales. The platform was created to capture these users, since demand for a fully featured online marketplace

⁷⁷ Gone are the days of Prebisch, Furtado and CEPAL/ECLAC-flavored structuralist economics, of which one can be critical, but never disrespectful. The considerable efforts the institution and its scholars had in building a distinctively Latin American strategy for development are sorely missed in the current days; in other words, *at least there was a project*. No matter how popular the works of authors such as Mazzucato (2014; 2021) and Ha-Joon Chang (1996; 2002) are within certain circles, calling attention to the fundamental importance of industrial policy and state financing, there is a huge gap between heterodox economics and the bulldozer of economic orthodoxy or, even worse, surprise takeovers from fringe ultraliberal politicians that go beyond what even the most hardcore neoliberal economist would dare to propose. For context and food for thought, see: Bárcena & Prado, (2015), Missio et al. (2015), Bielschowsky (2007), Fonseca & Salomão (2018), Carvalho (2018), López (2020), Bielschowsky et al. (2023), Rocha (2021).

was a clear opportunity. By using Facebook itself to attract users to its platform, as well as by adding social features, free shipping, and constant discounts, Shopee soon took over the entire region, beating Singaporean rival Lazada, backed by Alibaba, as well as Indonesia's Tokopedia, backed by SoftBank. Shopee's success can also be partly attributed to the gamification elements added to its services (Dicky et al., 2021; Tiyaningsih & Candiwan, 2022), an aspect that it shares with Chinese e-commerce apps. Initially, the app catered to what was perceived as a low-income demographic, with the usual prejudice associated with services that target those consumers—a situation not unlike that of Kwai, perceived as a TikTok for the poor both in Brazil and in China (Liu, 2020)—but the pandemic surge in popularity has changed that perception in its home turf, at least.

Alibaba's 2016 acquisition of a controlling share in Lazada, and the fact that Tencent owns around 19% of Sea Limited makes it tempting to interpret Shopee's growth and expansion to regions outside of Southeast Asia as an extension of China's "going out" initiatives, but that would be an oversimplification. Competition between Chinese firms, which have strong venture capital arms (Chiarini et al., 2023; Wang & Li, 2023), is part of the story, but Shopee was able to operate at a deficit and expand, during its initial years, by burning money coming from what was then its most profitable operation, Garena

In 2019, before the pandemic, Shopee initiated its aggressive expansion campaign, and entered the Brazilian market with enormous success. In 2021, carried away by optimistic prognostics for the sector based on the first year of the pandemic, Shopee established operations in Chile, Colombia, Argentina, Mexico, India, France, Poland, Spain. Not long after, when it became clear that the strategy was not sustainable, Shopee entered emergency mode and closed operations in all these jurisdictions, except for Brazil, where it remains fully invested. Customers in Colombia, Chile, and Mexico can still access Shopee as cross-border market.

The India exit may in part be attributed to the Indian government's blocking of over 300 apps, most of them Chinese, but which also included Garena's Free Fire. Shopee, however, beyond shutting down expansion plans, adopted extreme cost-reduction measures and laid off thousands of employees, signaling that India's ban was perhaps just an additional reason for a previously planned retreat. The measures seem to have worked: Shopee has turned profits as of the time of this writing, and Garena is now the company that is registering losses, in a reversal from the early stages of the marketplace.

Shopee has consolidated itself as a major player in Brazil, but a strong control of logistics is also a factor that needs to be addressed by Shopee if it wants to stay competitive, and early movers are ahead. Transportation and delivery are competitive sectors, and Shopee can make use local carriers as well as Brazil's public postal service, but companies that are already established have their own services, as well as distribution centers. A major local player, Americanas, imploded due to a massive accounting fraud scandal in 2023, potentially opening some space for competition, but Shopee still needs to face Mercado Libre, Alibaba, Amazon, and Brazilian companies Magazine Luiza and Via, all of them strong competitors.

AliExpress had been operating as a cross-border market for 11 years prior to opening its marketplace to local sellers, charging very low commissions, and Alibaba's logistics company Cainiao was already operating in the country. Amazon, as a cross-border seller, had been shipping to Brazil since its very early days in 1997, opened a Brazilian website in December 2012, strictly for digital books and Kindle e-readers, and expanded slowly throughout the decade, beginning to sell physical copies of books in 2014, and opening the online marketplace to third-party merchants in .It still lags behind other

players in the market, but is firmly established in the country, and continues to invest heavily in logistics, offering services to retailers outside of its own ecosystem.

Shopee has been investing in logistics and infrastructure, nonetheless, and the brand is at this point well-established. Future competition may come from other companies besides Mercado Libre, Magazine Luiza, and Alibaba. TikTok is quickly moving to capture part of the online marketplace sector in some countries, counting on its grasp of influencer marketing and the potential to dominate marketplaces through shopstreaming—another instance of the phenomenon of platform integration and service expansion that is a characteristic of the Chinese model. SHEIN, which has opened local operations in Brazil, might also prove to be a future adversary, if the company decides to expand beyond clothing. TikTok, SHEIN, and Shopee have an agility to move and an approach to internationalization that is much more aggressive and sophisticated than those adopted by the first wave of Chinese companies that expanded abroad (Vecchi & Brennan, 2022), and Latin America, despite its somewhat crowded online marketplace sector, is particularly inviting for companies that can occupy the space through innovative strategies anchored on social media.

3.2 Food delivery services

Sellers in online marketplaces may or may not be engaged with platform work; companies with large operations, as well as brick-and-mortar stores, often make use of these platforms as additional channels to sell their goods. And even considering individuals that have set up digital storefronts and have e-commerce as their only revenue streams, work can be precarious in varying degrees of intensity, or make up for a solid, stable business.

Platform-based food delivery, on the other hand, is an activity that is inherently associated with precarious work, and assessments in these rankings are more impactful when we consider the power and control exerted by companies over workers in, for example, how platform rules are enforced. Work conditions under the pandemic worsened considerably, and platforms were often slow to respond to worker demands, or did not respond satisfactorily (Howson et al., 2022); on-demand workers were subject to increased health *and* economic risks in the period (Tubaro & Casilli, 2022).

The gig economy business model is characterized by **a**) the transference, to workers, of burdens previously carried by companies; and **b**) the sidestepping of laws and regulations—or even their deliberate infringement, if necessary—following a growth strategy that crosses out eventual legal expenses as part of the investment required for achieving scale. Item “b” is also part of the growth strategy adopted by some marketplaces, but item “a” is much more pronounced in food delivery platforms.

Among the burdens transferred to workers is the ownership, acquisition, or rental of a substantial portion of the capital goods necessary for the provision of services. Workers need to provide their own means of transportation, as well as a cell phone with a data plan, transportation bags, helmets, and whatever additional equipment is required by local regulations. These costs are imposed on workers as the price for “entrepreneurship”, “flexible work hours” or, as Uber advertises in its Brazilian site, to be the “master of your own destiny”.⁷⁸

⁷⁸ *Como ser um motorista parceiro da Uber no Brasil.* (n.d.). Uber. Retrieved August 21, 2023, from <https://www.uber.com/br/pt-br/drive/how-it-works/>. DiDi Food goes even beyond that: “More than a delivery person, an ambassador”. DiDi Food. (n.d.). Repartidores: Los salvadores de nuestros antojos. *DiDi Food Blog*. Retrieved July 24, 2023, from <https://web.didiglobal.com/co/food/blog/repartidores-los-salvadores-de-nuestros-antojos/>

Workers, however, are still subject to managerial supervision, usually carried out by algorithmic systems, with levels of control that greatly exceed strictly human oversight—a trend that is not exclusive to platform-based work, and affects even regular white-collar office work (Jarrahi et al., 2021; Ajunwa et al., 2017), under the guise of "digital productivity monitoring".⁷⁹ Sanctions are carried out immediately, since much of the system is automated, and deplatforming is a looming threat; dismissal can be summary, in stark opposition to the "be your own boss" premise used by platforms to attract workers. The very notion of algorithmic management differentiates gig/platform work from "autonomous work", a category that companies often resort to when describing the type of relationship a worker maintains with the platform.⁸⁰

Compensation is also dependent on algorithms, with dynamic pricing extracting the maximum value possible from the available workforce, and opaque performance metrics and ranking systems—subject to unannounced, sometimes imperceptible changes—determine the number of deliveries potentially assigned to any given worker, as well as their frequency. Workers sometimes feel scammed by corporate practices that play on uncertainty and are perceived as dishonest (Grohmann et al., 2022), and evaluation by algorithms can itself be a dehumanizing experience (Lee, 2018). The feeling of being constantly monitored, additionally, has negative impacts on the mental health of workers (Ravid et al., 2023), a problem that gig work platforms do not acknowledge.

Given the lack of transparency inherent to algorithmic systems, a factor that contributes to the uncertainty of work conditions is how hard it is to prove if changes negatively affecting workers happened at all—a problem that is well known by YouTubers, a category also engaged with platform work, usually of precarious nature (Duffy & Meisner, 2023; Duffy & Pooley, 2019; Duffy et al., 2021). In order to understand the system, workers sometimes rely on whatever inferences can be reasonably made from data related to their interactions with the platform, which they collect, share and submit to *ad hoc*, collaborative attempts at reverse engineering, rarely obtaining results able to offer clear guidance on how they should behave in order maintain a good standing, or substantiate complaints directed at companies. Being a delivery worker in the gig economy, as described by Gonsales (2023) after a period as a deliverer for Rappi and Uber Eats, requires a constant effort to "work the app": in other words, "guessing the system" (Möhlmann & Zalmanson, 2017) to decipher its inner workings.⁸¹

Unsurprisingly, the idea of a "sharing economy"—better understood as a slogan in a marketing strategy, and not as an honest attempt at the conceptualization of a phenomenon—did not stick around uncontested for long. The contradictions emerging from actual company practices made any

⁷⁹ Remote work has made this trend worse, but the trend equally affects presential work. Management by algorithms and monitoring systems can be problematic in many different ways. It can push employees to overwork or do meaningless work just to maintain certain metrics, some of which fail to account for activities that are not easily quantifiable. It also establishes an environment of constant surveillance and control, and automates or unfairly influences decisions on promotion, demotion and dismissal of workers. See Kantor, J., & Sundaram, A. (2022, August 15). The Rise of the Worker Productivity Score. *The New York Times*. <https://www.nytimes.com/interactive/2022/08/14/business/worker-productivity-tracking.html>

⁸⁰ Möhlmann and Zalmanson (2017), in a study based on interviews with Uber drivers, have come up with a list of general characteristics of algorithmic management that serve as general guideline to differentiate gig workers from autonomous workers: "constant tracking of workers' behavior", "working with a 'System', not with humans", "automatic implementation of decisions", "constant performance evaluation", and "(low) transparency". Autonomous work, on the other hand, is characterized by flexibility of time, often involves working in social isolation, the idea of being one's "own boss", and a "low identification - don't feel part of the system/company" feeling on part of the worker.

⁸¹ See Gorwa et al. (2020) and Petre et al., (2019) for an interesting analysis of problems related to systems of algorithmic content moderation, which are equally opaque, and place users who have platforms like YouTube as one of their sources of income in a constant quest to understand, conform to, or circumvent rules that are locked within black boxes, and may change frequently and without notice.

notion of “sharing” difficult to justify, and alternative expressions such as “gig economy” or “uberization” soon took over public and academic discourse. The business strategy for gig work platforms is not one of “collaborative consumption” or “technology-enabled collaboration”. As described above, what it really entails is the operation of asset-light companies in sectors that traditionally required considerable expenses in capital goods, personnel, and regulatory compliance, by taking advantage of growing mobile connectivity in markets with high unemployment rates, while focusing on growth over profitability.

If the company is well funded, managed, maintains a well-functioning platform, and can defeat or acquire competitors, the growth strategy eventually leads to scale and profitability. Along with scale comes social pervasiveness and market dominance, which in turn enable companies to shape the creation of new regulatory regimes. If local democratic institutions are functional, and workers can organize into associations, legislation that is reflective of both platform and worker demands is a possible outcome. However, if the social context is characterized by an ongoing process of deterioration of workers' rights, and institutions and mechanisms for political participation are flawed, the financial and political advantage of corporate actors can easily steer the process to produce regulatory frameworks that merely formalize the model, with a few concessions granted to workers, so that a perception of balance can be maintained.

There is considerable effort in coming up with solutions for the current scenario, from a diversity of angles and approaches. These include, to name a few, platform cooperativism (Scholz, 2016; Scholz & Schneider, 2016); specific regulatory models (Cherry, 2019); the direct involvement of stakeholders in algorithm design and governance (Dekker et al., 2022); and ensuring that freedom of association and collective bargaining rights are properly enforced (Hadwiger, 2022). Workers, additionally, far from being passive agents, have demonstrated considerable capacity to organize and protest, often using the tools provided by other platform-based services. Protests are organized and associations are born through exchanges via instant messaging apps (Maffie, 2020; Bonini et al., 2023), media is produced for YouTube by delivery workers turned influencers, and emerging leadership is quick to seize the opportunity to discuss class demands on mainstream media outlets, as well as carry out old-fashioned lobbying.⁸²

The corporate profiles below, as was the case with online marketplaces, highlight specific issues and conflicts arising from platform-mediated food delivery services, with impacts that influence the interpretation of the indicators and rankings obtained via our analysis of companies' policies and publicly available documents. The issues of worker organization, algorithmic management and antitrust concerns, are concentrated in our analysis of iFood; the issue of local versus global ownership and financialization in our profiles of Prosus, Delivery Hero, and iFood; the dangers of data accumulation via service aggregation in Rappi; the potential pitfalls of ESG rhetoric in the section dedicated to Magazine Luiza and aiqfome; and a description of a worst-case scenario in terms of disclosure appears in our analysis of Didi and Yaigo/Yummy, two companies representing different stages of maturity in the venture capital/expansion cycle, and whose disclosure practices are influenced by sudden regulatory attention and turbulent corporate trajectory in their homebase of China, in the case of Didi, and lack of legal incentives for disclosure, in the case of Yummy/Yaigo.

⁸² The iFood corporate profile in section 3.2.2 is illustrative of worker reaction and organization against unfair working conditions.

The following corporate profiles also allow us to better understand the differences and commonalities between online marketplaces and food delivery services, and how these two different, yet similar, groups of companies shape the story told by the numbers in the ranking, each in their own way.

3.2.1 Prosus (iFood and Delivery Hero)

Prosus, the Dutch/South African investment holding company that owns iFood, as well as a significant portion of Delivery Hero, the German food delivery group which, in turn, owns the entirety of PedidosYa, is the obvious candidate as the first company to be profiled in section 3.2 of this report. It also takes precedence over companies that we actually assessed—Prosus is not part of the rankings—because it clearly illustrates how interconnected these companies are, if we consider the phenomenon of financialization and its impacts on corporate ownership structure, as well as in business models and product/service offerings of the companies in the ranking.

Prosus was spun off out of Naspers (Nasionale Pers), the South African conglomerate, in 2019. Initially founded in 1915 as a news publisher, and later expanding into other sectors, including pay-TV and the internet, eventually reaching the status of one of the largest companies of South Africa, in terms of market capitalization. A turning point in the history of the group was the acquisition, in 2001, of a 46.5% stake in Chinese tech-company Tencent, which was not, at the time, the giant player that it is today.⁸³ This investment proved to be tremendously lucrative,⁸⁴ as well as strategically significant, and was one of the main drivers for the 2019 creation of Prosus, a subsidiary company holding all of Naspers' international assets, with shares listed on Euronext Amsterdam stock exchange.⁸⁵ As of August 4 2023, Naspers held a 43% stake in Prosus,⁸⁶ which has a portfolio of “[...]”

⁸³ Tencent hardly needs an introduction, but it is worth stressing that it owns WeChat (Weixin), the instant messaging platform that is used as a model for the much-desired “superapp” some of the companies we cover claim to be building, and has investments in several major gaming companies: Tencent fully owns Riot Games and Supercell, and has substantial participations in Epic Games, From Software, Ubisoft, and Roblox. This accounts for only part of the Tencent portfolio, which also includes companies in other sectors, such as fintech, cloud infrastructure services, and online advertising. See Tencent. (2023). *Corporate Overview*. Tencent. <https://static.www.tencent.com/uploads/2023/05/17/80101f8bf7646d819ccaace2c898653a.pdf>

⁸⁴ An interesting parallel can be found in the corporate history of Japan's SoftBank Group Corp., another holding investment company in the tech and internet sector, with overlapping interests—SoftBank owns a considerable stake in Rappi, and is a partner with Prosus in Indian delivery company Swiggy. The Alibaba investment proved to be of pivotal importance to SoftBank, which had a track record of disastrous investments in dot-com companies that blew up in the 2001 bubble. See section 3.1.2, above.

⁸⁵ See Merced, M. J. de la. (2019, September 11). A European Tech Giant Is Born, Spun Off From a South African Firm. *The New York Times*. <https://www.nytimes.com/2019/09/11/business/dealbook/naspers-prosus-tencent-euronext.html> and Merced, M. J. de la. (2021, April 3). Technology After the Pandemic. *The New York Times*. <https://www.nytimes.com/2021/04/03/business/dealbook/prosus-technology-deals.html>

⁸⁶ Prosus. (n.d.). *Shares in issue*. Prosus. Retrieved August 13, 2023, from <https://www.prosus.com/investors/share-information/shares-in-issue>

more than 80 investments across more than 100 markets”, of which Tencent, iFood, Delivery Hero, OLX⁸⁷ and PayU⁸⁸ are just the most prominent examples.⁸⁹

The company advertises itself as “[...] a global consumer internet group and one of the largest technology investors in the world”.⁹⁰ Defined in more precise terms, Prosus is a holding company that makes long-term investments in technology and internet companies, with a focus on four major sectors: online classifieds,⁹¹ payments and fintech,⁹² food delivery,⁹³ and education technology.⁹⁴ Under its Prosus Ventures arm, the group also holds investments in companies that do not neatly fit into the aforementioned sectors, such as mobility, logistics, cybersecurity, and agritech.⁹⁵ Relevant to our study, is Prosus’ declared strategy of prioritizing “[...] markets that we believe present above-average growth opportunities given their economic growth prospects, scalability and fast-growing, mobile internet penetration levels”, which is the rationale for the group’s considerable presence in Latin America and India.⁹⁶

Another salient feature of Prosus’ investment strategy is a clear illustration of one of the key concerns we raise with this report: the potentially negative consequences of the intensive data acquisition practices associated with the bundling of different services into unified accounts. From the company’s 2023 Annual Report:

“Across our portfolio, we are building **ecosystems with multiple customer touchpoints** to improve their experience and retain their loyalty. We align technology and data with key customer needs such as convenience, ease of use, reliability and safety” (emphasis ours).⁹⁷

⁸⁷ OLX is a global player in the classifieds marketplace sector, with a focus on real estate, vehicles, goods, jobs, and services. Prosus exited its position in OLX Autos in March 2023. See Prosus. (2023). *Annual Report 2023*. Prosus. <https://www.prosus.com/~media/Files/P/Prosus-CORP/menu-footer-pdf/prosus-annual-report2023.pdf>. For more detailed information on OLX, see OLX Group. (2022). *OLX Group Overview*. OLX Group. <https://www.prosus.com/~media/Files/P/Prosus-CORP/results-reports-and-events-archive/food-delivery/food-delivery-deep-dive-presentation.pdf>

⁸⁸ More detailed information on PayU, Prosus’ flagship fintech, can be found in PayU. (2022). *PayU Fintech — Credit*. PayU. <https://www.prosus.com/~media/Files/P/Prosus-CORP/results-reports-and-events-archive/payments-and-fintech/payu-deep-dive-presentation.pdf>

⁸⁹ Prosus was forced to exit from its Russian investments following the Russia-Ukraine war, selling its 27% stake in social network VK, as well as one of its most valuable properties, the classifieds platform Avito. See Bloomberg News, & Rudnitsky, J. (2023, August 14). Prosus Gives Up \$403 Million Stake in Russia’s VK Social Network. *Bloomberg*. <https://www.bloomberg.com/news/articles/2022-11-10/prosus-gives-up-403-million-stake-in-russia-s-vk-social-network> and Sterling, T., & Heavens, L. (2022, October 14). Prosus to sell Russian classifieds business Avito to Kismet for \$2.4B. *Reuters*. <https://www.reuters.com/technology/prosus-says-it-will-sell-russian-classifieds-business-24b-2022-10-14/>

⁹⁰ Prosus. (n.d.). *The Group*. Prosus. Retrieved August 13, 2023, from <https://www.prosus.com/the-group>

⁹¹ Besides OLX, Prosus’ portfolio of classified companies includes, among others: AutoTrader, Otodom, Otomoto, Property24, and Stora. See Prosus. (n.d.). *Classifieds*. Prosus. Retrieved August 13, 2023, from <https://www.prosus.com/classifieds>

⁹² PayU is the most important fintech company in Prosus’ portfolio, but the group also has investments in Creditas, PaySense, Remitly, Wibmo, and ZOOZ, among others. See Prosus. (n.d.). *Payments & Fintech*. Prosus. Retrieved August 13, 2023, from <https://www.prosus.com/payments-fintech>.

⁹³ iFood, Delivery Hero, and Swiggy are Prosus’ main investments, but the group’s portfolio includes a few other companies in the food delivery sector. See Prosus. (n.d.). *Food Delivery*. Prosus. Retrieved August 13, 2023, from <https://www.prosus.com/food-delivery>

⁹⁴ Investments include Stack Overflow, Udemy, Codecademy, Brainly, Skillsoft BYJU’s, and GoodHabit, among others. See Prosus. (n.d.). *Edtech*. Prosus. Retrieved August 13, 2023, from <https://www.prosus.com/edtech>

⁹⁵ Prosus. (n.d.). *Prosus Ventures*. Prosus. Retrieved August 13, 2023, from <https://www.prosus.com/prosus-ventures>

⁹⁶ Prosus. (2023). *Annual Report 2023*. Prosus. <https://www.prosus.com/~media/Files/P/Prosus-CORP/menu-footer-pdf/prosus-annual-report2023.pdf>, p. 8.

⁹⁷ Ibid.

Prosus is aware of the privacy and antitrust issues raised by the idea of “ecosystems with multiple customer touchpoints”; so much so that the text envelopes the stated goal with pro-consumer language, in an attempt to attenuate its potentially negative reception. A close examination of Prosus’ portfolio, nonetheless, accentuates the problem, even if there is no clear indication that the companies of the group have agreements that entail the mutual sharing of user data. The potential is there, nonetheless, and there is enough intelligence concentrated at the group level to at least justify a continuous examination of both the group and the companies that are part of its roster.

Prosus currently owns 96.05% of iFood,⁹⁸ 29.83% of Delivery Hero, and 32.83% of Indian food delivery company Swiggy. Given iFood’s strong grasp of the Brazilian market, Delivery Hero’s control of PedidosYa—a major player in a number of Latin American countries—, and Swiggy’s position in India’s food delivery sector, with a history, much like iFood’s, surrounded by controversy and accusations of anticompetitive behavior,⁹⁹ Prosus is one of the main driving forces of the entire sector, at a global scale, along with its portfolio company Delivery Hero, Just Eat.

If we consider the other sectors the group invests in, particularly its fintech companies, and how fundamental they are as building blocks of platform ecosystems, the need for attention is redoubled. Prosus, additionally, remains substantially invested in Tencent—home of the superapp *par excellence* WeChat/Weixin—even as it is in the process of reducing some of its participation due to recent changes in China’s regulatory environment for tech companies, and underperformance that the group attributes to Covid-19 lockdowns.¹⁰⁰ Tencent, nonetheless, remains the most profitable investment in Prosus’ portfolio, accounting for 22,269 US\$m revenues in the fiscal year ended in 31 March 2023. To put things into perspective, food delivery, the most profitable segment in Prosus’ e-commerce portfolio, represented, across all companies, 4,203 US\$m.¹⁰¹

Prosus is particularly interesting, as a company, because it highlights a structural component of the tech sector, broadly considered, present at the corporate, product, and user levels, and which needs to be taken into account in a nuanced analysis of user rights in a digital world: the central role of venture capital, and the way it drives a company lifecycle from early stages to maturity.

The typical tech company begins as a startup backed by private equity capital—especially venture capital firms—, goes through a series of funding rounds, and ends with IPOs of varying degrees of success or with the acquisition of the startup by a larger company. During this lifecycle, which may involve several funding rounds, venture capital funds and other investors enter and exit their

⁹⁸ Prosus acquired Just Eat’s 33% stake in iFood in 2022. News articles at the time implied that Prosus would own 100% of iFood, but the Prosus Annual Report for 2023 indicates a 96,05% stake. In any case, 96,05% and 100% are equivalent in terms of controlling power. See Braun, D. (2022, August 19). Prosus adquire controle total do iFood por até R\$ 9,4 bilhões. *Valor Econômico*. <https://valor.globo.com/empresas/noticia/2022/08/19/prosus-adquire-controle-total-do-ifood-por-at-r-94-bilh-es.shtml> and Prosus’ Annual Report 2023, p. 10.

⁹⁹ Prosus reduced its participation in Alibaba from 28.81% to 26.16% in 2022. Ibid, p. 29. See Goel, V., & Venkataraman, A. (2019, August 29). India’s Restaurants Rebel Against Food Delivery Apps. *The New York Times*. <https://www.nytimes.com/2019/08/29/technology/india-restaurants-logout-delivery-zomato.html>

¹⁰⁰ See Yu, J. (2023, April 12). Tencent Slumps Most in Seven Weeks on Prosus Selling Speculation. *Bloomberg*. <https://www.bloomberg.com/news/articles/2023-04-12/tencent-slumps-most-in-seven-weeks-on-prosus-selling-speculation> and Prosus. (2023). *Summary consolidated financial statements for the year ended 31 March 2023*. Prosus. <https://www.prosus.com/~media/Files/P/Prosus-CORP/investors/full-year-results-2023/latest-financial-results/prosus-financial-results-fy23-booklet.pdf>, p. 1 and 4.

¹⁰¹ Prosus Annual Report 2023, p. 32.

positions as is convenient to their investment strategies, and if an IPO takes place, retail investors are then welcomed in to pick up the pieces at the end.

Unlike VC funds and angel investors, Prosus defines itself as a long-term shareholder, but it operates against the same backdrop as venture capitalists. The interconnectedness of the companies, sectors, and platforms we see in Prosus' portfolio, is a byproduct not only of the products and services they provide—with their data-intensive business models and inherent synergies—but of the financialization processes that, with increasing visibility and at a global level, affect several domains of the economy, institutions, and everyday life.

The bundling of financial services with food delivery and online marketplaces, along with the “banking the unbanked” rhetoric that comes along with it, can be understood, in part, as the consumer/product level manifestation of the international fluidity of capital and money that was already a feature of the tech sector at a corporate level. Public policies and products, such as Brazil's Pix system for instant payments, convenient as they are, are also a driving force in this process.

Beyond dispelling the myth of the “local company”—which is, at most instances, a company with “local founders”—financialization accentuates the need for an approach to user rights in platform-mediated activities that is multifaceted, and cognizant of corporate histories, institutional frameworks, consumer behavior, and technology affordances. Prosus is a good illustration of the entanglement and complexity arising from the fluid and dynamic nature of financial capital, the lifeforce of the companies we assess in this report.

3.2.2 iFood

"Is iFood a Brazilian company?" "Yes", answers the company blog iFood News, "born in Brazil, the company also invests in the development of national technologies."¹⁰² These statements can assume different degrees of both truth or falsehood, depending on how you define the "Brazilianness" of a company or technology. From the point of view of ownership, as we have described in the previous section, Dutch investment holding company Prosus owns 96.05% of iFood (and around of 30% of Delivery Hero, owner of Uruguayan-born PedidosYa); Prosus, in turn, while a public company, has 43% of its shares held by Naspers, the company from which it was spun off.

On the other hand, if by Brazilian company we mean "a company founded by Brazilians", the statement is correct. As is it would be if we meant "a company that provides Brazilians with opportunities for work, and contributes to the local economy", but then we would have to deal with the uncomfortable position of declaring Uber a Brazilian company.

Venture capital and the financialization characterizing the sectors we are covering make broad statements about the nationality status of companies difficult. The fact that iFood itself is having to declare its status as a Brazilian company is already revealing enough,¹⁰³ and what it reveals can be

¹⁰² O iFood é uma empresa brasileira? (2023, March 31). *iFood News*. <https://news.ifood.com.br/ifood-e-uma-empresa-brasileira/>

¹⁰³ The blog post was published in 2023, after Prosus consolidated its ownership of iFood, which was an event that received a lot of attention in Brazilian press. See, for example, the following article, published in G1, the online portal of Brazil's main media company, Globo: G1. (2022, August 19). Prosus adquire controle total do iFood em negócio de até R\$ 9,4 bilhões. *G1*. <https://g1.globo.com/economia/noticia/2022/08/19/prosus-compra-controle-total-do-ifood-em-negocio-de-ate-r-94-bilhoes.ghtml>

applied to most other companies in this report. Is Rappi a Colombian enterprise, or mostly Japanese? It depends on how much stake SoftBank holds in Rappi, which we do not know precisely, given that the company is private. And following an IPO, or if SoftBank exits before or sometime after the IPO, we would have to look at the major shareholders of the public company before we can declare the nationality of a corporation, if ownership is the defining criterion. At the same time, ownership itself is fluid, and a look at the list of Mercado Libre and Magazine Luiza's main shareholders is an interesting exercise, which we will leave to the reader for the time being (check section 3.2.6, below for a quick answer).¹⁰⁴

The status of Chinese companies is less controversial: they are Chinese companies, considering both the use of VIE (variable interest enterprises) for IPOs in the US, and the fact that they are subject to Chinese industrial policy and a substantial degree of state intervention, via financial instruments and investment funds, as well laws and regulations (see section 3.1.2, on Alibaba and AliExpress).

In any case, iFood is definitely a company founded in Brazil, by Brazilians, and currently dominates the Brazilian market,¹⁰⁵ though it is not necessarily profitable, and still operates with a growth stage mentality.¹⁰⁶ But its history actually involves two other companies, the first of which is a Brazilian-founded investment holding company, Movable, established in 1998 as a startup focused on ringtones for mobile phones, and later morphed into an investment holding company; the second company being South African holding Naspers, which later spun off some of its properties into Prosus, as described in the previous section.¹⁰⁷

The company that served as the starting point for iFood was called Disk Cook. Founded in São Paulo in 2011 by partners Patrick Sigrist, Eduardo Baer, Guilherme Bonifácio and Felipe Fioravante, Disk Cook was a print catalog of restaurant menus, with orders initially placed via phone to a call center, and in 2012 also through a website and a mobile app. Movable, which by then had already switched gears and was investing in ventures with a connection to the mobile space, invested in Disk Cook, and would gradually increase its stake in the company over the years. Movable was investing in startups at an accelerated pace, matching the speed with which the company itself was being funded by other investors, which notably included Naspers and Jorge Paulo Lemann's Innova Capital.¹⁰⁸ It is through the ownership of Movable that Naspers, and later Prosus, acquired ownership of iFood. Represented as Russian dolls, iFood is contained within Movable, and Movable is contained within Prosus.

Movable's CEO Fabrício Bloisi would later become the CEO of iFood, and iFood's own trajectory would be marked by growth through acquisitions of other startups, some of them competitors, including the

¹⁰⁴ See: <https://www.marketscreener.com/quote/stock/MERCADOLIBRE-INC-58469/company/> and <https://www.marketscreener.com/quote/stock/MAGAZINE-LUIZA-S-A-9971092/company/>.

¹⁰⁵ According to company figures published in March 2023, iFood is responsible for over 65 million orders per month, and has a base of over 200 thousand delivery workers, over 300 thousand businesses on the platform, and operates in 1700 municipalities (out of Brazil's 5565). See Linha do tempo: Conhedça a história do iFood. (2023, April 18). *iFood News*. <https://www.news.ifood.com.br/linha-do-tempo-historia-ifood/>

¹⁰⁶ See Braun, D. (2022, August 22). 'Ser lucrativo não é meta principal', diz CEO do iFood. *Valor Econômico*. <https://valor.globo.com/empresas/noticia/2022/08/22/ser-lucrativo-nao-e-meta-principal-diz-ceo-do-ifood.ghtml>

¹⁰⁷ See <https://www.movable.com.br/>.

¹⁰⁸ Salomão, K. (2018, July 12). Movable recebe mais um aporte da Naspers e do fundo de Lemann. *Exame*. <https://exame.com/negocios/movable-recebe-mais-um-aporte-da-naspers-e-do-fundo-de-lemann/>

Brazilian operation of PedidosYa.¹⁰⁹ In the process, it consolidated enough market presence to drive away competitors Uber Eats and 99Food,¹¹⁰ owned by Didi Chuxing, which had acquired Brazil's transportation platform 99 in 2018, but opted not to rebrand it,¹¹¹ and be the target of an antitrust complaint by Rappi, on the grounds that iFood's practice of maintaining exclusivity contracts with restaurants had anticompetitive effects.¹¹²

A report by Bain & Company, presented by Rappi in support of its complaint, places the company with an overall share of the revenue extracted from restaurants via delivery platforms of 70%-80% in May 2020, against a share of up to 10% each for Uber Eats, Rappi, and 99Food.¹¹³ Abrasel, the Brazilian Association of Bars and Restaurants—a co-litigant with Rappi on the iFood antitrust case—up until September 2021, claims iFood had 80% market share of the food delivery sector in Brazil, followed by Uber Eats (25%) and Rappi (18%),¹¹⁴ and as reported by Brazilian financial newspaper Valor Econômico in 2022, based on data from Statista, iFood holds a 76% share among the most popular

¹⁰⁹ iFood compra operação da concorrente Pedidos Já no Brasil. (2018, August 2). *Folha de S.Paulo*. <https://www1.folha.uol.com.br/mercado/2018/08/ifood-compra-operacao-da-concorrente-pedidos-ja-no-brasil.shtml>

¹¹⁰ See Braun, D. (2022, January 6). Uber Eats encerra delivery de comida no Brasil. *Valor Investe*. <https://valorinveste.globo.com/mercados/renda-variavel/empresas/noticia/2022/01/06/uber-eats-encerra-operao-no-brasil.ghtml>

and Braun, D. (2023, January 4). 99Food encerra serviço de entrega para restaurantes parceiros. *Valor Econômico*. <https://valor.globo.com/empresas/noticia/2023/01/04/99food-encerra-servio-de-entrega-para-restaurantes-parceiros.ghtml>

¹¹¹ G1. (2018, January 3). Chinesa Didi Chuxing compra o controle da brasileira 99. *G1*. <https://g1.globo.com/economia/noticia/chinesa-didi-chuxing-compra-o-controle-da-brasileira-99.ghtml>

¹¹² The docket for the case can be found at Brazil's antitrust authority CADE's website: https://sei.cade.gov.br/sei/modulos/pesquisa/md_pesq_processo_exibir.php?0c62g277GvPsZDAxAO1tMiVcl9FcFMR5UuJ6rLqPEJuTUu08mg6wxLt0JzWxCor9mNcMYP8UAjTVP9dxRfPBcaPonKpemYI591TZDVz41cKkeMG3znSccU-istZDv-qj

¹¹³ Rappi Brasil Intermediação de Negócios Ltda. (2020). *Representação com Pedido de Medida Preventiva em face de iFood.com Agência de Restaurantes Online S.A.* Retrieved September 8, 2023, from https://sei.cade.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?DZ2uWeaYicbuRZE FhBt-n3BfPLlu9u7akQAh8mpB9yNx0DbIEJAo6GwNoEhGpbdEgp7DqsHBIvAv-x1INNlaAGkj2IlgKBIAG-NnX9qsY1RYLNhr6dUASDEdHxJCzD5, p. 13

¹¹⁴ Braum, D. (2022, February 16). Rappi volta para o Cade contra o iFood. *Valor Econômico*. <https://valor.globo.com/empresas/noticia/2022/02/16/rappi-volta-para-o-cade-contra-o-ifood.ghtml>. We should stress here that beyond Abrasel also litigating against iFood before the Brazilian antitrust authority, it does not make a noticeable effort in sharing information about methodology for these numbers, which are frequently quoted in the media, with equal disregard for methodology, and, sometimes, source. A piece by news portal UOL, reproduced by Abrasel in its website, uses numbers provided by Measurable AI, placing iFood's market share at 83% in July 2021, and Statista, with iFood representing 68% of the market in September 2021. See Oliveira, J. J. (2022, April 2). iFood ficou tão grande que prejudica empresas e clientes, dizem analistas. *UOL*. <https://economia.uol.com.br/noticias/redacao/2022/04/02/ifood-ficou-tao-grande-que-prejudica-os-brasileiros.htm>

platforms in Brazil, followed by WhatsApp (6%), 99Food (2%), aiqfome (2%), and Rappi (1%), with the remaining 13% spread across other platforms.¹¹⁵

We should approach all of these estimates with caution, given Rappi and Abrasel are litigants in the case, and also consider Statista's lower estimates. Even so, it is undeniable that iFood has a substantial portion of the market, and the antitrust case was suspended after iFood signed an agreement with Cade, committing to a series of measures, including the restriction of exclusivity contracts to 25% of the sales volume of the platform, not going beyond 8% of contracts with exclusivity contracts in cities with over 500 thousand inhabitants, limiting the validity of such contracts to 2 years, the prohibition to establish exclusive partnerships with restaurants owning more than 30 establishments, and opening some of its platform APIs so that third-party order management systems can be interoperable with iFood.¹¹⁶

Beyond the issue of anticompetitive behavior, which is a problem that also affects the food delivery sector in other countries,¹¹⁷ and are especially concerning due to the opacity of algorithmic management systems—being deplatformed in a duopoly market is worse than being fired from a job

¹¹⁵ See Entenda a demissão em massa do iFood. (2023, March 2). *Valor Econômico*. <https://valor.globo.com/empresas/noticia/2023/03/02/entenda-a-demissao-em-massa-do-ifood.ghtml>

Methodology was also not included in this Valor Econômico item. We can probably assume that the numbers come from an online survey with a sample of around 1700, with data collected in March 2-18 2022, since the information on Statista's website matches the date of Valor Econômico's piece. The question asked was: "Which app do you use most often to order meals?". Methodology and access to data aside, it is interesting to note the low percentage for Rappi, and the presence of WhatsApp (even if at a relatively low 6%), which is indicative of the use of Meta's pervasive messaging app for ordering food directly from restaurants. WhatsApp business accounts, thus skipping food delivery platforms as an intermediary. Another Statista survey, carried out in June 2020, with a much smaller sample (601) divided across at least three different countries, concluded that ".83 percent of respondents in both Brazil and Chile said they use WhatsApp in their purchasing process. In Peru, 77 percent of participants said they integrated this communication platform into their shopping." See Chevalier, S. (2022, September 13). *Most popular apps for online food ordering in Brasil in 2022*. Statista. <https://www.statista.com/statistics/748291/most-popular-food-delivery-apps-brazil/> and Chevalier, S. (2022, March 10). *Use of WhatsApp in the purchasing process in selected countries in Latin America as of June 2020*. Statista. <https://www.statista.com/statistics/1180339/use-whatsapp-purchasing-process-latin-america/>.

¹¹⁶ For the full terms, see SEI/CADE - 1188549—*Termo de Compromisso de Cessação (TCC)*. (2023). Conselho Administrativo de Defesa Econômica (CADE). https://sei.cade.gov.br/sei/modulos/pesquisa/md_pesq_documento_consulta_externa.php?HJ7F4wnlPj2Y8B7Bj80h1skjh7ohC8yMfhLoDBLddavpFAUSW5SlagHXiB5dAWZ7G_wGTfZ0Tsm6GgzyZ5c8pkW8GcnmVk-SSapLokgdjSzalBIB9tYljd4UlsjcAM#footer_cxEqKQ52n0nsrgV9

¹¹⁷ See Zhou (2021) for a discussion about a class action Suit in the Southern District of New York against Grubhub, DoorDash, Uber Eats, and Postmates, accusing the companies of maintaining monopoly power. Delivery Hero and Glovo have also been the target of antitrust investigations in the EU, and Indian restaurants have asked antitrust authorities to prohibit Swiggy from using its platform to advertise in-house brands (developed in partnership with certain restaurants, or via dark kitchens). iFood's own failed attempts at expansion into other countries (Colombia, Mexico) are also indicative of how hard it is for a food delivery service to establish itself in markets that are already dominated by other companies. For the EU and India cases, see Faus, J., & Sterling, T. (2022, July 6). Germany's Delivery Hero, Spanish unit Glovo targeted in EU antitrust raids. Reuters. <https://www.reuters.com/business/retail-consumer/eu-antitrust-watchdog-raids-online-food-groceries-delivery-companies-2022-07-06/> and Goel, V., & Venkataraman, A. (2019, August 29). India's Restaurants Rebel Against Food Delivery Apps. The New York Times. <https://www.nytimes.com/2019/08/29/technology/india-restaurants-logout-delivery-zomato.html>. For iFood's expansion failures, see Caparros, J. (2022, October 21). iFood se va de Colombia despidiendo a todos sus empleados. *Forbes Colombia*. <https://forbes.co/2022/10/21/negocios/ifood-se-va-de-colombia-despidiendo-a-todos-sus-empleados/> and Redação. (2020, November 5). SinDelantal, da qual iFood detém 49%, encerra operações no México. *Forbes*. <https://forbes.com.br/negocios/2020/11/sindelantal-da-qual-ifood-detem-49-encerra-operacoes-no-mexico/>.

in a market that is more competitive—iFood’s history has been marred by controversies that have a more distinctive flavor.

In 2022, Brazilian investigative journalism agency Pública revealed that iFood made use of the services of two advertising agencies in order to produce a counterpropaganda campaign against a wave of protests organized by delivery workers, which started in 2020, in the wake of the pandemic, and continue to this day. The content was fed through social media as if it were part of a grassroots movement of workers with an opposing agenda to that of the protesters, with the intent to disrupt the movement, as well as the establishment of worker associations.¹¹⁸ This was a time when associations of delivery workers were starting to take off, and strong spokespersons for the class, such as Galo, leader of the Antifascist Movement of Delivery Workers, were making considerable noise on and offline, and gaining media exposure.¹¹⁹ Part of the work conducted for the astroturfing campaign, which went on for at least 12 months, involved infiltration of WhatsApp groups of delivery workers, and, in one instance, the impersonation of a delivery worker to spread material diverting the movement’s agenda to a single issue, that of vaccination, neutralizing the other demands.

The 2020 protests, called "Breque dos Apps" (directly translated as "Break of the Apps", but better understood as "App Strike"), were organized during the early stages of the Covid-19 pandemic, and demanded improvements in iFood's remuneration model for workers, as well as the improvement of working conditions in a context of increased risk of exposure to infection. A risk, it must be mentioned, that was empirically demonstrated months later, but was obvious at the time based on common sense reasoning.¹²⁰ The protests involved 24h strikes, across several cities, and social media campaigns asking iFood users to join in by not placing orders during the period, with the hashtags #ApagãoSobreApps ("App Blackout").¹²¹

The Pública investigation was backed by over 30 leaked documents, as well as interviews with sources directly involved with the matter, and resulted in an investigation by the Federal Prosecution Service at São Paulo, with a subsequent agreement imposing a 6 million reais fine—to be granted to research institutions studying the gig economy—and iFood's publication of the terms of the agreement, alongside with a declaration co-signed with the Federal Prosecution service and the two advertising agencies involved, Benjamim Comunicação and Social Qi (SQi). The declaration states that, despite iFood not acknowledging any wrongdoing, a fine was agreed upon for the case to be dropped, and that the investigations carried out by the prosecutors point towards the suppression of workers' rights to freedom of expression, freedom of association, convene and organize, unionization, collective bargaining and strike, as well as a violation of the general population's right to information.¹²²

¹¹⁸ Levy, C. (2022, April 4). A máquina oculta de propaganda do iFood. *Pública*. <https://apublica.org/2022/04/a-maquina-oculta-de-propaganda-do-ifood/>

¹¹⁹ Correia, M. (2020, June 7). Entregadores antifascistas: "Não quero gado. Quero formar entregadores pensadores." *Pública*. <https://apublica.org/2020/06/entregadores-antifascistas-nao-querem-gado-querem-formar-entregadores-pensadores/>

¹²⁰ For empirical evidence from Brazil, see Lapa (2021); and from Ecuador, Ortiz-Prado et al. (2021).

¹²¹ UOL. (2022, April 1). Entregadores por aplicativo fazem ato em pelo menos cinco estados. *UOL*. <https://economia.uol.com.br/noticias/redacao/2022/04/01/greve-entregadores-aplicativo-ifood-uber-apps.htm>

¹²² Levy, C. (2023, July 10). iFood assina acordo de milhões com MPs após denúncia da Agência Pública. *Pública*. <https://apublica.org/2023/07/ifood-assina-acordo-de-milhoes-com-mps-apos-denuncia-da-agencia-publica/>.

For the full terms of the agreement, see Ministério Público Federal em São Paulo. (2023). *Termo de Ajustamento de Conduta*

The research that is eventually funded—and how it is divulged—should be examined closely, given iFood’s history. The company has funded solid research in the past, including a project by Fundação Getúlio Vargas’ São Paulo School of Law that resulted in some excellent work (Camelo et al., 2022a, 2022b), but is quite capable in lobbying and PR,¹²³ and extremely adept in turning even negative results into positive marketing, as it did with research carried out by CEBRAP (Callil & Picanço, 2023), a prestigious independent research center, and Instituto Locomotiva and Datafolha (co-funded by Uber),¹²⁴ which are known for producing quality survey work—at least t. Numbers drive the narrative which is fed to media outlets, and no matter how strong the underlying research is, the possibility of a positive spin is always available. Consider the present report: iFood ranks first among food delivery companies, but does it matter that much, when the highest score is already a low one? Depending on how the company chooses to convey this information in press releases, it certainly does.

In the astroturfing case, iFood hired advertising company Benjamim Comunicação, which then hired another company, Social Qi, who did most of the work. This sort of arrangement makes it possible for iFood to claim plausible deniability, since it is two companies away from the final campaign. This strategy resembles one of the defining characteristics of iFood’s own business model: the controversial figure of the Logistics Operator (OL, “Operador Logístico”).

Delivery workers are given the choice of two regimes: “Cloud” and “OL”.¹²⁵ The cloud regime is the typical platform work model, at least on paper. Workers turn on the app, wait for deliveries to be offered, take them or leave them, and decide which shifts they will work in, how many hours per day, how many days per week, and so on. If they opt to work in the OL system, they are subject to an additional layer of human management, on top of the algorithmic management of the platform. OLS

iFood, Benjamim Comunicação Ltda. E Social Qi. Ministério Público Federal em São Paulo. <https://www.mpf.mp.br/sp/sala-de-imprensa/docs/TAC%20IFOOD%20et%20alli%20x%20MPT-MPF.pdf>

¹²³ See Fairwork’s 2022 report for Brazil (Grohmann et al., 2023, p. 28-29).

¹²⁴ For the Locomotiva case, which involved a selective use of the survey in a congressional investigation carried out by the State legislative of São Paulo, see Levy, C. (2022, August 8). *iFood não revelou detalhes da jornada de trabalho de entregadores na CPI dos Apps.* *Pública.* <https://apublica.org/2022/08/ifood-nao-revelou-detalhes-da-jornada-de-trabalho-de-entregadores-na-cpi-dos-apps/>. For an analysis of the CEBRAP study and its use by iFood, written by TRAB21, a research group at the Federal University of Rio de Janeiro’s School of Law, see TRAB21 (2023, May 22). *Estudo financiado por associação de plataformas digitais revela remuneração abaixo do salário mínimo para entregadores e motoristas.* <https://trab21blog.wordpress.com/2023/05/22/estudo-financiado-por-associacao-de-plataformas-digitais-revela-remuneracao-abaixo-do-salario-minimo-para-entregadores-e-motoristas/>, and for CEBRAP’s perspective on the matter, check Barros, C. J. (2023, May 22). *Entidade que reúne Uber e iFood distorce dados sobre renda em app, diz UFRJ.* *UOL.*

<https://economia.uol.com.br/colunas/carlos-juliano-barros/2023/05/22/entidade-que-reune-uber-e-ifood-distorce-dados-sobre-renda-em-app-diz-ufRJ.htm>. For the Datafolha survey, in which iFood had a hand in questionnaire design, see TRAB21. (2023, July 7). *Pesquisa Datafolha encomendada pela Uber e iFood tem vícios na sua metodologia que comprometem o resultado.*

<https://trab21blog.wordpress.com/2023/07/07/pesquisa-datafolha-encomendada-pela-uber-e-ifood-tem-vicios-na-sua-metodologia-que-comprometem-o-resultado/>

and Pereira, E. R. (2023, May 30). *Trabalho por aplicativo no Brasil: Pesquisa apresenta dados que escondem realidade precária.* *Brasil de Fato.*

<https://www.brasildefato.com.br/2023/05/30/trabalho-por-aplicativo-no-brasil-pesquisa-apresenta-dados-que-escondem-realidade-precaria>. For the official presentation of the survey’s results, see Datafolha. (2023). *Futuro do Trabalho por Aplicativo.* Datafolha; Uber; iFood.

https://content.news.ifood.com.br/uploads/2023/05/Datafolha_PM5597-final.pdf

¹²⁵ *Como funciona o modelo de negócio do iFood? Entenda.* (2023, February 1). *iFood News.* <https://news.ifood.com.br/como-e-o-modelo-de-negocio-do-ifood/>

are companies, and workers have a human boss, predetermined shifts, cover specific regions, and have the guarantee of higher returns, at least on paper.

In reality, both systems are far from being worker-friendly. In the OL system shifts are long, sometimes without break, since taking time off may lead to receiving less deliveries to make, and even refusing a delivery for a bathroom break may be out of the question and lead to severe reprimands from managers. Contracts with OLs have exclusivity clauses, and despite being *de facto* employees, workers are not granted the same rights an employee has under Brazilian legislation. OLs are a way for iFood to outsource liability and avoid characterizing direct employment of delivery workers, while exerting additional management oversight over them through a third-party. Workers opting for the cloud regime may find that they receive far less deliveries to make than their OL colleagues, suggesting that iFood heavily prefers workers to be under an OL, and use the platform to make the OL system more attractive from a financial point of view, even if it means submitting to work under abusive conditions (Festi, 2023).¹²⁶

YouTuber Ralf MT, a delivery worker who became a major influencer covering the sector, leaked the contract iFood maintains with its OLs,¹²⁷ which includes the stipulation that workers should be contracted as employees, with guarantee of their rights under Brazilian legislation—a fact that iFood does not advertise, in a clause that was not enforced, and was arguably included in the contract just to avoid liability in case one of the OLs is sued. Ralf also published videos related to a hearing in a lawsuit against one of iFood’s OLs, DX Express, in which a company representative reveals that iFood’s algorithm stops sending jobs to workers who have turned down previous deliveries. iFood attempted to take down the video through a lawsuit but was unsuccessful; the hearing was not subject to secrecy rules and was thus considered to be publicly available under Brazilian law. In October 2022, Ralf was sued by OL Sis Express, asking for damages on reputational grounds, and for three videos to be taken down from YouTube. The videos, also pertaining to a judicial hearing, show a manager detailing that iFood’s platform for OL shift control registers information that would lead to the characterization of workers under OLs as employees. In another video, Ralf describes a successful lawsuit brought against Sis Express by a worker who managed to obtain the recognition of formal employee status, and 760 R\$ in damages.¹²⁸

iFood, along with Uber, have so far been successful in the shaping outcomes of judicial cases so that they do not form a solid body of decisions that would back the thesis that platform workers are to be granted the same rights as a formal employee. Brazil, being a civil law country, does not have case law in the sense a common law country has, but a considerable number of uniform judicial decisions does have an impact, and in uncharted territory such as platform work, the companies moved strategically

¹²⁶ For more context, and a horror story or two, see Silva, V., & Santana, F. (2022, October 19). Entregador é baleado em serviço e terceirizada do iFood fraudava sua conta durante hospitalização. *Intercept Brasil*. <https://www.intercept.com.br/2022/10/19/entregador-baleado-capitao-delivery-ifood/> and Cícero, J. (2022, August 23). Entregadoras terceirizadas do iFood não registram funcionários junto ao Governo Federal. *Pública*. <https://apublica.org/2022/08/entregadoras-terceirizadas-do-ifood-nao-registram-funcionarios-junto-ao-governo-o-federal/>.

¹²⁷ Ralf MT (Director). (2021, July 22). *Vazou contrato do iFood com empresas terceirizadas OL (operador logístico) Ralf MT*. <https://www.youtube.com/watch?v=W8ZsLUJQvH0>

¹²⁸ For all the information in this paragraph and more descriptions of documented instances provided by Ralf of OLs role in the iFood ecosystem, see Ribeiro, P. V. (2022, November 28). iFood e parceira tentam censurar canal no YouTube. *Intercept Brasil*. <https://www.intercept.com.br/2022/11/28/ifood-e-parceira-tentam-censurar-canal-no-youtube-de-lideranca-d-e-entregadores/>

to avoid that an unfavorable corpus of decisions would emerge, by entering into agreements with plaintiffs whenever a negative outcome was predictable.¹²⁹

Nowadays, the strategy with YouTubers, including Ralf, appears to be less of litigation, and more of cooptation, with iFood treating YouTubers as any marketing department would treat its affiliate content producers, regardless of their position on the company, with the sending out of gifts, invitations to company events, and talking points for videos.¹³⁰ This has not changed Ralf's editorial approach, but there is no way of gauging the impact it will have on YouTubers who would be potentially critical of the company.

Meanwhile, work conditions for delivery workers are still terrible,¹³¹ protests continue,¹³² delivery workers are becoming more organized—via local, regional, and national WhatsApp groups—and iFood's lobbying engine is moving at full capacity, as regulation of the sector is a key item in the agenda of the Lula administration.¹³³ The outcome of this process is still an open question.

3.2.3 PedidosYa (Delivery Hero)

Delivery Hero is a multinational German group founded in 2011, focused on food delivery and ordering services, with the goal of intermediating between restaurants and customers. It operates in more than 70 countries, gaining a relevant presence in Europe, Asia, the Middle East, and Latin America.¹³⁴ ¹³⁵

Pedidos Ya was born in 2009 as the first e-commerce food delivery platform in Uruguay, rapidly gaining wide acceptance and growth in South American countries. In 2014, Delivery Hero became the major investor¹³⁶ of Pedidos Ya, which continues to operate in Argentina, Uruguay, and more recently in Ecuador, Peru, Guatemala, Honduras, Costa Rica, and other countries.¹³⁷ Recently, Pedidos Ya has

¹²⁹ Ribeiro, P. V. (2022, April 28). Como a Uber se blinda na justiça contra vínculo trabalhista de motoristas. *Intercept Brasil*. <https://www.intercept.com.br/2022/04/28/como-a-uber-se-blinda-para-impedir-que-a-justica-reconheca-vinculo-lo-trabalhista-de-motoristas/>

¹³⁰ Brigatti, F. (2023, January 10). Motoboy youtuber vai de “pedra no sapato” a entrevistador de vice-presidente do iFood. *Folha de S. Paulo*. <https://www1.folha.uol.com.br/mercado/2023/01/motoboy-youtuber-vai-de-pedra-no-sapato-a-entrevistador-de-vice-presidente-do-ifood.shtml>

¹³¹ See Festi (2023), Gonsales (2023), Grohmann et al., (2023)

¹³² See Moncau, G. (2023, June 7). Entregadores do iFood convocam greve nacional para esta sexta, pós feriado de Corpus Christi. *Brasil de Fato*. <https://www.brasildefato.com.br/2023/06/07/entregadores-do-ifood-convocam-greve-nacional-para-esta-sexta-pos-feriado-de-corpus-christi> and Moncau, G. (2023, July 28). “Quer cooptar?": iFood envia roteiros de vídeos e “brindes” para entregadores influencers. *Brasil de Fato*. <https://www.brasildefato.com.br/2023/07/28/quer-cooptar-ifood-envia-roteiros-de-ideos-e-brindes-para-entregadores-influencers>

¹³³ Cravo, A., Gularte, J., & Pilar, A. F. (2023, May 1). Lula cria grupo para discutir regulamentação do trabalho por aplicativos. *O Globo*. <https://oglobo.globo.com/economia/noticia/2023/05/lula-cria-grupo-de-trabalho-para-discutir-regulamentacao-do-trabalho-por-aplicativos.ghtml>

¹³⁴ <https://www.deliveryhero.com/about/>

¹³⁵

<https://emeastartups.com/delivery-hero-the-story-behind-the-rise-of-the-world-leader-in-food-delivery/8287>

¹³⁶ <https://argentina.ladevi.info/glovo/delivery-hero-duena-pedidosya-compro-la-operacion-glovo-america-latina-n25422>

¹³⁷

<https://www.cronista.com/infotechnology/it-business/pedidosya-el-secreto-de-esta-empresa-uruguay-que-vale-us-2000-m-y-los-argentinos-aman/>

added Market services to its platform and is expecting to include digital wallet and financial services soon as well.

3.2.4 Rappi

Rappi is a Colombian food delivery platform that originated in 2015. Its platform serves as a connection point between restaurants and customers, while also offering an array of additional services that extend beyond the scope of conventional on-demand delivery services.¹³⁸ These services encompass a network of Personal Shoppers who fulfill users' orders by handpicking items and ensuring they are delivered in accordance with customers' preferences.¹³⁹

The platform further features e-commerce capabilities through Rappi Market, coupled with an array of financial services including RappiPay, cash withdrawals, and credit card options. Moreover, Rappi's repertoire extends to the sale of air travel tickets, offer of online games, and during 2020, the offer of optimization software for restaurants that would like to administer their own deliveries online.¹⁴⁰ It has presence in 9 Latin American countries including Colombia, Argentina, Brazil and Ecuador and Mexico.

Rappi is the third most valuable closed capital startup in Latin America, following Kavak and iFood, with a valuation of US\$ 5,2 billion as of July 2021.

Depois de Kavak e iFood, a Rappi é a terceira startup de capital fechado mais valiosa da América Latina. Em julho do ano passado, a Rappi atingiu US\$ 5,2 bilhões em valuation.¹⁴¹

The SoftBank Latin America Fund portfolio entry for Rappi describes the company as “[...] a consumer tech company serving as the “everything store” across Latin America.”, reinforcing both an Amazon parallel and the superapp aspirations of the company.

3.2.5 DiDi Food (DiDi Chuxing)

DiDi Chuxing is a Chinese ride-hailing platform that emerged in 2012. It stands tall as one of the nation's foremost transportation networks, excelling in the realms of ride and taxi hailing. In April 2017, DiDi expanded its horizons into the realm of food delivery, introducing DiDi Food.

DiDi Food has relatively recently established its presence in Latin America, experiencing great growth during the pandemic. Since 2019, it has been an active participant in Mexico, and in 2022, it expanded its reach to Colombia, operating in more than 90 cities to date.¹⁴² However, during 2023, DiDi had to shut down its food delivery platform from Brazil (called 99 food) as a response to the crisis that transportation applications have been experiencing and with the purpose to focus only on transportation intermediation there.

¹³⁸

<https://www.larepublica.co/empresas/conozca-la-historia-de-rappi-de-regalar-donas-en-bogota-a-conquistar-la-banca-digital-3138462>

¹³⁹ <https://startupeable.com/rappi/>

¹⁴⁰ <https://www.tecnogeek.com/2020/07/23/rappi-anuncia-propio-servicio-de-autogestion-para-restaurantes/>

¹⁴¹ Fleischmann, I. (2022, September 21). Rappi não será vendida e IPO segue nos planos, diz membro do time fundador. Bloomberg Línea Brasil. <https://www.bloomberglinea.com.br/2022/09/21/rappi-nao-sera-vendida-e-ipo-segue-nos-planos-diz-co-fundador/>

¹⁴² <https://worldcrunch.com/culture-society/didi-food-finds-tasty-niche>

3.2.6 aiqfome (Magazine Luiza Group)

Aiqfome stands as a Brazilian food delivery platform, with its origins dating back to 2007 serving as a vital bridge between restaurants and consumers. Its operational footprint covers over 350 cities throughout Brazil. Aiqfome targets a distinctive niche by particularly covering small and medium-sized cities. Here, it plays a pivotal role in streamlining the ordering and payment processes, while the delivery facet remains within the purview of affiliated restaurants.

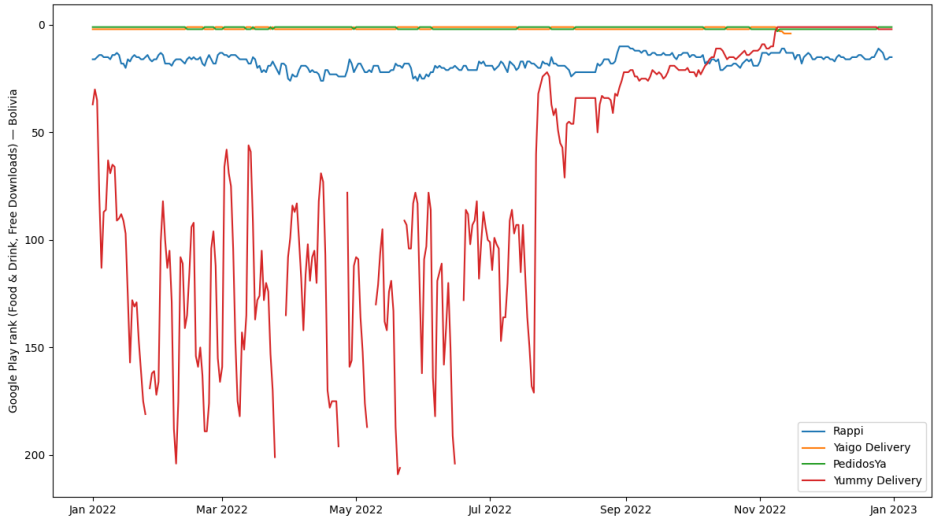
The year of 2020 marked a turning point for Aiqfome, as it was acquired by Magazine Luiza, the Brazilian retail online marketplace giant.¹⁴³ This strategic union enhanced the expansion of Aiqfome's user base and technological framework. Magazine Luiza's robust commitment to Environmental, Social, and Governance principles further amplified Aiqfome's internal efficacy. Under the aegis of this acquisition, Magazine Luiza envisions integrating Aiqfome's services into the Magalu superapp.¹⁴⁴

3.2.7 Yaigo (Yummy)

Yaigo (meaning "You ask, I go") a Bolivian food delivery startup, was founded in 2019, targeting the Bolivian and Paraguayan markets. In 2021, Yaigo was acquired by another startup, Yummy, created as a ride sharing and food delivery company, and the aspiration to become "the super app of Venezuela". It is fitting that we end the corporate profiles section of this report with an example of an early-stage startup. In fact, two startups, about which not much is known beyond what is published in a few news articles. For the purposes of evaluation and application of the RDR indicators, documentation is scant.

During all of 2022, Yaigo maintained a strong presence in Bolivia, often as the number one app, alternating leadership with PedidosYa, well above Rappi's position as third most popular food delivery service. By late 2022, the Yaigo brand was discontinued in favor of Yummy, which took over Yaigo's position, as can be seen in the chart presented below.

Figure 4. Google Play store rankings for Rappi, Yaigo, Yummy, and PedidosYa (2022, Bolivia, Food & Drink category)



Source: Sensor Tower, for the dataset. Chart produced by the research team using Python, pandas and Matplotlib ,

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<https://labsnews.com/en/news/business/brazilian-retailer-magazine-luiza-acquires-delivery-startup-aiqfome/>
¹⁴⁴ <https://labsnews.com/en/articles/business/magazine-luiza-delivery-app-aiqfome-triples-sales/>

For all purposes, Yaigo is now Yummy, even though the Bolivian company's website was still online during the first half of 2023. The most distinctive feature of that site, which as of September 2023 is defunct, was its privacy policy page, containing terms that are short enough to fit a footnote in this report, and the absence of a terms of service document. Yummy's site, funnily enough, offers visitors no privacy policy, but it does include the platform's terms of service—though, to be fair, a privacy policy can be found in the Peruvian annex to the ToS.¹⁴⁵

Even though we applied the RDR indicators to the Yaigo privacy policy, we opted to exclude the Yaigo/Yummy from the ranking. There is not much to say about them, and we feel these companies do not even classify as candidates for ranking.

Yaigo's website has a privacy policy, but no terms of service are available, which amounts to a zero score. **Yummy**, which phased out the Yaigo app in Bolivia by the end of 2022 in favor of its own Yummy app, has a site that includes a link to the terms of service. In any case, the Yaigo app was active and popular, throughout most of the year, in the Google Play store in the Food & Drink category.¹⁴⁶

¹⁴⁵ <https://www.yummysuperapp.com/terms-conditions>

¹⁴⁶ See the chart provided in the annex representing the popularity of food delivery apps in Bolivia during 2022, to get a sense of how the transition from Yaigo to Yummy took place.

4. Governance

The **G indicators** give us a sense of the commitment companies have publicly made to human rights, as well as ways in which mechanisms and processes have been instituted to implement safeguards and enforcement for these rights.¹⁴⁷ In particular, we are looking for explicit commitments to the promotion and defense of human rights as defined by international human rights standards, with direct references to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the UN Guiding Principles on Business and Human Rights, along with a clear and assertive pledge to respect and enable freedom of expression and information as well as privacy within the framework established by the aforementioned international instruments.

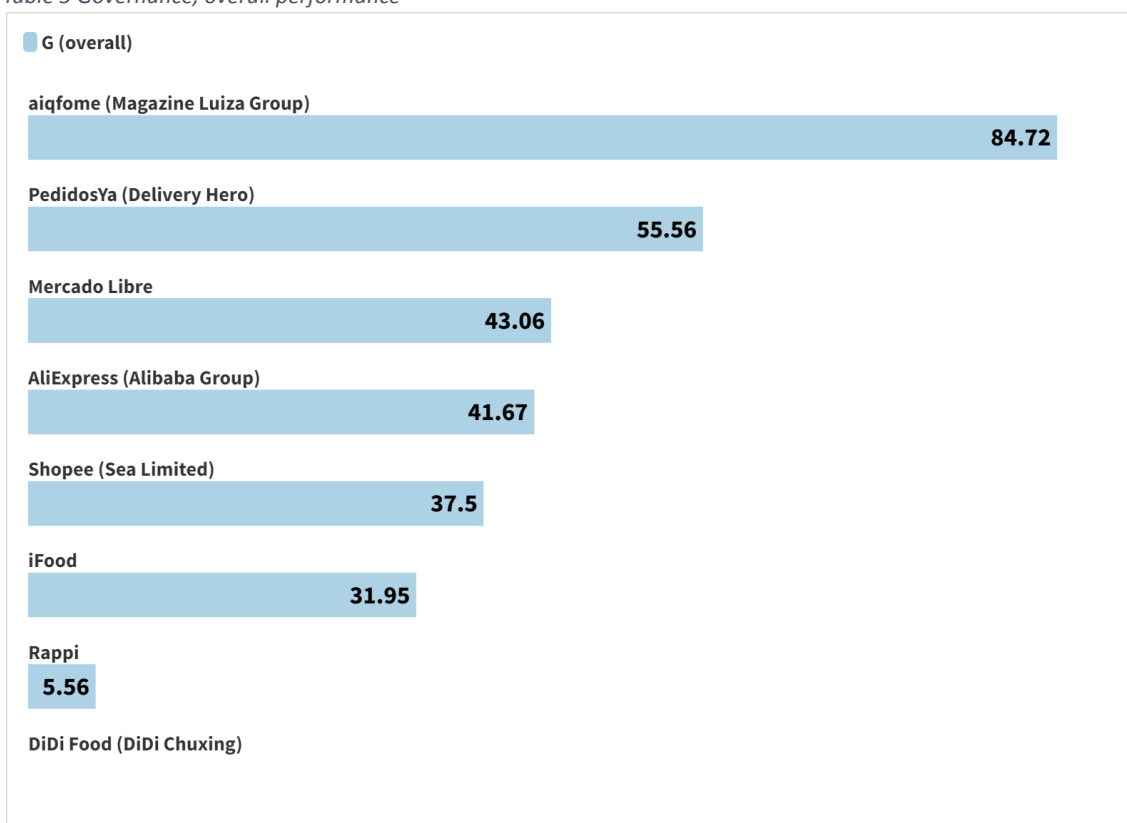
The following table reproduces the G indicators selected for our report, along with their composing elements and the section of the report where we analyze the data we collected and the ratings assigned to each company. Missing from our list are indicators evaluating human rights due diligence, internal impact assessment reports, stakeholder engagement and accountability, remedy measures, and processes for content moderation and appeals. Even if our list of indicators is relatively reduced in scope, we believe indicators **G1**, **G2**, and **G3** establish a good baseline for evaluating essential aspects of disclosure related to governance practices.

These indicators also allow us to extract a "corporate narrative" about human rights, freedom of expression, and privacy. On the one hand, companies have an active interest in presenting themselves in a way that is as compatible as possible with the values defended by ESG (Environmental, Social, and Governance) discourse.¹⁴⁸ On the other hand, some of these values may contradict actual company practices and ideals. In some of the companies we studied there was a clear dissonance between the friendliness and grandstanding present in the discourse adopted by impact reports, blog posts, and the myriad documents found in the investor relations or sustainability portals of companies, and, when reading between the lines, the implicit preservation or reinforcement of goals and procedures that could arguably endanger the very individual and collective rights that they are committing to protect. The more forceful the commitment, after all, the more vulnerable to questioning and accountability the company is, and there is an unavoidable balancing act in keeping up with public pressure to meet with ESG demands while still having to maintain or increase company profits. Some of the companies in this report were able to strike a better, more balanced approach in dealing with this public relations puzzle than others.

¹⁴⁷ We adopt, following RDRs guidelines, article 16 of the UN Guiding Principles on Business and Human Rights as a benchmark to assess human rights commitments: "16. As the basis for embedding their responsibility to respect human rights, business enterprises should express their commitment to meet this responsibility through a statement of policy that: (a) Is approved at the most senior level of the business enterprise; (b) Is informed by relevant internal and/or external expertise; (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services; (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties; (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise."

¹⁴⁸ Environmental, social, and corporate governance. (2023). In *Wikipedia*. [https://en.wikipedia.org/w/index.php?title=Environmental, social, and corporate governance&oldid=1165942048](https://en.wikipedia.org/w/index.php?title=Environmental,_social,_and_corporate_governance&oldid=1165942048)

Table 5 Governance, overall performance



Leading the rank, Brazilian startup aiqfome scored a remarkable 84.72% solely on account of having been acquired by retail giant Magazine Luiza in 2020. If not for that, it would certainly have scored considerably lower, since it inherited Magazine Luiza’s excellent corporate governance practices. PedidosYa scores a 50% also thanks to its parent company Delivery Hero’s substantial disclosure of governance-related information; were it not for Delivery Hero, one of the major global players of the food delivery service market, the company would probably have scored lower in the governance indicators.

The next two companies, Mercado Libre and Alibaba (AliExpress), scored around the same range. Alibaba’s score in our report diverges in a few points from that of RDR’s 2022 Big Tech Scorecard, since we worked with more recent documents, and the company’s current corporate governance documents, annual report, and ESG report all contained disclosures that allowed us to bump up the ratings for a few indicator elements.

Shopee, part of Singaporean company Sea Limited, scored considerably lower than Mercado Libre and Alibaba due to its complete reluctance in making clear references and commitments to human rights and international human rights standards. Sea Limited, as all companies above it, are publicly traded companies, and thus more sensitive to ESG and legal disclosure requirements. In our experience, this ensured the existence of a substantial amount of public information on the topics we covered for this report, in contrast to private corporations.

It should be stressed, however, that there is no necessary relationship between being a public company and scoring higher on the G indicators. DiDi Chuxing, despite technically being a

public company—DiDi’s attempt at going public in the US went sour after internal crackdowns in its homeland China forced the company to delist from the NYSE (see section 2, *above*)—scored a zero in all of the indicators we selected for the G component of the evaluation, sharing the bottom position with Yaigo, the Bolivian food delivery startup acquired by Venezuelan company Yummy.

iFood, despite being the dominant food delivery platform in Brazil, surprisingly suffers in comparison with the top three companies, and the same can be said about Rappi, the Colombian food delivery giant. The numbers for both these companies are woefully inadequate considering the size and relevance of their operations.

4.1 Policy commitment

Indicators **G1.1** and **G1.2** seek to evaluate whether the company makes an "explicit, clearly articulated policy commitment to human rights" including, respectively, **a)** freedom of expression and information, and **b)** privacy. The main sources for these commitments should ideally be documents formalizing a human rights policy, with reference to the international standards, explicitly indicating that freedom of expression and information, as well as privacy, are to be framed as human rights issues. Unfortunately, human rights policies or declarations were not a common find among the companies we evaluated. In the absence of such documents, we looked at institutional websites (particularly ESG and investor relations portals), codes of conduct and yearly reports.

Indicator **G1.3** refers to algorithmic systems, and asks the same questions made by **G1.1** and **G1.2**, with the expectation that companies will demonstrate less commitment with regard to their algorithmic practices, which suffer from serious transparency issues, to begin with.

Table 6 Policy commitment performance

G1. Policy Commitment	Mercado Libre	Alibaba AliExpress	Shopee	iFood	Delivery Hero PedidosYa	Rappi	alqfome	DIDI Food
G1.1 Does the company make an explicit, clearly articulated policy commitment to human rights, including to freedom of expression and information?	ND	ND	ND	ND	PARTIAL	ND	YES	ND
G1.2 Does the company make an explicit, clearly articulated policy commitment to human rights, including to privacy	PARTIAL	PARTIAL	PARTIAL	PARTIAL	YES	ND	YES	ND
G1.3 Does the company disclose an explicit, clearly articulated policy commitment to human rights in its development and use of algorithmic systems?	ND	PARTIAL	ND	ND	PARTIAL	ND	ND	ND

4.1.1 Freedom of expression and privacy

A strong commitment to international human rights standards is of paramount importance. A lack of support for these standards, even at the most basic level, casts a worrisome outlook on corporate ethos. For the sake of clarity, the G1 indicators require additional steps beyond the mere assertion of a commitment to human rights, generally speaking (i.e., beyond a broad statement such as “our company respects and takes human rights seriously”; credit for such a statement would be **no disclosure found**). The company must make an **explicit clearly articulated policy commitment to international human rights standards while including freedom of expression and information and privacy within that framework as a coherent, articulated defense of these rights**. Otherwise, companies run the risk of treating these important commitments as mere items to be crossed on an ESG compliance checklist. Hence, whenever companies had a general human rights commitment, referencing international standards, but failed to integrate a clearly articulated policy about such rights we are assessing

into a coherent proposition, they scored a zero for the element. If, however, there was a strong commitment to the protection of the rights to freedom of expression/information or privacy, but outside of an international rights standard framing, credit was partial.

Privacy fared comparatively better than freedom of expression and information, due to greater regulatory pressure. Even so, interpreting privacy and data protection as important human rights was the exception, not the rule, in the companies we ranked. This mainly came as a consequence of a narrow focus on specific legal requirements, born out data protection legislation, as if these requirements had no connection with human rights. It sometimes happens due to an overlap between privacy and security, an agenda that sometimes cannibalizes the human rights components of privacy, turning issues into a simple matter of IT security and safeguards.

Commitments to freedom of expression and information were rare, perhaps a consequence of marketplaces and delivery companies interpreting those rights as not salient enough in the context of their core business models to deserve attention—as opposed to the more visible problems related to freedom of expression that can be found in, for example, social networks. Nevertheless, as pointed out in section 2, above, there is constant production of user generated content (UGC) in both types of platforms, with potential for conflicts that warrant a commitment to the protection of users' freedom of expression. Marketplaces fared somewhat better than delivery services in some of the F indicators, since these are platforms that do generate a considerable amount of UGC. One could argue that delivery services are different, but some of them publish user reviews; additionally, restaurant listings may include offensive or objectionable content, requiring content moderation and, consequently, generate freedom of expression concerns. Drivers, customers and restaurants may also use the platforms for personal communication.

Brazilian delivery platform **aiqfome** was the only company to receive a *partial* credit in indicators **G1.1** (commitment to freedom of expression) and **G1.2** (commitment to privacy), mostly due to its parent company **Magazine Luiza's** extremely robust corporate governance and plentiful and very well drafted ESG materials, all made easily available on the corporation's investor relations website.¹⁴⁹ Magazine Luiza was the only company that made direct reference to a substantial set of human rights standards, including the Universal Declaration of Human Rights, the UN Guiding Principles on Business and Human Rights, as well as the Brazilian Constitution's article 5, which contains a strong and comprehensive list of fundamental rights. "Freedom of opinion and expression" are explicitly referenced by the company's Human Rights Policy, which also includes as one of its guidelines to "protect clients' right to the protection of their personal data and privacy".¹⁵⁰ A more specific and detailed commitment to data protection and privacy can be found in Magazine Luiza's Policy for Management of Personal Data Privacy.¹⁵¹

We could locate three versions of the **Mercado Libre** Code of Ethics, one of which we only had access to in 2023.¹⁵² There are significant differences between the second and third versions of

¹⁴⁹ <https://ri.magazineluiza.com.br/>

¹⁵⁰ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=VgSDzkzDsthEqCEr8jweGQ==>

¹⁵¹ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=MjdGy70AgGvbPrrRDS/cqw==>

¹⁵² Mercado Libre. (2016). Mercado Libre Code of Business Conduct and Ethics, v1. <https://web.archive.org/web/20191021020328/http://investor.mercadolibre.com/static-files/4259bb2f-9da9-44ce-9cef-7132e19271cd>; Mercado Libre. (2020). Mercado Libre's Code of Ethics, v2.

the code, some of which would change assessments of some indicators of the P series, including P1.2. Since the documents are not dated, we had to resort to document metadata in order to determine if the latest text would be taken into consideration. The pdf files for the English, Spanish, and Portuguese versions of Mercado Libre's Code of Ethics all indicate a date of March 23 2023; consequently, the document falls outside of our 31 December 2022 cutoff. For our ranking, we used the second version of the code, valid throughout 2022. Nevertheless, we also provide commentary on the third version, because it represents a significant improvement over the previous codes.

While the second version of the code states that Mercado Libre is "[...] committed to respecting individuals and human rights", there is no reference to international human rights standards, and the claim is made in a section of the document addressing the topic of diversity and inclusion in the workplace, as well as discrimination and harassment. Since it is in this narrow sense that "human rights" are taken into consideration, the commitment fails to meet one of the requirements for a full credit in element **G1.1**. And given that there is also no reference to freedom of expression and information, this a clear **no disclosure found** credit.¹⁵³

With respect to indicator **G1.2**, the second version of the Mercado Libre Code of Ethics lacks a strong commitment to privacy, despite mentioning that employees and directors "[...] are prohibited from using Mercado Libre's network resources to send, receive, store or show communications or files that: - Violate the intellectual property rights, privacy rights or any right of third parties [...]"¹⁵⁴ Mercado Libre's Impact Report 2021, however, commits to protecting users' privacy.¹⁵⁵

The company's January-June 2021 Transparency Report, additionally, stresses that Mercado Libre is "[...] absolutely committed to comply with data protection legislation, and we strive to go even beyond what is imposed by the laws of each country in which we operate, adapting our entire regional operation to the most demanding local regulations, as is the case of Brazil's General Data Protection Law (LGPD)"¹⁵⁶. Nonetheless, Mercado Libre does not articulate these

<https://web.archive.org/web/20220816124518/https://investor.mercadolibre.com/static-files/4259bb2f-9da9-44ce-9cef-7132e19271cd>; Mercado Libre. (2023). Mercado Libre's Code of Ethics, v3. <https://web.archive.org/web/20230515150450/https://investor.mercadolibre.com/static-files/4259bb2f-9da9-44ce-9cef-7132e19271cd>

¹⁵³ In contrast, the third version of the code makes a strong commitment to human rights at a general level, and pledges adherence to the Universal Declaration of Human Rights, the UN Guiding Principles on Business and Human Rights, and the ILO Declaration on Fundamental Principles and Rights at Work. Even so, there is still no explicit reference to freedom of expression; implicitly and incidentally, the right appears in the context of asserting the freedom of Mercado Libre's employees to have their own political affiliations and opinions. The freedom of expression rights of Mercado Libre's users are not directly addressed by the code: "At MELI we are free to be who we are. Our culture encourages us to exercise our freedom of thought and choice. Therefore, as long as it is done on a personal basis and as permitted by applicable laws, there are no restrictions or objections of any kind to joining, supporting, serving, contributing to, or promoting any political party or political candidacy. Neither MELI nor its leaders may influence the exercise of employees' political rights." Ibid, p. 24

¹⁵⁴ Mercado Libre's Code of Ethics v2, p. 13

¹⁵⁵ "We are aware of the concern that personal data management may cause among users. Their experience on our platforms is based on trust and their most vulnerable point is the privacy of their personal, financial and transactional information. A focus on agility and innovation, supported by our IT efforts, allows us to guarantee the confidentiality, integrity, and availability of such data." Mercado Libre. (2022). *Impact Report 2021*, p. 29. <https://meli-sustentabilidad-bucket.s3.amazonaws.com/Mercado+libre+Reporte+de+impacto+2021+ENG+c42bec46b5.pdf>

¹⁵⁶ Mercado Libre Transparency Report January/June 2021. Available at: <https://investor.mercadolibre.com/static-files/0fc04d02-6610-439e-9f02-22928a23e679>

commitments within the framework of international human rights standards, and credit for indicator **G1.2** is *partial*.¹⁵⁷

Alibaba Group's 2022 Environmental, Social, and Governance report contains a commitment to human rights and explicitly mentions the Universal Declaration of Human Rights, but mostly in the context of labor and employee rights; much like Mercado Libre, the main audience is company personnel, not the public at large.¹⁵⁸ The company also entered the UN Global Compact in February 2021, which means it subscribed to principles 1 and 2 of the compact: "Businesses should support and respect the protection of internationally proclaimed human rights." and "Make sure that they are not complicit in human rights abuses." The report includes, as a justification of Alibaba's compliance with principles 1 and 2, the contents of chapter 2 of the report, "Supporting our people".¹⁵⁹ That is an extremely narrow interpretation of Principle 1 of the Global Compact, which encompasses all human rights, and extends beyond company employees. As for freedom of expression and information, the word "freedom" appears exactly once in the report, within the quoted text of Principle 3 of the Global Compact, which addresses freedom of association and the right to collective bargaining. As pointed in section 2, above), the present report uses the 2022 RDR Big Tech Score ratings for the G indicators, since they relate to AliExpress' parent group, Alibaba. That scoring had Alibaba 2018 ESG report as its reference, which did not contain any commitments to human rights. Nonetheless, this does not affect the rating, since the interpretation of human rights offered by the report is extremely narrow, and strongly focused on the rights of Alibaba personnel only. **G1.1** receives a *no disclosure found* credit.

Alibaba performed much better in indicator **G1.2**. As reported by the 2022 ESG Report, the company's ESG plan lists "seven strategies of action", one of which includes "[...] building social trust with ethical technology and protecting user privacy and data security".¹⁶⁰ The 2022 ESG Report adheres to that proposition by including a substantial amount of commitments to privacy protection as a corporate concern.¹⁶¹ Relative to the other reports and documents we

¹⁵⁷ The third version of Mercado Libre's Code of Ethics contains a stronger commitment to privacy than in previous versions, and also establishes a series of principles for the processing of personal data. As pointed above, this version of the code also makes express reference to human rights standards, and thus would make Mercado Libre eligible for a full credit in element G1.2, had the document been published in 2022.

¹⁵⁸ "Alibaba respects and protects the rights and interests of employees, follows the Universal Declaration of Human Rights, the International Labor Organization (ILO) Convention, the Labor Law of the People's Republic of China and other international conventions and local regulations on labor and employee rights. We sign labor contracts with employees in accordance with the law, adhere to the principle of equal employment, firmly oppose employment discrimination, and require that the recruitment, promotion, and remuneration of employees be non-discriminatory. We treat employees of different nationalities, races, ages, genders, religious beliefs, and cultural backgrounds fairly and equitably, protect the legitimate rights and interests of female employees, and resist all forms of child labor and forced labor. We let employees equally enjoy their legal rights to labor remuneration, rest and leave, access to labor safety and health protection, social insurance and welfare, etc. For qualified persons with disabilities, Alibaba provides effective and reasonable accommodations required for work in a manner consistent with applicable laws." 2022 Alibaba Environmental, Social, and Governance, p. 69-70. Available at: <https://data.alibabagroup.com/ecms-files/1452422558/5feb0e46-f04b-4d9c-9568-e4a5912db37e.pdf>

¹⁵⁹ Ibid, p. 211-212.

¹⁶⁰ Ibid. p. 5-6.

¹⁶¹ As examples, all extracted from the Alibaba 2022 ESG Report: "We uphold three principles to safeguard user privacy and security – minimal data collection, maximum user awareness and choice, and the strongest user data protection in our products and services" (p. 23-23). These principles are further specified in subitems that include "Ensure the user's right to know how their data is used: 1) establish an algorithm management system that is transparent to supervision, and can fulfill our legal obligations; and 2) build an algorithm operations mechanism that is transparent and interpretable, ensuring the user's right to know", "Make users aware of the scope of data collection and its intended uses through clear prompts, pop-ups, and forms.", "Establish a feedback mechanism for

analyzed for this report, Alibaba’s 2022 ESG Report was by far the most informative and dedicated to the issue. ESG reports, of course, exist to portray the company in a positive, compliant light, and they are not indicative of actual company practices. Even though these are very strong commitments, indicator **G1.2** only gets a *partial* credit due to the absence of a clearly articulated integration of privacy in the context of human rights standards.¹⁶²

Sea Limited, owner of **Shopee**, has not published any document formalizing a clear commitment to human rights. The two latest Sustainability Reports published by Sea Limited (2020 and 2021) contain no mentions of the term “human rights” in their combined 100 pages.¹⁶³ The word “freedom”—disregard “freedom of expression” and just consider the single word “freedom”—appears exactly once in the 57 pages of the Sea Sustainability Report for 2021, in the following paragraph: “Sea shall be a place where talented people thrive at scale, enjoy freedom of ideas, and achieve the unimaginable. It shall be a magnet for the smartest, the most creative, and the most driven”. Not exactly what we are looking for. For due diligence, we carefully and thoroughly searched through Sea Limited’s sites and public documents, and were sadly let down in our efforts. As a representative example, Sea Limited's "Our Values" page¹⁶⁴ does not describe the company's ethos and mission in language that is reflective of human rights issues, generally speaking, and much less in terms of freedom of expression and information specifically. Shopee receives a *no disclosure found* rating in **G1.1**.

With regard to privacy, Sea Limited's 2020 and 2021 sustainability reports contains "Data Protection Policy and Guidelines" making explicit reference to data minimization, the use of data for social good, data responsibility, privacy and data protection, security, and the adoption of "policies and operating procedures governing the collection, use, disclosure, retention, transfer, and protection of users 'data'".¹⁶⁵ The 2021 report, specifically, identifies “customer

users to ensure that they have the right to offer their opinions on the results of algorithmic decisions.”, and “Once data is collected, strictly protect users' basic rights in areas such as access, inquiry, withdrawal, modification, or deletion.” (p. 101-102).

¹⁶² Alibaba gets halfway there by appending privacy to the end of a paragraph on the UN’s SDGs, but this comes across as an afterthought and not an coherent integration between privacy and human rights concerns: “As a leading global digital consumer platform, it is our responsibility to be clear about what sustainable consumption should be and what we can do to make it possible. In this regard, the United Nation's SDGs help define sustainable consumption by balancing the enhancement of individual well-being with the need for social responsibility. Eradicating hunger is the most basic foundation for attaining these goals, and the next level of support is enabling everyone to improve their health and well-being as they see fit. This better life requires that people be able to access products and services for their diverse needs. It also entails that consumers trust their suppliers, including with the protection of their privacy and data security.” Ibid, p. 89-90.

¹⁶³ The closest Sea Limited gets to international human rights standards is through partial support of the UN Sustainable Goals. In its most recent Sustainability Report, the company commits to a subset of the SDGs: 4. Quality education, 5. Gender equality, 7. Affordable and clean energy, 8. Decent work and economic growth, 10. Reduced inequalities, 11. Sustainable cities and communities, 13. Climate action, 17. Partnerships for the goals. Interestingly absent are goals 16 and 12, “Peace, justice and strong institutions” and “Responsible consumption and production”, respectively.. Sea Limited Sustainability Report 2020. In any case, even if Sea Limited had fully committed to all 17 goals, the lack of explicit reference to international human rights standards would be enough to block it from receiving a full credit for indicators G1.1 and G1.2. See: Sea Limited. (2021). *Sea Sustainability Report 2020*. Sea Limited.

<https://cdn.sea.com/webmain/static/resource/seagroup/Sustainability/Social%20Impact%20reports/Sea%20Sustainability%20Report%202020.pdf>; Sea Limited. (2022). *Sea Sustainability Report 2021*. Sea Limited.<https://cdn.sea.com/webmain/static/resource/seagroup/Sustainability/Social%20Impact%20reports/61m2ELuLpRBg1oEkjkt/Sea%20Sustainability%20Report%202021.pdf>

¹⁶⁴ <https://www.sea.com/aboutus/ourvalues>

¹⁶⁵ Sea Sustainability Report 2020, p. 29-30; 2021 Sea Sustainability Report, p. 25.

privacy” as a key ESG factor analysis.¹⁶⁶ Nevertheless, the lack of commitment to human rights standards remains an issue, and the same can be said about other Sea Limited documents that also contain commitments to privacy, such as the Corporate Governance Guidelines of Sea Limited¹⁶⁷ and Code of Business Conduct and Ethics.¹⁶⁸ Both of these documents mention legal compliance in general terms, and the Code of Business Conduct and Ethics imposes on every employee the obligation to obey "information privacy" laws, but not from a human rights standpoint. Hence, a *partial* credit is granted in **G1.2**.

iFood has a Human Rights Declaration¹⁶⁹ that curiously makes zero references to international human rights standards. Drafting a human rights declaration that is entirely oblivious of international standards as widely recognized and conventionally acknowledged such as the Universal Declaration of Human Rights is an impressive accomplishment, though not one that deserves an accolade.¹⁷⁰ Ideally, besides the Universal Declaration of Human Rights, we are looking for explicit recognition of the UN Guiding Principles on Business and Human Rights, and would give bonus points, if allowed, to references to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Alas, iFood’s Human Rights Declaration is entirely without substance as far as its normative basis is concerned.

But what about the specific rights of freedom of expression and information, and privacy? The declaration does contain a generous commitment to privacy,¹⁷¹ which allowed us to grant *partial* credit to indicator **G.1.2**. This commitment is further supported by codes of ethics and conduct for iFood employees¹⁷² and partners,¹⁷³ and by the company’s page on privacy, which contains a simplified version of the legal privacy policy documents for customers and delivery

¹⁶⁶ 2021 Sea Sustainability Report.

¹⁶⁷ Sea Limited. (2017). *Corporate Governance Guidelines of Sea Limited*. <https://cdn.sea.com/webmain/static/resource/seagroup/governance/Sea%20Limited%20Corporate%20Governance%20Guidelines.pdf>

¹⁶⁸ Sea Limited. (n.d.). *Code of Business Conduct and Ethics of Sea Limited*. Retrieved July 18, 2023, from <https://cdn.sea.com/webmain/static/resource/seagroup/governance/Sea%20Limited%20Code%20of%20Business%20Conduct%20and%20Ethics.pdf>

¹⁶⁹ <https://news.ifood.com.br/declaracao-de-direitos-humanos/>

¹⁷⁰ Prosus, the Dutch company that has full ownership of iFood, has a formal Human Rights Statement that explicitly references both the Universal Declaration of Human Rights and the UN Guiding Principles on Business and Human Rights, as well as the OECD Guidelines for Multinational Enterprises and the UN Global Compact, adding that it encourages "associates and investees to adopt appropriate governance standards". Prosus. (2021). *Human Rights Statement*.

[https://naspersstorageaccount.blob.core.windows.net/prodnaspersmedia/prosus/media/prosus/pdf/policies/prosus-human-rights-statement-\(2021-04-16\).pdf](https://naspersstorageaccount.blob.core.windows.net/prodnaspersmedia/prosus/media/prosus/pdf/policies/prosus-human-rights-statement-(2021-04-16).pdf), p. 2

As explained in section 2, above, we did not use Prosus for evaluation of the G indicators because its status is markedly different from that of Alibaba Group, Sea Limited, Delivery Hero and Magazine Luiza. Prosus is a holding company that owns a portfolio of numerous internet and technology companies, and is closer in status to an investment fund than a traditional company with several relatively integrated assets. As the language of the Prosus Human Rights Statement makes clear, associates and investees are merely “encouraged” to adopt appropriate governance standards. For those, we had to look at what iFood itself had to offer.

¹⁷¹ Translated from the original Portuguese (bear in mind that iFood awkwardly calls its employees “FoodLovers”, in English): "We know the importance of maintaining the privacy of each person, and this is why we are recognized as the largest FoodTech in Latin America. And because we understand the importance of privacy, we frequently raise awareness and educate FoodLovers about the LGPD (General Data Protection Law) and our privacy policies. We respect the confidentiality of the data of all members of our ecosystem (customers, FoodLovers, partners, and suppliers) that we collect and only keep information that is essential for iFood and required by law."

¹⁷² https://institucional.ifood.com.br/docs/lo_029_codigocondutafoodlovers_interativo_low.pdf

¹⁷³ https://institucional.ifood.com.br/docs/lo_028_codigocondutaetica_terceiros_interativo_low.pdf

workers, including a commitment to protect users' privacy and information.¹⁷⁴ Credit for G1.1 was partial due to the total lack of connection with international human rights standards.

Indicator **G1.1**, on the other hand, receives a **no disclosure found** credit. The iFood Human Rights Declaration has nothing to say on freedom of expression. The iFood's Code of Ethics and Conduct for company employee's tangentially touches the subject by indicating that the company has a "zero tolerance policy to harassment and any other form of discrimination for reasons such as, but not limited to...political opinions...".¹⁷⁵ A section on the exercise of political rights further highlights freedom of opinion in the narrow sense of political speech, and there is no general commitment to freedom of expression. The Code of Ethics and Conduct for iFood partners is also silent on the subject.¹⁷⁶

PedidosYa's parent company **Delivery Hero** references human rights in three major documents: the 2021 Annual Report,¹⁷⁷ the company Code of Conduct,¹⁷⁸ the Supplier Code of Conduct.¹⁷⁹ According to the Annual Report, Delivery Hero claims to be "guided by the principles established by the United Nations Global Compact, the United Nations Guiding Principles on Business and Human Rights, and the International Labor Organization's Declaration on Fundamental Principles and Rights at Work".¹⁸⁰ So that is a yes for explicitly referencing international human rights standards. Freedom of expression, nonetheless, receives no attention in any of the documents mentioned; emphasis is placed on freedom of association, for the same reasons iFood chose to pinpoint that right in their materials, as explained above. Indicator **G1.1**, unfortunately, receives a **partial** credit, but the situation is much brighter for indicator **G1.2**, since a commitment to privacy is persuasively presented in

¹⁷⁴ iFood. (2022). *Declaração de Privacidade—Usuários*. <https://privacidade.ifood.com.br/privacidade-clientes/>

¹⁷⁵ https://institucional.ifood.com.br/docs/lo_029_codigocondutafoodlovers_interativo_low.pdf

¹⁷⁶ It is worth mentioning that in all three documents we cited, iFood demonstrates a clear concern in highlighting that it holds the rights of free association and collective bargaining in the highest of regards, due to the controversies surrounding the unionization of delivery workers described in section 2, above. A page explaining the reasons for deactivation of delivery workers' accounts stresses that iFood will not block "delivery workers who participate in protests. After all, the freedom to express oneself and to protest is a right of everyone". This very specific mention is the only occurrence we could find of freedom of expression in all of the public-facing iFood materials we examined, leading to the aforementioned no disclosure found credit.

¹⁷⁷

<https://ir.deliveryhero.com/media/document/35f8a680-3a33-44e4-b1a0-0b750e751b60/assets/DE000A2E4K43-JA-2021-EQ-E-01.pdf>

¹⁷⁸ "Delivery Hero respects the dignity and individual rights of its Heroes and all people, and believes that we can play a positive role in the communities in which we operate. We highly regard both the right to freedom of association and the right to engage in collective bargaining in accordance with applicable laws and regulations." Delivery Hero Code of Conduct, p. 9. Available at: https://ir-api.eqs.com/media/document/290f2f24-b5d8-4713-ab5c-8d99e376e37a/assets/220715_DeliveryHero_Code_of_Conduct_2022_EN.pdf

¹⁷⁹ "Delivery Hero respects human rights as set out in the United Nations Universal Declaration of Human Rights. We require our employees and suppliers to treat others with fairness, respect, and equality. We expect suppliers to respect the rights of their employees and contractors, and to comply with all relevant legislation, regulations, and directives in the country in which they operate. If such relevant local laws do not exist, suppliers are in any case expected to adhere to our Code of Conduct." Delivery Hero Supplier Code of Conduct, p. 2. Available at: https://www.deliveryhero.com/wp-content/uploads/2022/04/Supplier_Code_of_Conduct_version_04_22.pdf

¹⁸⁰ Delivery Hero Annual Report 2021, p. 54.

the 2021 Annual Report¹⁸¹ and in Delivery Hero's Code of Conduct,¹⁸² which guarantees a **yes** credit here.

Rappi did not disclose any public documents establishing a commitment to international human rights standards during our period of data collection. In fact, what we noted the absence of sustainability reports, a human rights declaration, corporate governance documents, or other sources of information. We even tried browsing the companies *about us* and *press releases* sites, but sadly, they were not helpful at all.¹⁸³ In the end, we had to settle for the *Rappi Impacto* portal, which lists four priorities for the company: "fighting hunger in Latin America", "support and promote local growth", "promote sustainable cities and communities", and "promote environmentally friendly production and consumption practices". All well and good, but no human rights commitment is to be found. The only nod to international standards comes courtesy of a blanket commitment to the UN Global Compact, which is accompanied by a friendly platitude: "We believe in the potential of our ecosystem because we know that we only win when every single member of our community thrives and works towards the same goal." As a final point, even the Rappi privacy policy¹⁸⁴ does not contain an assertive compromise to respect users' privacy rights; it is a straight and dry legal document, lacking a preambular commitment containing a compelling declaration in support of privacy rights, as we found in the privacy policies of other companies we examined, the clearest example of which being the Mercado Libre Privacy Declaration.¹⁸⁵ Therefore, Rappi scores **no disclosure found** both for **G.1.1** and **G.1.2**.

We could not find any **DiDi Chuxing** documents containing a commitment to international human rights standards, generally, or to freedom of expression and information and privacy, specifically. The company scores **no disclosure found** for both **G1.1** and **G1.2**. Freedom of expression and information is a topic that is simply not addressed. DiDi's approach to privacy, on the other hand, is fascinating.

The *DiDi Values* section page on DiDi Global's website claims that the company considers "data-driven thinking" as one of its structural principles, further unpacked into the following bullet points: "Being data-driven is part of the way we think and the way we work", "We tremendously value data accumulation, and use data to make rational decisions", and "We

¹⁸¹ "For Delivery Hero, the protection of both customer and employee data is of utmost importance. The consumer privacy policies of the operating companies that make up Delivery Hero strive to comply with the requirements of Articles 13 and 14 of the European General Data Protection Regulation (EU GDPR). Our policies are accessible on the websites of almost all our entities.

Our goal in customer privacy and data protection is to have the best-in-class data protection in our industry. Best-in class defines a privacy framework that was implemented complying with international standard privacy frameworks (AICPA, NIST, NYMITY, PH 9.860.1, SDM) and is regularly reviewed and updated." Delivery Hero Annual Report 2021, p. 58.

¹⁸² "We are aware of the highly sensitive nature of our customers', employees', shareholders', and suppliers' personal data, and handle all such information with the utmost confidentiality and care to protect it in compliance with applicable laws. A variety of technical and organizational measures, aimed at ensuring the confidentiality of personal data, support us in these efforts. We are responsible to ensure high standards of data protection and follow the policies intended to protect Delivery Hero's information. We respect the extensive rights of those individuals whose data we are collecting, processing and using. Delivery Hero places the highest importance on maintaining data security, as this has a significant influence on business success and the company's image among the general public." Delivery Hero Code of Conduct, p. 22.

¹⁸³ <https://about.rappi.com/es/quienes-somos/nuestra-historia> and <https://about.rappi.com/es/ultimas-noticias>.

¹⁸⁴ <https://legal.rappi.com.co/colombia/politica-de-proteccion-y-tratamiento-de-datos-personales-rappi-s-a-s/>

¹⁸⁵ <https://www.mercadolibre.com.co/privacidad/declaracion-privacidad>

objectively analyze and use data."¹⁸⁶ Protection of users' privacy is conspicuously absent from this list. In fact, among the companies we assessed, DiDi deserves special consideration for not only failing to commit to data minimization, but adopting "data accumulation" as a principle. The DiDi Corporate Citizenship report for 2017, we should mention, ranks "Data safety and privacy" as a topic of reasonably high—but not the highest!—priority, in a matrix of topics of interest that, tellingly, pits "significance to sustainable development of the company" against "significance to stakeholders".¹⁸⁷ Honest, perhaps, but certainly not enough to avoid a score of **no disclosure found** in indicator element **G1.2**, especially considering the nonchalant statement on "data accumulation".

4.1.2 Algorithmic systems

Only two companies received a partial score for indicator **G1.3**: "Does the company disclose an explicit, clearly articulated policy commitment to human rights in its development and use of algorithmic systems?"; the remaining companies did not disclose anything on the subject, and in many cases, as shall be seen in the evaluation of other indicators, even basic information on data inference tends to be rare or vague. The partial credit for Delivery Hero/PedidosYa and Alibaba was granted because both clearly addressed the issue, recognizing that there is a problem to be dealt with, but failed to do so in the context of human rights.

In 2020, **Delivery Hero** proposed a "Draft Statement of Principles of EU Technology Platforms" along with companies Bolt, Wolt, and Glovo (subsequently acquired by Delivery Hero), in which it promised, among other things, to proactively promote "transparency and accountability of how algorithms work".¹⁸⁸ This proposal was later turned into a formal statement under the guise of the "European Purpose Project", which claims to be an "industry-led search for an EU platform model".¹⁸⁹ Nonetheless, Delivery Hero and, consequently, its PedidosYa platforms received a **partial** credit for this indicator due to the absence of a human rights framing to the commitment. Notwithstanding that, this is a step in the right direction for the mere fact that the company openly recognizes that the responsible use of algorithms is a matter to be addressed— something that no other company we analyzed took efforts to make clear. Delivery Hero was also the one of the only companies we ranked that published relatively technical articles in its blog dealing with machine learning and algorithms,¹⁹⁰ and that is also deserving of note, even if the "transparency and accountability of how algorithms work" ideal remains mostly at the principles level.

Alibaba was the second company to receive a **partial** credit on indicator **G1.3** Our assessment contradicts that of RDR's 2022 Big Tech Score card on account of our use of Alibaba's 2022 ESG Report, which contains a commitment to the ethical development of algorithmic systems, including the establishment of "(...) an algorithm management system that is transparent to

¹⁸⁶ <https://www.didiglobal.com/about-didi/cultural>

¹⁸⁷ Didi Chuxing Corporate Citizenship Report 2017, p. 20. Available at: http://img-vs011.didistatic.com/static/didiglobal/do1_p53rQtxhA6BjW6uWpF6t

¹⁸⁸ https://www.deliveryhero.com/wp-content/uploads/2021/05/Statement_of_Principles.pdf

¹⁸⁹ <https://europeanpurpose.com/principles/> and <https://www.deliveryhero.com/newsroom/the-founders-of-delivery-hero-bolt-glovo-and-wolt-announce-european-purpose-project-and-call-for-public-input/>

¹⁹⁰ <https://tech.deliveryhero.com/devops-for-machine-learning-what-does-this-mean-and-why-do-you-need-it/> and <https://tech.deliveryhero.com/using-embedding-based-search-query-expansion/>

supervision, and can fulfill our legal obligations (...)", and building "(...) an algorithm operations mechanism that is transparent and interpretable, ensuring the user's right to know",¹⁹¹ as well as the announcement of the creation of a Science and Technology Governance Committee, with the goal of ensuring "(...) that technology always serves to advance the well-being of society at large and follows principles of being "available, reliable, credible, and controllable."¹⁹² This is a step in the right direction, insofar that it represents an explicit recognition of the problems generated by opaque algorithms and machine learning, and institutes an internal committee to deal specifically with ethical use of algorithms. Nevertheless, Alibaba fails to articulate that commitment in the context of international human rights standards.

4.2 Governance and management oversight

The G2 indicator evaluates oversight at three different levels, directorial, executive and managerial, for both freedom of expression and information and privacy. As assessed by elements G.1 and G.2, commitments to these rights have been established (or not) in the context of international human rights frameworks (or not!). But what about the responsibilities of oversight by senior leadership, executives and managers? Or the existence of internal mechanisms and structures, such as programs and committees, to ensure that these rights are taken seriously by the company? This is what we are looking for while answering elements **G2.1**, **G2.2**, **G2.3**, **G2.4**, **G2.5**, and **G2.6**, which together make up indicator G2.

Sources we used for assessing the elements include corporate governance documents, committee compositions, titles and positions indicative of specific fields of occupation, annual reports, ESG reports, risk management policies, board committee charters, corporate governance guidelines, codes of ethics and conduct, and, occasionally, LinkedIn profiles.

4.2.1 Directorial oversight

Table 7 Governance and management oversight performance

G2. Governance and management oversight	Mercado Libre	Alibaba/AlieX press	Shopee	iFood	Delivery Hero/PedidosYa	Rappi	aiqfome	DiDi Food
G2.1 Does the company clearly disclose that the board of directors exercises formal oversight over how company practices affect freedom of expression and information?	ND	ND	ND	ND	ND	ND	YES	ND
G2.2 Does the company clearly disclose that the board of directors exercises formal oversight over how company practices affect privacy?	YES	YES	YES	ND	YES	ND	YES	ND
G2.3 Does the company clearly disclose that an executive-level committee, team, program or officer oversees how company practices affect freedom of expression and information?	ND	ND	ND	ND	ND	ND	YES	ND
G2.4 Does the company clearly disclose that an executive-level committee, team, program or officer oversees how company practices affect privacy?	YES	PARTIAL	ND	ND	YES	ND	YES	ND
G2.5 Does the company clearly disclose that a management-level committee, team, program or officer oversees how company practices affect freedom of expression and information?	ND	ND	ND	ND	ND	ND	YES	ND
G2.6 Does the company clearly disclose that a management-level committee, team, program or officer oversees how company practices affect privacy?	YES	YES	YES	YES	YES	YES	YES	ND

Elements **G2.1** and **G2.2** evaluate whether the board of directors exercises formal oversight over how company practices affect, respectively, freedom of expression and information, and privacy. Partial credit is not possible, companies receive either a *yes* or *no/no disclosure found* credit. In a general sense, board members usually have the obligation to ensure that company

¹⁹¹ Alibaba 2022 ESG Report, p. 101-102.

¹⁹² Ibid., p. 193-194.

policies and practices are in compliance with laws and regulations and to manage risk, which includes potential illegal activities or non-conformity with legal requirements. What elements **G2.1** and **G2.2** seek to consider is whether oversight is explicitly disclosed to contemplate freedom of expression and privacy.

As was the case with elements **G1.1** and **G1.2**, **aiqfome** was the only company to score a **yes** credit for elements **G2.1** and **G2.2**, due to Magazine Luiza's strong corporate governance documents. The Magazine Luiza Human Rights Policy¹⁹³ is applicable to the entire organizational structure of the group, and the Council of Administration, CEO, and Executive Committee have the obligation to ensure that strategies, programs, and actions of the company promote and are carried out in compliance with human rights. Freedom of expression is included in the definition of human rights provided by the document.¹⁹⁴ Magazine Luiza also has a Policy for the Management of Personal Data Privacy that is equally applicable to the Executive Directorship, Administration, and the entire organizational structure of the Magazine Luiza group, with clear oversight responsibilities.¹⁹⁵

Mercado Libre's board of directors has general compliance oversight, as made clear by the Corporate Governance Guidelines.¹⁹⁶ This is reinforced by responsibilities contained in the Audit Committee Charter, which include "overseeing the Company's compliance with laws and regulations"¹⁹⁷. Nothing is stated, however, about oversight regarding practices affecting freedom of expression and information, and thus Mercado Libre receives a **no disclosure found** credit for element **G2.1**. On the other hand, a commitment to protecting users' privacy can be found in Mercado Libre's Impact Report 2021, which also states the company has "a strict company-wide internal compliance program" and collaborates "with different agencies to align our entire operation with the highest regional privacy standards".¹⁹⁸ This statement, coupled with the general compliance requirements, justifies a **yes** credit in element **G2.2**.

Sea Limited has an Audit Committee that is responsible for ensuring "the Company's compliance with legal and regulatory requirements",¹⁹⁹ but that is as far as it goes in terms of specifics. The Sea Limited Code of Business Conduct and Ethics does mention the obligation of compliance to "information privacy" laws,²⁰⁰ and compliance to legislation in general, but we could not find any reference to human rights oversight in general, nor of freedom of expression and information specifically. Like Mercado Libre, Sea Limited scores **no disclosure found** in **G2.1** and **yes** in **G2.2**.

¹⁹³ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=VgSDzkzDsthEgCEr8jweGQ==>

¹⁹⁴ Política de Direitos Humanos do Grupo Magazine Luiza, item 2, "Direitos Humanos".

¹⁹⁵ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=MjdGy70AgGvbPrrRDS/cqw==>

¹⁹⁶ Under the heading "RESPONSIBILITIES OF THE BOARD AND COMMITTEES": "Periodic review (at least annually) of the Company's legal compliance programs and procedures". Document available at: <https://mercadolibre.gcs-web.com/static-files/520bc4e6-37e6-45f7-8d41-a2da7c4cb68c>

¹⁹⁷ <https://mercadolibre.gcs-web.com/static-files/c026f77e-0e82-47cf-8a5f-5d6edca4a362>

¹⁹⁸ Mercado Libre Impact Report 2021, p. 29. Available at: [https://meli-sustentabilidad-bucket.s3.amazonaws.com/Mercado libre Reporte de impacto 2021 ENG c42bec46 b5.pdf](https://meli-sustentabilidad-bucket.s3.amazonaws.com/Mercado%20libre%20Reporte%20de%20impacto%202021%20ENG%20c42bec46b5.pdf)

¹⁹⁹ Amended and Restated Audit Committee Charter of Sea Limited, section I, ii. Available at: <https://cdn.sea.com/webmain/static/resource/seagroup/governance/Sea%20Limited%20Amended%20and%20Restated%20Audit%20Committee%20Charter.pdf>

²⁰⁰ Code of Business Conduct and Ethics of Sea Limited, p. 9. Available at: <https://cdn.sea.com/webmain/static/resource/seagroup/governance/Sea%20Limited%20Code%20of%20Business%20Conduct%20and%20Ethics.pdf>

Delivery Hero, likewise, has **no disclosure** for directorial oversight on freedom of expression and information, but discloses oversight for privacy issues: "The Management Board is involved in important privacy matters, such as data breaches, investigations and audit results".²⁰¹

With regard to **Alibaba**, this report diverges from the rating assigned in the global RDR Big Tech Scorecard 2022, and scores element G2.2 with a *full credit*. Alibaba Group's Audit Committee of the Board of Directors Charter establishes a general duty to oversee compliance with legal or regulatory requirements.²⁰² This, along with the corresponding commitments to privacy stressed in item 4.1.1, *above*, referencing Alibaba's 2022 ESG Report, as well as additional privacy-related obligations assigned to the board of directors mentioned in the company's 2022 Annual Report²⁰³ —read in tandem with the Alibaba Code of Ethics²⁰⁴— fulfills the requirements for a *full credit* in element **G2.2**. Credit for **G2.1**, nonetheless, is **no disclosure**.

Surprisingly, since it is such a major company, we could not find any information on the board of director's duties on the **iFood's** institutional website, which has no board or committee charters available for download or examination, or other governance documents that could provide us with the information we would need to assign a full credit to indicators **G2.1** and **G2.1**, both scoring a **no disclosure found** mark.

Lastly, we also failed to find any substantial information regarding the functions and responsibilities of **DiDi Chuxing's** board of directors that would firmly lead us to a partial or full score for elements G2.1 and G2.2. As of the writing of this report, the governance documents page on the DiDi Global website contains a "coming soon" notice,²⁰⁵ and nothing on the board of directors page authorizes the conclusion that the board exercises formal oversight on how company practices affect freedom of expression and information.²⁰⁶ Although there is an Audit

²⁰¹ Delivery Hero Annual Report 2021, p. 58. Available at: <https://ir.deliveryhero.com/media/document/35f8a680-3a33-44e4-b1a0-0b750e751b60/assets/DE000A2E4K43-JA-2021-EQ-E-01.pdf>

²⁰² "In connection therewith, the Committee should review with the Board of Directors any issues that arise with respect to the quality or integrity of the Company's financial statements, the Company's compliance with legal or regulatory requirements, the performance and independence of the Company's independent auditors, or the performance of the internal audit function." Audit Committee of the Board of Directors Charter, section III. Available at: <https://data.alibabagroup.com/ecms-files/886024452/cb4b5dd2-06a4-44c4-9f99-4c6e56812bf3.pdf>.

²⁰³ "We have adopted a code of ethics, which is applicable to all of our directors, executive officers and employees. In November 2021, our board of directors amended the code of ethics to, among other things, emphasize the protection of personal information, better highlight regulatory compliance obligations, including in the areas of data security and privacy protection, fair competition, IP protection, anti-bribery, anti-corruption and anti-money laundering, as well as add reference to our anti-sexual harassment code of conduct, and specifically prohibit workplace bullying and harassment"

²⁰⁴ "Alibaba Group respects the privacy and dignity of all individuals. Employees who are responsible for collecting and maintaining personal information and those who are provided access to such information must not disclose private information in violation of applicable laws or Alibaba Group policies."

²⁰⁵ See <https://ir.didiglobal.com/leadership-and-governance/governance-documents/default.aspx>. Internet Archive link:

<https://web.archive.org/web/20220914034145/https://ir.didiglobal.com/leadership-and-governance/governance-documents/default.aspx>

²⁰⁶ DiDi has a Vice President of Risk Control and Compliance, a function that arguably encompasses ensuring compliance with privacy legislation. There is no explicit disclosure, however, whether privacy practices are part of oversight by this executive, and in what way, particularly considering the commitment to "data accumulation" described in item 4.1.1, *above*. We could also add that "risk control and compliance" is something altogether distinct from proactive privacy protection in the context of human rights. Risk control is basically how to make sure that the company maintains an acceptable level of harm from legal and regulatory mishaps, while not getting deep into trouble. It's about survivability at the most profitable limits, not protection of individual and collective rights.

Committee²⁰⁷ that could arguably carry out general compliance oversight, including compliance to privacy legislation, there is no charter available on DiDi Global's site, and no way to confirm whether members of the board of directors are actively involved. In **G2.1** and **G2.2** elements receive a *no disclosure found* credit.

4.2.2 Executive and managerial oversight

Elements **G2.1** and **G2.2** sought to identify oversight of over freedom of expression/information and privacy by the board of directors, people at the very top of the company. We are now moving down the chain of command and looking at what happens at the executive and managerial level. The focus broadens from the strictly individual level (directors), and also includes, beyond executives and managers themselves, programs, teams, committees—groups of people with a permanent mandate to oversee how the company's activities impact freedom of expression/information and privacy, or institutional structures that are dedicated to this mission.

These are some of the trickiest elements to evaluate, since it is often not entirely clear if a given title or position belongs to the executive or management level, or if it is associated with a high management level that is not far removed from an executive post. Executives might also accumulate management functions, so clear-cut classifications are hard. The same goes for titles that, although they do not explicitly mention privacy, freedom of expression, and human rights, might carry responsibilities that are exactly the ones we are looking for. Compliance officers, risk managers, and even legal counsels might have responsibilities that encompass what the element descriptors are asking for. We did our best to attribute scores to these elements based on the public materials provided by the companies, and ran a few LinkedIn searches to find further leads to substantiate our evaluations. In any case, this is information that should be made clear to the public, without the need for detective work if an average interested person is curious about the level of compliance of a company with freedom of expression/information and privacy.

Another problem we faced with these G2 elements was the issue of opaque company structures. When companies are publicly traded, there was a fair amount of information that we could use, even if the task was still challenging. Private companies, on the other hand, are often black boxes and *no disclosure found* scores were inevitable.

Our results for first set of indicators, which ask whether or not the company clearly discloses that an executive-level (**G2.3**) or management-level (**G2.5**) committee, team, program or officer oversees how company practices affect freedom of expression and information are easy to summarize: all companies, with the exception of **Magazine Luiza**, received a *no disclosure score*. This is in line with the disclosure for commitments to freedom of expression/information we found in indicator G1.1. Freedom of expression/information is simply not seen as a salient or relevant right for these companies, certainly due to the relative volume of UGC output they produce when compared to services such as social networks and video platforms. We exposed our reasons for why this should not be the case in items 2 and 3, above.

Regardless, Magazine Luiza's example is a good illustration of the benefits of taking corporate governance disclosure seriously. The Magazine Luiza Group has published several well drafted

²⁰⁷ <https://ir.didiglobal.com/leadership-and-governance/committee-composition/default.aspx>

document containing commitments to human rights,²⁰⁸ and the Magazine Luiza Human Rights Policy²⁰⁹ applies to the entire Magazine Luiza Group, including its subsidiaries such as **aiqfome**, and while there is no disclosure regarding an executive-level committee, team, program or officer overseeing practices directly related to freedom and expression and information, it is clear that those rights are included in the broader commitment made by the group (see 4.1.1, above). The Human Rights Policy imposes these human rights obligations from the director level down to the entire chain of command, identifying roles and functions for specific committees, such as the Executive Committee, the Board of Integrity, Compliance and AML, the Corporate Management for Reputation and Sustainability, and Disciplinary Committee. The Magazine Luiza Human Rights Policy is a strong document because it goes beyond the mere declaration level, and actually attributes responsibilities, obligations, principles and practices to specific positions and committees, from top to bottom of the company and its subsidiaries. Magazine Luiza and aiqfome, for this reason, received a **full credit** for both **G2.3** and **G2.5**.

Elements **G2.4** and **G2.6** ask the same question as **G2.3** and **G2.5**, but for executive-level and management-level programs, teams, committees, and officers, overseeing how company practices affect privacy rights. Given the methodological problems stressed at the beginning of this section, we opted to adopt the conservative approach of only scoring a full credit for the **G2.4** (executive-level) when the information provided was unambiguous. As a general rule, we considered DPOs (data protection officers) as management-level positions.

Mercado Libre's Impact Report 2021 states it maintains "a strict company-wide internal compliance program, and we collaborate with different agencies to align our entire operation with the highest regional privacy standards."²¹⁰ A LinkedIn search with the terms "privacy", "privacidad", "data protection" offers several positions, including a Data Privacy Director.²¹¹ While it is hard to differentiate, between all these positions, which would belong to an executive or management level, there are enough of them, and the disclosure of the existence of a company-wide program allows us to grant Mercado Libre a **full score** in both **G2.4** and **G2.6**.

For **Alibaba**, we follow the same reasoning adopted by the researchers of RDR's 2022 Big Tech Scorecard, and grant a **partial** credit to **G2.4**.²¹² We diverge in our rating for **G2.6**, since we are specifically assessing AliExpress, one of the company's many platforms, and there is a DPO

²⁰⁸ For example: Human Rights Policy, Code of Ethics and Conduct, Sustainability Policy, Code of Conduct for Suppliers, Integrity Manual. All corporate documents can be found at: <https://ri.magazineluiza.com.br/list.aspx?idCanal=/EigRdOu6BBQndW6fU+bTw==&ano=2023>

²⁰⁹ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=VgSDzkzDsthEqCEr8jweGQ==>

²¹⁰ Mercado Libre Impact Report 2021, p. 29

²¹¹ Pablo Segura. LinkedIn: <https://www.linkedin.com/in/pablo-segura-b563548/>

²¹² According to the researchers, Alibaba discloses in its 2018 ESG report that "Our Chief Risk Officer oversees both cybersecurity and data protection. We have a large team dedicated to developing our data protection policies and procedures, and we are engaged with data privacy experts worldwide, constantly learning from leading industry practices." Beyond that, they stress that Alibaba's leadership team page shows that Zheng Junfang, a senior executive, is Chief Risk Officer, Chief Platform Governance Officer and Chief Customer Officer, in charge of data and information security for all Alibaba platforms. The rationale for the **partial** credit follows: "These indicate that Alibaba has an executive level officer overseeing data protection, but privacy issues extend beyond just data protection." See the spreadsheet available at: <https://rankingdigitalrights.org/bts22/excel/companies/Alibaba.xlsx>

appointed at the end of the privacy policy document, along with contact information for complaints and inquiries.²¹³ Therefore, Alibaba receives in this indicator a **yes** score.

Sea Limited's materials provided no unambiguous disclosure of executive-level committees, programs or officers. Nonetheless, it is clear that element **G2.6** deserves a **full credit**: the Sea Limited 2020 Sustainability Report states that "Each of our businesses, in coordination with the relevant Data Protection Officers, will regularly review our systems and processes for compliance with our guidelines and applicable law and to check that adequate controls and resources are in place for the proper use and protection of personal data".²¹⁴ Furthermore, Shopee assigns a Director of Personal Data Protection to both its Brazilian and Colombian operations, with contact provided in the privacy policies for the site.²¹⁵

iFood has a "DPO and Privacy Manager" in charge of the entire company's privacy program,²¹⁶ but it is unclear whether this is a high management position or an executive one, given how substantial the job description sounds. Since the title explicitly mentions "manager", though, we do not have elements for a full disclosure or partial score in element **G2.4**. On the other hand, **G2.6** receives **full credit**.

Delivery Hero discloses in its 2021 annual report that the responsibility for data protection is shared between Delivery Hero and its local affiliates: "Delivery Hero applies a shared responsibility for customer privacy and data protection, with the central team providing a global strategy, tools, guidelines, policies and training, and the local entities being accountable for privacy at the local or regional level through Data Protection Coordinators."²¹⁷ At the group level, the person in charge for customer privacy is the Data Protection Officer, who "is independent in his/her work and reports to the General Counsel and to the Chief Financial Officer (CFO)", as well as "(...) provides input for the Audit Committee and Supervisory Board meetings and meets with various steering committees on a regular basis".²¹⁸ This is enough disclosure for a **full credit** for both **G2.4** and **G2.6**, due to oversight by the CFO, the Audit Committee and Supervisory board of the management-level DPO.

Rappi did not give us much information to work with. At the bottom of the main site, under the "Sobre Rappi" heading, one can find links to the privacy policy, terms of service, and the company blog. The company blog has a "Corporativo" section, which sounds encouraging at first glance, but leads to a page filled with marketing posts describing how wonderful Rappi

²¹³

https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alicdnexpress/suit_bu1_alicdnexpress201911041031_29376.html

²¹⁴ Sea 2020 Sustainability Report, p. 31.

²¹⁵ Colombia: <https://help.shopee.com.co/portal/article/77100-Pol%c3%adtica-de-Privacidad-de-Shopee>; Brazil: <https://help.shopee.com.br/portal/article/77068>

²¹⁶ Camila Nagano. LinkedIn: <https://www.linkedin.com/in/camila-nagano-74615ba4/>

²¹⁷ Delivery Hero 2021 Annual Report, p. 58. Also relevant: "We have subjected our data processing to a critical review with regard to the General Data Protection Regulation ("GDPR"), in particular with regard to compliance with the data processing principles and adapted security measures pursuant to Articles 25 and 32 GDPR. In addition, the group has installed a data protection management system to ensure compliance with data protection reporting obligations. In 2020, we established a network of local and regional data protection officers to ensure compliance with local legal requirements. Furthermore, we have expanded our data privacy compliance with a number of internal policies and work instructions, for example the retention of personal data or the handling of data subject inquiries." Ibid. p. 96.

²¹⁸ Delivery Hero 2021 Annual Report, p. 58.

and its founders are, and some fluff content on entrepreneurship.²¹⁹ A LinkedIn search for the terms “privacidad” and “privacy” was of little help, though at least we got a result for a Legal Manager with data protection responsibilities for Rappi Chile,²²⁰ and a “Data Steward”, which is described as more of a technical position.²²¹ The Rappi privacy declarations provide users with emails for the exercise of their ARCO rights. In the Colombian privacy declaration,²²² users are directed towards an “Oficial de Protección de Bases de Datos Personales”, to be contacted via Rappi’s customer service or regular postal correspondence; Brazilian users, on the other hand, are only given an email address: legal.br@rappi.com.²²³ Rappi scores **no disclosure found** in element **G2.4**, and **full credit** in **G2.6**.

DiDi Chuxing also scores a **no disclosure found** for both **G2.4** and **G2.6**.

4.3 Internal implementation

4.3.1 Training on freedom of expression/information and privacy

Elements **G3.1** and **G3.2** evaluate whether companies provide employees with training on freedom of expression/information and privacy, respectively.

²¹⁹ <https://blog.rappi.com/rappi-corporativo/>

²²⁰ Mariela Gajardo Vargas. LinkedIn: <https://www.linkedin.com/in/mariela-gajardo/>

²²¹ María Antonieta Villamil Millares. LinkedIn: <https://www.linkedin.com/in/mar%C3%ADa-antonieta-villamil-millares-90887a142/>

²²² <https://legal.rappi.com.co/colombia/politica-de-proteccion-y-tratamiento-de-datos-personales-rappi-s-a-s/>

²²³ <https://legal.rappi.com.co/brazil/aviso-de-privacidade-e-politicas-de-uso-das-informacao-utilizadas-pela-rappi/>

Table 8 Internal implementation performance

G3. Internal implementation	Mercado Libre	Alibaba AliExpress	Shopee	iFood	Delivery Hero Pedidos	Rappi	aiqfome	DiDi Food
G3.1 Does the company clearly disclose that it provides employee training on freedom of expression and information issues?	ND	ND	ND	ND	ND	ND	PARTIAL	ND
G3.2 Does the company clearly disclose that it provides employee training on privacy issues?	YES	PARTIAL	YES	YES	PARTIAL	ND	YES	ND
G3.3 Does the company clearly disclose that it maintains an employee whistleblower program through which employees can report concerns related to how the company treats its users' freedom of expression and information rights?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	ND	YES	ND
G3.4 Does the company clearly disclose that it maintains an employee whistleblower program through which employees can report concerns related to how the company treats its users' privacy rights?	YES	YES	YES	YES	YES	ND	YES	ND

None of the companies we reviewed scored a full credit for **G3.1**. All receive a **no disclosure found** credit except for **Magazine Luiza**, recipient of a **partial** credit. Magazine Luiza’s Human Rights Policy²²⁴ has a preliminary item ("Training List") which implies that training will be provided to "all administrators and collaborators of Magazine Luiza" on the contents of the policy, which does include freedom of expression under its definition of human rights. Be that as it may, since the inclusion of freedom of expression is only tied to the definition of human rights included in the policy, there is no way to fully comprehend the depth and breadth granted to the theme in human rights training.

This is a step above the remaining companies, however. They all mention training in their materials, but never related to human rights generally, and freedom of expression, more specifically. **Mercado Libre**'s 2021 annual report, in fact, has a GRI section in which it indicates, under the "GRI 412 Human Rights assessment 2016" indicator, that "Operations related to Human Rights have not been assessed during the period", that "During the reporting period, our collaborators have not been trained on these subjects" and that "There have been no significant investment agreements that include Human Rights clauses".²²⁵ The 2022 report does not contain the same information, due to GRI removing GRI 412 from its current list of standards,²²⁶ but we could find no information that would allow us to conclude that a different approach has since been taken by the company.

²²⁴ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=VgSDzkzDsthEqCEr8jweGQ==>

²²⁵ Mercado Libre Impact Report 2021, p. 72. Available at: [https://meli-sustentabilidad-bucket.s3.amazonaws.com/Mercado libre Reporte de impacto 2021 ENG c42bec46 b5.pdf](https://meli-sustentabilidad-bucket.s3.amazonaws.com/Mercado+libre+Reporte+de+impacto+2021+ENG+c42bec46b5.pdf)

²²⁶ "With the release of the GRI Universal Standards 2021, the Topic Standard GRI 412: Human Rights Assessment 2016 will be withdrawn since its contents have been revised and incorporated into the revised Universal Standards". GRI Universal Standards 2021 Frequently Asked Questions (FAQs), December 2022. Available at: <https://www.globalreporting.org/media/zaui12g3/public-faqs-universal-standards.pdf>

On the other hand, companies usually came forward with disclosures on training related to privacy issues (indicator **G.3.2**). This is the case of **Magazine Luiza**,²²⁷ **Mercado Libre**,²²⁸ **iFood**,²²⁹ and **Sea Limited**,²³⁰ all receiving a **full** credit. **Alibaba**²³¹ and **Delivery Hero**²³² received **partial** credit for **G.3.2**, due to the somewhat narrow focus on security and data protection, rather than adopting the broader concept of privacy.

DiDi Chuxing receives in G.3.2 a **partial** credit, because it vaguely states that there is some capacity building efforts at place but it does not suggest there is a training policy on privacy issues at place. **Rappi** got a **no disclosure found** credit in **G.3.2**.

It should be stressed, as is the case with all the indicators that compose the RDR ranking, that the primary focus is on *public disclosure*. In other words, what companies make publicly available regarding the topics and problems we are investigating. The fact that a company claims to offer employees training on privacy and data protection leads to a full score on that specific element of evaluation, but this does not necessarily mean that training is actually offered, nor does it allow us to conclude anything about the quality of the training. The opposite is also true: training may, in fact, be offered, but if companies do not make that

²²⁷ Magazine Luiza's Human Rights Policy has a preliminary "Training List" item that implies training will be provided to "all administrators and collaborators of Magazine Luiza" on the contents of the policy, which includes the protection of customers' privacy and data protection as a guideline (section 4.2). Document available at: <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=VgSDzkzDsthEqCFr8iweGQ==>. In addition to that, Magazine Luiza's Policy for the Management of Personal Data Privacy also contains a "Training List" item including "all collaborators, administrators, partners, and third parties of Magazine Luiza S.A. and its controlled and fully owned subsidiary companies". See <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=MjdGy70AgGvbPrrRDS/cqw==>

²²⁸ Mercado Libre's January-June 2021 Transparency Report states that "all Mercado Libre employees must undergo a data protection training process. We make sure that all areas are familiarized with privacy, understand the risks related to data protection and adjust any initiative that processes personal information with the current regulation before implementing it." Mercado Libre Transparency Report January/June, p. 17. Available at: <https://investor.mercadolibre.com/static-files/Ofc04d02-6610-439e-9f02-22928a23e679>

²²⁹ The iFood Human Rights Declaration states that the company seeks to educate its employees on compliance with the Brazilian General Data Protection Law (LGPD) and iFood's privacy policies. Available at: <https://news.ifood.com.br/declaracao-de-direitos-humanos/>.

²³⁰ The Sea Limited 2020 Sustainability Report claims that "Our learning and development department conducts employee training sessions for all business teams and levels. In 2020 alone, we conducted more than 5,000 training sessions...". Sea Sustainability Report, p. 37. Available at: <https://cdn.sea.com/webmain/static/resource/seagroup/Sustainability/Social%20Impact%20reports/Sea%20Sustainability%20Report%202020.pdf>. The 2021 report states that employees are trained on privacy issues: "Our employees are educated on and reminded of the importance of data protection to strengthen the overall operational awareness of information security and privacy", and that "data sensitivity education" is part of the "New Hire Onboarding Program". 2021 Sea Sustainability Report,, p. 27. Available at: https://cdn.sea.com/webmain/static/resource/seagroup/Sustainability/Social%20Impact%20reports/61m2ELuLpRB_g1oEkjkb/Sea%20Sustainability%20Report%202021.pdf.

²³¹ We are in agreement with the 2022 RDR Big Tech Scorecard score for element G3.2, which stresses that the 2018 Alibaba ESG report "discloses that the company provides a variety of trainings on cybersecurity and data protection, with a focus on security and data protection, which is not completely the same as privacy...". See the spreadsheet available at: <https://rankingdigitalrights.org/bts22/excel/companies/Alibaba.xlsx>. We should add that in the more recent 2022 ESG Report a search for the term "training" results in 69 mentions, but none of them appear in the context of privacy or data protection training.

²³² From the Delivery Hero 2021 Annual Report: "In 2021, we launched a Global Privacy Management strategy, which includes various defined KPIs to assess and measure the outcomes of our initiatives. These KPIs include items such as the number of breaches per fiscal year, the number of signed data protection agreements, the number of completed due diligence processes for new vendors, the number of trained and certified 'Privacy Heroes', the number of relevant trainings, the number of data subject requests, along with many more." The company also asserts that its: "... Customer Care Teams are trained to manage all customer requests regarding personal data, and necessary processes have been provided". Delivery Hero 2021 Annual Report, p. 58.

information publicly available this leads to a zero score. The rankings are supposed to assess disclosure, taken as a proxy for potential accountability.

4.3.2 Whistleblower programs

Elements **G3.3** and **G3.4** addresses whether or not companies disclose they maintain an employee whistleblower program through which employees are able to report concerns related to the company's treatment of users' rights of freedom of expression/information (**G3.3**) and privacy rights (**G3.4**). Yet again, the pattern of the freedom of expression element receiving worse grades compared to the privacy one remains true, with the exception of Magazine Luiza, the only company to receive a *full* credit in both elements.

Most of the companies we evaluated keep a whistleblower program or hotline, through which they can receive reports from employees. Sometimes there is a dedicated form or internal platform for whistleblowers, sometimes reports are received via email. A few companies offer more than one channel of communications. The exceptions here are **Rappi** and **DiDi Chuxing**, none of which publicly disclose the existence of a whistleblower program.

Magazine Luiza has three channels through which complaints and reports can be received, including an anonymous one that accepts submissions via website or phone (Disque Denúncia), related to any "conducts considered to be unethical or in violation of ethical principles and conduct, and/or legislation currently in force".²³³ According to Magazine Luiza's Integrity Manual, the program is managed by "an independent and specialized company, for the receiving of complaints and reporting of irregularities".²³⁴ Although freedom of expression or privacy are not explicitly mentioned, it is clear from the Human Rights Policy,²³⁵ the Code of Ethics and Conduct,²³⁶ the Sustainability Policy,²³⁷ the Code of Conduct for Suppliers,²³⁸ and the Policy for the Management of Privacy and Personal Data,²³⁹ that a whistleblower would be able to report concerns related to both freedom of expression/information and privacy through the program.

Mercado Libre has an anonymous whistleblower hotline, mainly devoted to investigating unethical conduct and behavior that does not adhere to the company's Code of Ethics.²⁴⁰ Since the company has a public commitment to protect users' privacy rights, even if not in the context of international human rights standards (see 4.1.1, *above*), and the Code of Ethics

²³³ Magazine Luiza Disque Denúncia. Available at: <https://canalconfidencial.com.br/magazineluiza/#home>

²³⁴ Manual de Integridade Magazine Luiza, item 2.9. Available at: <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=FMaQTGN7jE7utTPZYANYCg==>

²³⁵ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=VgSDzkzDsthEqCFer8iweGQ==>

²³⁶ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=TuAIVGsvCZMsQfo9LjMDGg==>

²³⁷ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=LZKAYSzOjSN/spKG88Y/sg==>

²³⁸

<https://ri.magazineluiza.com.br/Download.aspx?Arquivo=vxPtUIOS3ZskXZ9dODr4bg==&idcanal=yaz3N2Yu5ryqjFIATbsIA==>

²³⁹ <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=MidGy70AgGvbPrrRDS/cqw==>

²⁴⁰ As described by the 2021 Impact Report, p. 22: "We have an anonymous and confidential whistleblower hotline so that MELI employees, members of our value chain, and any other third party can report illegal or unethical behavior, or any other type of conduct that does not adhere to our Code of Ethics. The hotline is managed by an external supplier and the company's Internal Investigations team is responsible for investigating and following up on each of the reports received. Whistleblowers can report ethical violations confidentially without fear of retaliation. Retaliation for reports of misconduct made in good faith is expressly prohibited."

stresses that associates are prohibited from violating "the intellectual property rights, privacy rights or any right of third parties",²⁴¹ so element **G3.4** receives *full* credit. Nonetheless, there is no explicit mention that this hotline would cover complaints about users' freedom of expression rights, since the Code of Ethics has weak language on the subject. The **Línea de Denuncias MELI** site also refers to breaches of the Code of Ethics, along with other examples of conducts that do not relate to freedom of expression.²⁴² Therefore, element **G3.3** receives a *partial* credit.

For **Alibaba**, we diverge from the *no disclosure found* rating for element G3.4 found in the 2020 RDR Big Tech Scorecard. Alibaba does have a whistleblower program, described in its Code of Ethics,²⁴³ and an Integrity Compliance website²⁴⁴ containing an email and a form²⁴⁵ for the filing of reports on violations of the company's Code of Business Conduct or laws and regulations. Similarly, Mercado Libre and other companies we evaluated, the Alibaba makes an explicit commitment to protect privacy and data protection but not freedom of expression/information, and receives a *partial* score for **G3.3** and a *full* score for **G3.4**

The **Sea Limited** Code of Business Conduct and Ethics states that employees have a channel of communications with Sea Limited's Compliance Officer through email, and that "[y]ou may remain anonymous and will not be required to reveal your identity in your communication to the Company."²⁴⁶ The same document specifies that employees have an obligation to comply with "information privacy" laws, and the Sea Limited sustainability reports contain company commitments to privacy rights in broader language than what the arguably narrower term "information privacy" may imply—enough to justify a *full* credit for **G3.4**. Since no company materials or documents explicitly deal with freedom of expression, element **G3.3** receives *partial* credit only.

iFood's Code of Ethics and Conduct mentions three different channels for reporting violations to the Code.²⁴⁷ There's an internal compliance procedure that can be initiated via email or through an employee platform, a 24h phone hotline, and an Integrity Channel, through which employees and non-employees alike can send anonymous reports to a third-party team.²⁴⁸ The Integrity Channel does not restrict reports to the Code of Ethics and Conduct, and also includes "behavior that is not ethical, transparent, honest, and not in compliance with internal rules and legislation in effect". Credit here is *full* with regard to element **G3.4** due to the commitment to privacy and data protection included in iFood's Human Rights Declaration²⁴⁹ and privacy portal,²⁵⁰ which can be used to substantiate a complaint through the Integrity Channel on a

²⁴¹ Mercado Libre Code of Ethics, p. 13.

²⁴² <https://denunciasmeli.lineaseticas.com/Complaints/Company>

²⁴³ "In order to ensure that all Employees as well as other companies, organizations and individuals who deal with Alibaba Group have an effective channel to report non-compliance of the Code and related policies, Alibaba Group has instituted whistleblower rules and procedures that may be established from time to time. If Employees know of or suspect a violation of applicable laws or regulations, the Code, or Alibaba Group's related policies, Employees must immediately report that information to the Compliance Officer in accordance with the whistleblower rules and procedures." Alibaba Group Code of Ethics, item IV.1.

²⁴⁴ <https://docs-src.alibabagroup.com/en/about/integrity>

²⁴⁵ https://jubao.alibaba.com/?site=1_A_XXXX00

²⁴⁶ Sea Limited Code of Business Conduct and Ethics, p. 1.

²⁴⁷ https://institucional.ifood.com.br/docs/lo_029_codigocondutafoodlovers_interativo_low.pdf

²⁴⁸ <https://www.canaldeintegridade.com.br/ifood/>

²⁴⁹ <https://news.ifood.com.br/declaracao-de-direitos-humanos/>

²⁵⁰ <https://privacidade.ifood.com.br/>

strong basis. Credit in element **G3.3** is *partial* due to the very weak commitment to freedom of expression and information described in the comments for element G1.1.

Delivery Hero has a dedicated Compliance site, which offers internal and external parties three options to report violations of legislation or the company's Code of Conduct: "1. Online reports via a whistleblower system", "2. Reports through a special designated email" or "3. Regular mail".²⁵¹ The Whistleblower Hotline²⁵² is set up as a website through which anonymous reports can be sent, but with a proviso: "[...] only notifications referring to severe compliance violations are accepted and processed here, particularly those involving criminal business activity (e.g. acts of corruption), antitrust violations and data protection breaches"; employees are otherwise encouraged to self-identify when reporting violations: "Since we value an open company culture, every employee and outside party who is aware of compliance risks is encouraged to confide the situation to an appropriate contact within the company, such as a supervisor, the human resources department or the local or global compliance officer." In any case, Delivery Hero scores *full* credit for **G3.4** but a *partial* mark for **G3.3**, due to the absence of clear, compelling commitments to freedom of expression and information in the company's materials, including its Code of Conduct.²⁵³

²⁵¹ <https://ir.deliveryhero.com/compliance/>

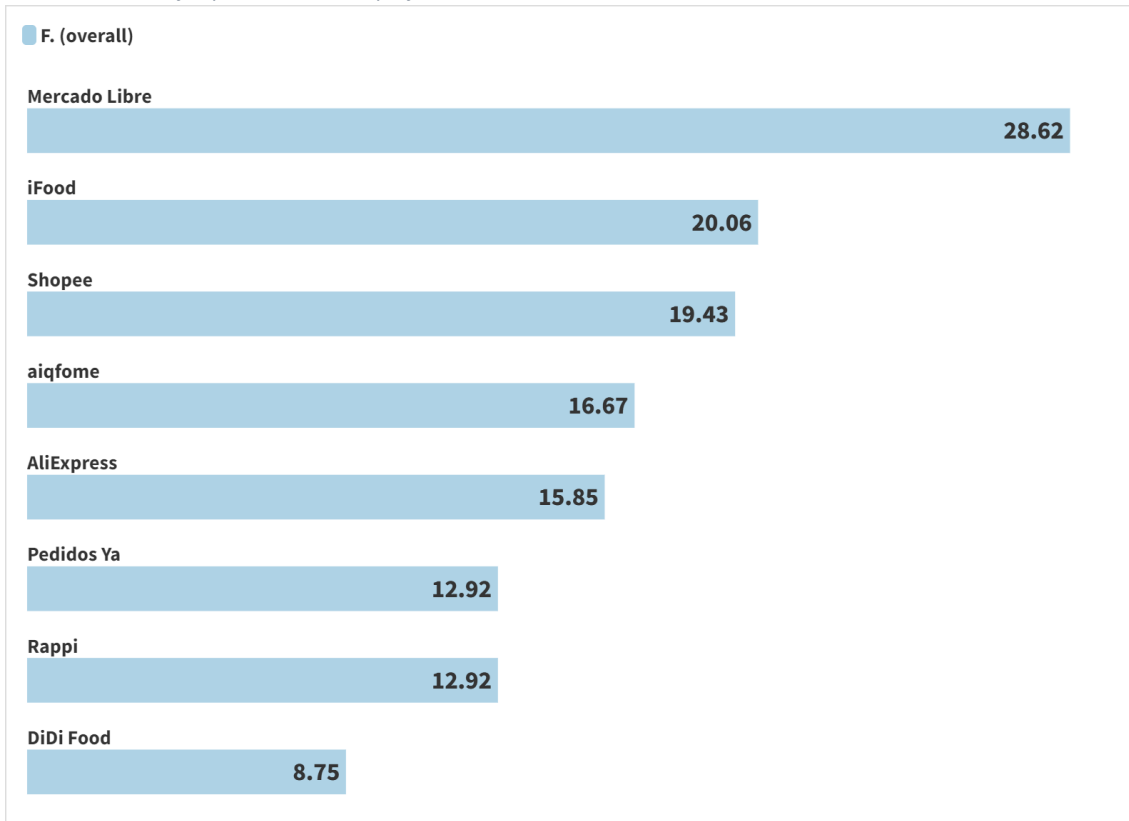
²⁵² <https://www.bkms-system.net/bkwebanon/report/clientInfo?cin=4dh8&c=-1&language=eng>

²⁵³ Further insight into Delivery Hero's approach to whistleblowing can be found in the company's 2021 Annual Report: "Every employee at Delivery Hero is responsible for addressing potential violations of laws, of the Code of Conduct or of internal policies. Every new office-based employee at DHSE is requested to complete training on our Code of Conduct within their first two months. For reporting misconduct, Delivery Hero promotes three channels. The first two are internal local contacts for employees within each entity of the Delivery Hero Group and the third is an external online whistleblower platform for reporting serious compliance breaches and illegal business practices. The platform is available 24 hours a day, 7 days a week in multiple languages and accessible internally as well as externally. The whistleblower platform allows for anonymous submission and a high level of security for whistleblowers. All issues reported through the whistleblower platform are carefully assessed by the central compliance team of DHSE, which may assign them to local counterparts for further processing where applicable. When appropriate, the case is managed as per the regulations and procedures for handling reported compliance concerns. Protecting all persons involved in such reports is of the utmost importance to Delivery Hero. All whistleblowers are protected by key principles of internal investigations, ensuring that information and procedures about potential violations are treated with confidentiality to the maximum extent possible and aiming to prevent and protect against any form of retaliation". Delivery Hero Annual Report 2021, p. 58.

5. Freedom of expression and information

The F indicators, although directed towards evaluating how companies disclose information on practices and policies impacting the freedom of expression and information rights of their users, are also useful as a general analysis on how companies describe and enforce the rules that govern their platforms beyond those specific rights. Questions of transparency and due process, for example, are analyzed via the F indicators, which gravitate around companies' general terms of services.

Table 9 Freedom of expression, overall performance



The first set of indicators we will explore relates to basic issues of access, clarity and presentation of the terms of service themselves, and how users are notified about changes to terms. In carrying out data collection and analysis for these indicators, we were also able to look into interesting aspects concerning how companies structure their websites and present their materials to the public.

5.1 Access to terms of service

A company's terms of service should be easily accessible, usually a click from the front page of the platform's main web presence—even if the service is primarily offered through mobile devices—preferably in a hub containing all relevant documents that govern the platform, such as privacy policies, community guidelines, advertising policies, and all associated content.

This test, which is solely focused on platforms' terms of service with regard to indicator element **F1a.1**, should be easy to pass. The general terms of service are, in a way, the glue that holds together an often-complex network of documents, establishing rules and policies that users are supposed to understand. They should be very easy to find.

Table 10 Access to policies performance

F1. Access to policies	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
F1a.1 Are the company's terms of service easy to find?	YES	PARTIAL	YES	PARTIAL	YES	YES	YES	NO
F1a.2 Are the terms of service available in the primary language(s) spoken by users in the company's home jurisdiction?	YES	PARTIAL	YES	YES	YES	YES	YES	YES
F1a.3 Are the terms of service presented in an understandable manner?	YES	PARTIAL	PARTIAL	YES	PARTIAL	PARTIAL	PARTIAL	PARTIAL

Surprisingly, not all companies managed to achieve that. **Mercado Libre, Shopee, PedidosYa, Rappi,** and **aiqfome** received a **full score** for element **F1a.1**, offering access to terms of service a click away from their websites' front page, usually at the footer. **AliExpress** and **iFood** received *partial* credit, for reasons that will be explained below.

DiDi Food proved to be challenging to assess. The company maintains websites filled with conflicting or misplaced documents, confusing structure, and aggressively unfriendly user experience. We eventually found the terms of service, but this means a score of **no disclosure found** in **F1a.1**.

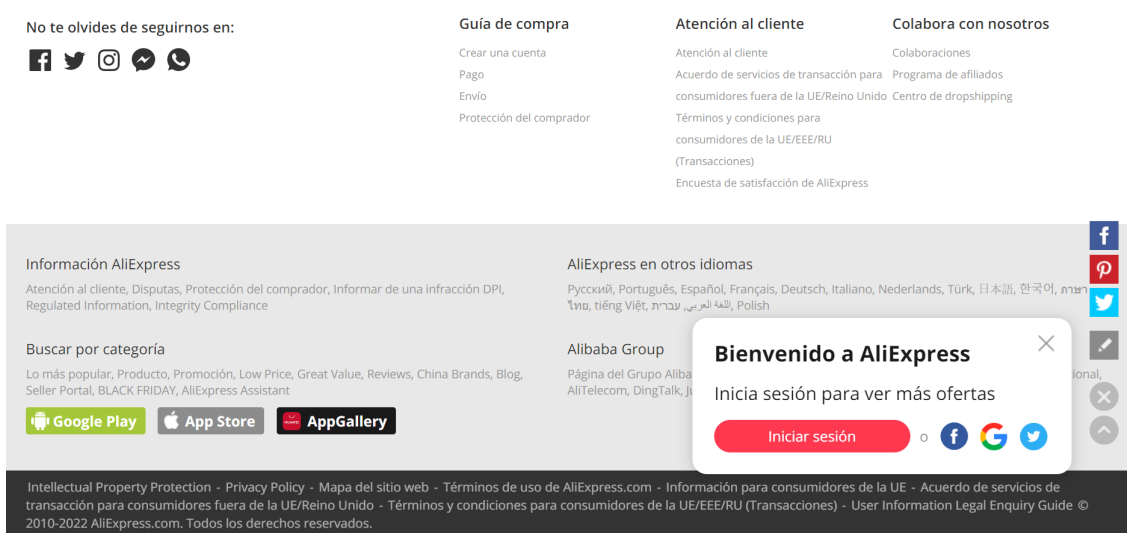
The journey in search of **AliExpress'** terms of service, while not as confusing as the one for DiDi Food's, had its own share of complications, partly due to site structure, partly due to how the platform organizes its policy documents and how they relate to each other, sometimes linking to policy hubs related to Alibaba.com, sometimes to sites that are specific to AliExpress.

The AliExpress main site allows users to select language and country of destination via a drop-down menu at the top, and the site may automatically redirect users to the adequate country and language settings according to IP location. The terms of service and all connected documents are generally standardized, and localized into the languages where the company operates—though that is not the case with all policies, as we shall see—and the canonical version is the English one, which raises issues that will affect other indicators. There are additional terms for sellers, and the content for sellers may vary across jurisdictions.²⁵⁴

On the main site, after scrolling down an interminable panel with dynamic product listings, users from Latin America are faced with links to a variety of policy documents, included in two different sections a narrow bottom bar at the footer, and a "Customer services" heading not far above it. Both sections include a link to a document that users are also required to adhere to: the Transaction Services Agreement. This document is available in two different versions, one for users in the European Union, the UK, and Russia, and another for users in all of the other countries in which AliExpress operates as a service for buyers. A screenshot of the Colombian version of the site is presented below:

²⁵⁴ AliExpress initially only accepted sellers from mainland China, but later expanded to accommodate sellers located in other countries. At the time of this writing, the registration page's drop-down menu includes: China (Mainland), Spain, Italy, Turkey, France, and Brazil: <https://login.aliexpress.com/join/seller/globalJoin.htm>. Sellers from Brazil have to agree, in addition to the terms applicable to consumers, to the AliExpress Service Agreement for Brazilian Sellers for AliExpress Platform, the Brazil Seller Joining and Operation Assessment Rules, and the Free Membership Agreement. Available at, respectively: https://sell.aliexpress.com/en/_pc/uZt5TuwgmZ.htm?spm=5261.ams_88533.0.0.7fcctaKataKaGj; https://sell.aliexpress.com/en/_pc/IB5gmSidis.htm?spm=5261.ams_111023.0.0.4778iAEhiAEhGQ; and <https://rulechannel.alibaba.com/icbu?type=detail&ruleId=2042&cid=1303#/rule/detail?cid=1303&ruleId=2042>.

Figure 5 AliExpress Colombian website screenshot



The bar at the footer includes links to a number of policy documents, going beyond the TSA—“Acuerdo de servicios de transacción para consumidores fuera de la UE/Reino Unido” on the image above—and it there that we can find a link to the AliExpress terms of service.²⁵⁵ The links to the TSA land Alibaba.com's "Rules Center", since it is applicable to both Alibaba and AliExpress.²⁵⁶ This document, along with a number of other policy documents, is part of the ensemble of agreements that need to be adhered to by the site's users, and hierarchically, the TSA is more important than the ToS.

The link to AliExpress' terms of service is located in a crowded row of links, ordered in a way that prioritizes the site's intellectual property notice, privacy policy, and a site map. Additionally, the AliExpress Community Guidelines,²⁵⁷ which are not linked to from the site's home page, state that “[b]y accessing or using our Community features, you agree to our Terms of Use and Free Membership Agreement and to follow these Guidelines and other applicable rules, policies and guidelines on AliExpress as amended from time to time”. The link to the Terms of Use redirects users to Alibaba's, and not AliExpress' terms of use.²⁵⁸ This document, like the AliExpress TSA—but unlike the AliExpress ToS—is presented in two parts, one of which is the currently valid document, and the other a deprecated version: “Part A: New version -updated on 29th of July 2022, effective as of 5th of August 2022 “and “Part B: Old version - effective as of April 30, 2021”. Since Part A is exclusive to Alibaba.com, while Part B mentions

²⁵⁵ The link sometimes redirects to the English language version of the Transaction Services Agreement, even if you pre-select Spanish as your default language. We experienced very inconsistent browsing patterns while using the AliExpress website.

²⁵⁶ <https://rulechannel.alibaba.com/icbu?type=detail&ruleId=4292&cid=1304#/rule/detail?cid=1304&ruleId=4292>

²⁵⁷ https://customerservice.aliexpress.com/knowledgeDetail?categoryId=21039549&hcAppId=1248&hcFromCode=Xn2Tk1tb7&hcSessionId=26-1248-286e6383-1a33-415f-ac56-5fdf4da2d216&knowledgeId=587919&spm=service_hall.24300484.category.587919

²⁵⁸ <https://rulechannel.alibaba.com/icbu?type=detail&ruleId=2041&cid=1307#/rule/detail?cid=1307&ruleId=2041>

both Alibaba.com and AliExpress, this suggests that there was a single ToS in previous versions, applicable to both services, and that the TSA remains a unified document for both sites. Due to what is probably an error, the links included in the Community Guidelines redirect to Alibaba's terms of service, and part B, where AliExpress is mentioned, is no longer valid. The Free Membership Agreement,²⁵⁹ which is applicable to sellers only,²⁶⁰ has the same issue: the document has two parts, the first one referring only to Alibaba.com, and the second part, qualified as an "old version", applicable to Alibaba.com, AliExpress, and Tmall.ru.²⁶¹

AliExpress receives *partial* credit in element **F1a.1**, despite offering terms of service that are specific to AliExpress one click away from the main page of the site, and even so, listed at a very crowded footer of the main page, which is polluted with excessive information, and does not make clear that users need, in fact, to consider both the TSA and the ToS, and the TSA actually has more information on whatever else needs to be agreed to by users than the ToS.²⁶²

iFood, is a platform that connects end buyers, sellers (restaurants and markets), and delivery workers. There are separate terms of service for buyers (deemed "users")²⁶³ and delivery workers,²⁶⁴ and both are available one click away from the iFood main site for the general public,²⁶⁵ and from the Delivery Worker Portal, respectively.²⁶⁶ While there is also a portal for restaurants and markets,²⁶⁷ and there is a privacy policy specific to that category of iFood user available one click away from the pertinent page,²⁶⁸ the corresponding terms of service are not available. Based on information included by Rappi in its antitrust complaint against iFood in Brazil, we know that standardized terms of service for restaurants do exist, and that they are annexed to the contracts signed between iFood and each individual restaurant joining the platform. Since a public copy of these standard terms of service for restaurants are publicly unavailable, credit for **F1a.1** element is *partial*.

As of the time when we concluded data collection for this report, **DiDi Food Colombia** had two websites,²⁶⁹ and separate terms of service for users (end consumers), delivery workers, and restaurants. The first website (didi-food.com) has no links to any of the terms of service on the

²⁵⁹ <https://rulechannel.alibaba.com/icbu?type=detail&ruleId=2042&cld=1303#/rule/detail?cld=1303&ruleId=2042>

²⁶⁰ An article on the Alibaba.com Business Blogs explains that free membership is a feeless tier provided by Alibaba to SMEs. The article only mentions the B2B platform Alibaba.com, but one can probably assume AliExpress also has a free membership, since the agreement is part of the bundle of terms that are listed as applicable to AliExpress: "How SMEs can benefit from Alibaba.com Free Membership". Alibaba.com. <https://seller.alibaba.com/businessblogs/px001yy2n-how-smes-can-benefit-from-alibabacom-free-membership>

²⁶¹ There is another version of this document that is less ambiguous, referring specifically to AliExpress, despite also having a 2-part structure. Available at: https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alieexpress/suit_bu1_alieexpress202204182115_37406.html?spm=service_hall.24300481.0.0.1c7f4300zWCCk1

²⁶² The Help Center for AliExpress has an "AliExpress.com Rules" section that lists the AliExpress.com Terms of Use, the Free Membership Agreement, the Privacy Policy, and the Transaction Services Agreement. Available at https://customerservice.aliexpress.com/knowledgeDetail?categoryId=21039549&hcAppId=1248&hcFromCode=Xn2Tk1tb7&hcSessionId=26-1248-286e6383-1a33-415f-ac56-5fdf4da2d216&knowlegeld=109657805&spm=service_hall.24300484.category.109657805

²⁶³ <https://webmiddleware.ifood.com.br/termos>

²⁶⁴ <https://entregador.ifood.com.br/wp-content/uploads/2020/03/TERMOS-E-CONDICOES-DE-USO.pdf>

²⁶⁵ <https://www.ifood.com.br/>

²⁶⁶ <https://entregador.ifood.com.br/>

²⁶⁷ <https://parceiros.ifood.com.br/>

²⁶⁸ <https://parceiros.ifood.com.br/restaurante/privacidade>

²⁶⁹ <https://www.didi-food.com/es-CO> and <https://web.didiglobal.com/co/food/>.

front page, only a privacy notice for the website, and not for the service itself.²⁷⁰ By following the links to the "Tienda"²⁷¹ and "Socio Repartidor"²⁷² pages on top of the front page, and clicking the link to "Legal" at the bottom of each of those pages, one can reach terms of service for restaurants²⁷³ and delivery workers,²⁷⁴ only to find out that they are only applicable to the Mexican DiDi Food service. Likewise, the second website²⁷⁵ has a link on its front page to the Mexican terms of service for restaurants.²⁷⁶ An alternative Colombian version of the terms of service for restaurants could be found,²⁷⁷ as well as one for delivery workers²⁷⁸ but only through careful use of Google search. As for the terms and conditions for users (consumers), we had to access the root level of the DiDi Colombia website to arrive at a page containing the text for terms of service apparently applicable to all DiDi services.²⁷⁹ Given how convoluted this entire process was, the fact that the wrong terms of service were provided for restaurants and delivery workers (the Mexican, not Colombian versions), and the uncertainty of the application of the global DiDi terms of service with regard to the users of DiDi Food specifically, for **F1a.1** receives a zero or *no* score. As far as DiDi's ratings are concerned, we will use, as documents of reference, the ones found in the footnotes for: users²⁸⁰ restaurants,²⁸¹ and delivery workers.²⁸²

Access to DiDi Food's privacy policies, incidentally, also involved an equally harrowing journey. More on that in section 6.1, below.

²⁷⁰ Incidentally, this "Privacidad" link—<https://www.didi-food.com/privacy>—leads to an exemption of liability page for DiDi that flashes before one's eyes for barely a second before redirecting back to the main site. As of the drafting of this report in April of 2022, this was still the case.

²⁷¹ <https://www.didi-food.com/es-CO/store>

²⁷² <https://www.didi-food.com/en-US/delivery>. Note that the URL is that of the en-US localization of the site, but the legal link at the bottom of the page still leads to the Mexican terms of service.

²⁷³ <https://img0.didiglobal.com/static/dpubimg/864d7898ae373ea38855d9dfbd64c26d/index.html>. Archive: <https://web.archive.org/web/20230408031259/https://img0.didiglobal.com/static/dpubimg/864d7898ae373ea38855d9dfbd64c26d/index.html>

²⁷⁴

https://img0.didiglobal.com/static/dpubimg/e3113f965b707bf2e599ead20b2e73ff/index.html?t=1663022752530&location_country=CO&lang=es-419&dchn=. Archive:

https://web.archive.org/web/20220912224804/https://img0.didiglobal.com/static/dpubimg/e3113f965b707bf2e599ead20b2e73ff/index.html?t=1663022752530&location_country=CO&lang=es-419&dchn=

²⁷⁵ <https://web.didiglobal.com/co/food>

²⁷⁶ <https://web.didiglobal.com/co/food/terminos-y-condiciones/>. Archive:

<https://web.archive.org/web/20220913210149/https://web.didiglobal.com/co/food/terminos-y-condiciones/>

²⁷⁷ Eventually taken offline. The same link now leads to—surprise!—the Mexican terms of service, but an archived copy is available at:

https://web.archive.org/web/20220911215203/https://colombia.didiglobal.com/wp-content/uploads/sites/15/2021/11/CO_TyC_DiDiFood_Tiendas.pdf

²⁷⁸ Also taken offline; the original link also leads to the Mexican terms of service (but for restaurants, not delivery workers): <https://web.didiglobal.com/co/food/terminos-y-condiciones/>. There is, however, an archived version of the document at:

<https://web.archive.org/web/20220917055205/https://colombia.didiglobal.com/wp-content/uploads/sites/15/2021/05/CO-Terminos-y-Condicion-DiDiFood-Socio-Repartidor.pdf>

²⁷⁹ This was ultimately the best available version of something resembling a terms of service for users of DiDi Food we could find. The link we used—<https://web.didiglobal.com/co/legal/terminos-y-condiciones>—currently leads to a "Page Not Found. Visit Our Home Page" notice. An archived copy of the older page can be found at: <https://web.archive.org/web/20220911215024/https://web.didiglobal.com/co/legal/terminos-y-condiciones/>

²⁸⁰ <https://web.archive.org/web/20220911215024/https://web.didiglobal.com/co/legal/terminos-y-condiciones/>

²⁸¹

https://web.archive.org/web/20220911215203/https://colombia.didiglobal.com/wp-content/uploads/sites/15/2021/11/CO_TyC_DiDiFood_Tiendas.pdf

²⁸²

<https://web.archive.org/web/20220917055205/https://colombia.didiglobal.com/wp-content/uploads/sites/15/2021/05/CO-Terminos-y-Condicion-DiDiFood-Socio-Repartidor.pdf>

5.2 Language and clarity

All companies, with the exception of AliExpress, received a **full score** for element **F1a.2**, publishing terms of service in the primary language of the jurisdictions we inspected for this report. AliExpress' terms of service, however, contain the following clause:

“1.4 If AliExpress.com has posted or provided a translation of the English language version of the Terms, you agree that the translation is provided for convenience only and that the English language version will govern your access to and use of the Services or the Sites”.²⁸³

The terms of service are available in both Spanish and Portuguese, but this clause has the effect of potentially invalidating the localized versions, depending on the jurisdiction. Additionally, the terms of service are not a standalone document: as described in the preceding section of this report, users are required to read and adhere to a Transaction Services Agreement, which is available in Spanish, but not in Portuguese. The Portuguese version of the ToS also links to the English language TSA, as well as to the prohibited products list, which is also not available in Portuguese.²⁸⁴ The Spanish version of the text also links to the same English language documents, despite their existing a Spanish version for the TSA. **AliExpress**, therefore, receives a **partial** credit in indicator **F1a.2**.

The subject of the terms being presented “in an understandable manner”, assessed by element F1a.3, presented us with a few challenges. The RDR glossary defines “easy to understand/understandable manner” as follows: “[t]he company has taken steps to help users actually understand its terms of service and privacy policy. This includes, but is not limited to, providing summaries, tips, or guidance that explain what the terms mean, using section headers, readable font size, or other graphic features to help users understand the document, or writing the terms using readable syntax”.²⁸⁵

In our analysis, we interpret the glossary definition to include the following:

- **Legibility:** The text should be clear, direct, unambiguous, and not contain unnecessary verbiage;
- **Structure:** The document should follow a coherent, logical structure, and readers should be able to easily find the information they are looking for just by looking at the section headers;
- **Complexity:** It is unavoidable that terms of service and related documents, such as privacy policies, contain a degree of complexity, and include legalese or technical terms that would arguably be difficult for the average person to understand. Companies must strive to achieve a balance between being technically precise and understandable to the average person;

²⁸³https://terms.alicdn.com/legal-agreement/terms/platform_service/20220531142242826/20220531142242826.html

²⁸⁴ Both links to the TSA on the Portuguese language version of the site—the one in the Customer service section, and the one included in the bottom bar—redirect to the English text available in the Alibaba Rules Center. A pull down menu only shows English and Chinese as options for the site, so there is no Portuguese version of the TSA that is easily available, if it exists at all. The Colombian site has an interesting inconsistency that is also worthy of mention: the link under the “Atención al cliente” section leads to the Spanish version of the TSA, but the link on the bottom bar is displayed in English language and leads to the English text of the TSA.

²⁸⁵ <https://rankingdigitalrights.org/2020-indicators/#glossary-easytounderstand>

- **Additional aids:** Supplementary material, such as summaries, simplified versions of policies, illustrations, tables, etc., all help in making information clearer. Simultaneously, they can be used strategically to obfuscate some of the text’s more controversial or unsavory aspects, as we will note in our analysis below. In any case, effort in providing users with supplementary materials is generally welcome;
- **Length:** Users have a natural inclination to not read legal documents and click-through contracts. If terms of service and other policy documents are composed of long walls of text, that makes them seem even less accessible than usual.

On the subject of length and complexity, especially with regard to privacy policies, legal requirements can make documents long and technical in parts, even when paradigmatic legal texts such as the GDPR require communications “[...] in a concise, transparent, intelligible and easily accessible form, using clear and plain language [...]” (Article 12, 1).²⁸⁶ Disclosure is always welcome, including openness about the more technical and arcane aspects of how online platforms operate. The way this information is presented, though, can be overwhelming and difficult to digest. The same is true for legal terms and formulas, which are necessary due to obligations imposed by law and for companies to safeguard themselves against potential legal problems. This does not mean, however, that strategies and techniques to mitigate these issues do not exist; they do, and in the interest of users’ rights and well-being, companies should strive to implement them.

Creative Commons’ layered model for licensing is a good example, with a simplified “human readable” version of the more technical, legally binding licenses, summarizing—but not replacing—the legal document’s content, pointing out its more salient points for a general audience.²⁸⁷ This model was, to some degree, adopted by a couple of the companies we examined. Another method is to provide users with clear visualization of information, which can sometimes be something as simple as a table, or more elaborate infographics—bearing in mind that accessibility should always be a concern when coming up with visualizations. In fact, as we will see below, iFood provides a great example of how *not* to use visual aids.

To start our analysis of the terms of service we reviewed, we can attempt to gauge how **demanding** these documents are, in terms of how consuming they are of users’ time and attention. Word and character count is a crude and insufficient metric to make that evaluation, and there are more sophisticated studies on reading comprehension of terms of service and privacy policies. We use length as a starting point for discussing our scores for indicator element F1a.3, because it is, nevertheless, a relevant factor to be analyzed.

The following chart was made using **charactercounteronline.com**’s character and word counter. It is intended only to provide a rough notion of how much time these documents would require for a read-through. The numbers *are not indicative of the level of complexity of each document*; long documents can be simple to read, and short documents can be the exact opposite of that; more time can be spent in reading the latter than in reading the former, if their content is more complex and a reader attempts to understand what is written, as opposed to simply reading the text from beginning to end.

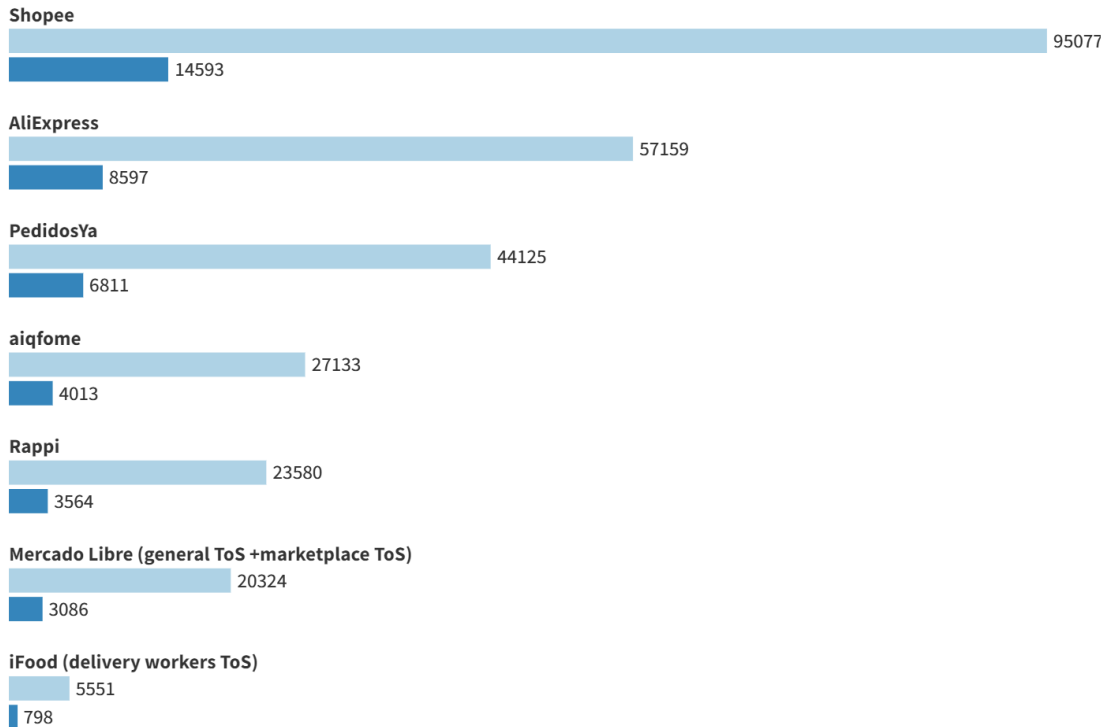
²⁸⁶ The New York Times published a very interesting visualization comparing over 30 versions of Google’s privacy policy, from 1999 to 2019, and the changes in length and complexity are palpable, particularly after the GDPR (particularly articles 12, 13, 14, and 15).. See <https://www.nytimes.com/interactive/2019/07/10/opinion/google-privacy-policy.html>

²⁸⁷ <https://creativecommons.org/licenses/>

Table 11 Terms of Service characters and word count

ToS character and word count

- Characters
- Words



DiDi's terms were not included due to the difficulty of extracting text from them, which would require cutting and pasting long paragraphs from a double-columned .pdf file. In the case of the privacy policies, as we shall see below, even that is not an option, since DiDi adopts the aggressive method of displaying the documents as extremely long images that run through multiple screens, making printing of and cutting and pasting the text impossible for our degree of technical knowledge; we were not willing to learn how to bypass these obstacles just for this simple analysis.

Imposing unnecessary hurdles on the extraction of textual content, it must be stressed, is something that companies should avoid for accessibility and research reasons. Magazine Luiza's **aiqfome** blocks the selection and, consequently, the copying of the text of the platform's terms of service, so we had to extract it from the HTML source—an easy process that only accentuates the pointlessness of this restriction. Finally, we did not find a version of the terms of service for **iFood** users that was just plain text, unencumbered by illustrations and pull-down menus—a problem we will address when analyzing that company's terms of service—so we opted to use the ToS for delivery workers, since a text-only pdf of that document was available.

Shopee presents its terms of service²⁸⁸ in reasonably accessible language, but with an overwhelming amount of text, as indicated by the chart above. The document contains the standard amount of legalese, and is arguably a dry, perhaps even difficult read for the average

²⁸⁸ <https://help.shopee.com.br/portal/article/77113>

user. No additional effort is made to display or organize the contents of the document in a more approachable way, and the terms of service also refer to a number of other equally long, convoluted documents, such as the Shopee Privacy Policy,²⁸⁹ the Shopee Pay Terms of Service,²⁹⁰ and the Reimbursement and Returns Policy.²⁹¹ The terms of service also contain language that is sometimes unclear. Item 1.2, for example, states that "Shopee may or may not pre-screen Users or the Content or information provided by Users" without specifying what is precisely meant by "pre-screening", and how exactly Shopee would do that. To end on a positive note, Shopee's legal documents are presented in a simple hub, through which one can easily find and reach most of the platform's important policies.²⁹²

The company receives *partial* credit in element **F1a.3**. Shopee's terms of service serve as a good benchmark for what we consider to be a run-of-the-mill partial credit for this element: **a)** lengthy, but fairly readable document; **b)** standard, but not egregiously obscure legalese; **c)** availability in a plain text version that allows for easy analysis and accessibility through common browser functions or plug-ins, such as text zoom, high contrast modes, text highlighting, and text-to-speech; **d)** reasonably coherent structure; **e)** clear pointers and references to other important platform documents; **f)** the absence of additional visual aids, summaries, or other resources to facilitate reader comprehension.

Companies improving on the items of this benchmark had a chance of a full credit, but only if they did not make problematic compromises on any of the other criteria. Note that a partial credit in **F1a.3** is far from being something to be celebrated: there is so much room for improvement that it is hard to congratulate companies for doing just the bare minimum necessary to avoid a zero score.

The **AliExpress** terms of service²⁹³ follow the pattern we observed with Shopee: just the minimum effort required to score a *partial* credit. The terms are considerably shorter than Shopee's, but one has to bear in mind that they are also lengthy, and that the Alibaba Transaction Services Agreement²⁹⁴ is a requirement for a complete picture of AliExpress' terms of service, as well as other documents, depending on user class (sellers have the additional burden of a series of other documents we will explore with more detail later). AliExpress' policy documents are presented in a dedicated website for policy documents, posts and FAQs, the Alibaba.com Rules Center,²⁹⁵ which is problematic, since the Rules Center contains a lot of information and policy documents that are applicable to Alibaba.com but not to AliExpress.

Mercado Libre has a general ToS applicable to the entire range of Mercado Libre products. This is where users land by clicking the "Terms and conditions" link at the bottom of the main page of the Mercado Libre front pages of every jurisdiction-specific site. This document, the "General terms and conditions of the site" is preceded by a summary section, which contains the main points of the text, and serves as an introduction and overview of their content. The terms themselves are written in clear language and displayed in readable font. They make

²⁸⁹ <https://help.shopee.com.br/portal/article/77068>

²⁹⁰ <https://help.shopee.com.br/portal/article/76318>

²⁹¹ <https://help.shopee.com.br/portal/article/77827>

²⁹² <https://help.shopee.com.br/portal/article/76346-Pol%c3%adticas-da-Shopee>

²⁹³ https://terms.alicdn.com/legal-agreement/terms/platform_service/20220531142242826/20220531142242826.html

²⁹⁴ <https://rulechannel.alibaba.com/icbu?type=detail&ruleId=4292&cid=1304#/rule/detail?cid=1304&ruleId=4292>

²⁹⁵ [https://rulechannel.alibaba.com/icbu?spm=a2g0o.productlist.0.0.3bdfbcd60gEuok#/#/](https://rulechannel.alibaba.com/icbu?spm=a2g0o.productlist.0.0.3bdfbcd60gEuok#/)

reference to a number of other policy documents, such as the privacy declaration,²⁹⁶ the terms of service for Mercado Libre marketplace²⁹⁷ and the vehicles, real estate and services marketplace,²⁹⁸ and payments service Mercado Pago, wherever available.²⁹⁹ AliExpress would have spared users from a lot of confusion, and scored higher in F1a.1, had it opted for the same approach: one link at the front page only, directing to a page or document where all relevant policy documents can be found.

Some of the Mercado Libre policy documents are more complicated than others, albeit not excessively so.³⁰⁰ The general terms of service, which act as guide and branching-off point for all of Mercado Libre's policies, including terms of service for the marketplace itself, are understandable to a level that justifies a **full** credit, with clarity in presentation, good readability and straightforward language. The terms for the marketplace also branch off into other documents that may be more complicated—mostly directed at sellers, not buyers—but this does not affect the score for **F1a.3**.³⁰¹

iFood's terms of service for users (buyers)³⁰² and delivery workers³⁰³ are presented in a very friendly manner, with the use of illustrations, diagrams, images, pleasant design, and simple language, devoid of complicated legalese. While this is laudable, it also imposes a number of problems, the most salient of which is accessibility: there is heavy use of images containing text and pull-down menus in the terms of service for users, and a plain text version could not be found. People with hearing or visual impairments might have issues reading the terms, and researchers will have difficulty in extracting a text-only version for analysis. The same applies to the terms of service for delivery workers, available in a single illustrated pdf file, but in this case, we could locate a pdf file containing just the text for the document. We should remind readers that the terms of service for restaurants, as explained in section 5.1, are not publicly available.

The second issue imposed by the friendly tone adopted by the documents—sometimes excessive to the point of coming across as insincere—is something we like to call “obfuscation by cuteness”. Visual aids and simplified language make the company seem friendly; they don't necessarily reveal the essence of the terms, and might actually be used as a tool to gloss over important issues or clauses. Instead of having lots of fine print, making the terms unintelligible and time-consuming, we have corporate friendliness and plain language diverting the attention of readers and directing it to what the company itself sees as more relevant. We are not accusing **iFood** of acting in bad faith; we just want to stress that we strongly feel that the best

²⁹⁶ <https://www.mercadolivre.com.br/privacidade/declaracao-privacidade>

²⁹⁷ <https://www.mercadolivre.com.br/ajuda/23050>

²⁹⁸ <https://www.mercadolivre.com.br/ajuda/22962>

²⁹⁹ <https://www.mercadolivre.com.br/ajuda/299>. Mercado Pago, it is worth mentioning, is not available in Bolivia: https://www.mercadolivre.com.bo/ayuda/Terminos-y-condiciones-de-uso-del-Sitio_1516. Additional Mercado Libre services and offerings may not be available in all jurisdictions, such as points system Mercado Puntos, Mercado Shops, and Mercado Envios. The services offered across all of the jurisdictions we reviewed are the general marketplace, and the vehicles, real estate and services marketplace (VIS, vehiculos, inmuebles y servicios). Our evaluation is focused on the general marketplace.

³⁰⁰ The privacy policy, additional effort is taken in making it understandable, with the use of a simplified version of the legal terms (see item 5.2, *below*).

³⁰¹ Such as, for example, the terms related to Mercado Ads, the advertising service Mercado Libre offers for product listings: <https://www.mercadolivre.com.br/ajuda/996>.

³⁰² <https://webmiddleware.ifood.com.br/termos/>

³⁰³ Unlike the terms for users, the terms for delivery workers are available as single a pdf file: <https://entregador.ifood.com.br/wp-content/uploads/2023/02/Termo-de-uso.pdf>

approach to terms of service and other policy documents is having a tiered system, separating the friendly, approachable version of these documents from a more technical, detailed, version, available for those who would like to examine them closely.

Complexity in terms of service and privacy policies is a known phenomenon, as well as the strategy of adopting a friendly tone in communicating platform rules. Using Google’s privacy policies as an example, Valtysson, Jørgensen, and Mulkholm (2021) make a compelling case that following increased disclosure and transparency requirements imposed by the GDPR, the “discursive complexity of Google’s privacy policies”, in a way that the company can use to its own advantages, in direct opposition of the reasoning behind the GDPR requirements.³⁰⁴ In a similar vein, we can point to a thorough analysis of Google privacy policies carried out by Peslak, Kovalchik and Conforti (2020), which stresses the potential deceitfulness of friendly and positive language.³⁰⁵

In any case, even with these concerns in mind, we found no reason not to grant **iFood** a **full** score for element **F1a.3**. All of the issues we raised, however, are representative of the caveat raised in the methodology section: not all scores—be they full, partial, or zero—are created equally. Some partial scores, for example, represent a lot more effort on part of the companies we are evaluating than others, but that is one of the tradeoffs one must accept while working with indicator elements corresponding to a limited range of numeric values.

Rappi, on the other hand, receives a **partial** credit in **F1a.3**. The terms and conditions document³⁰⁶ is clearly structured, contains acceptable amounts of legalese, does not overburden users with unnecessary information, and is unremarkable in a neutral, predictable way. Links to other policy documents, such as the privacy policy and cookies policy, are conveniently presented in a sidebar next to the terms of service.

The same unremarkableness can be found in the ToS documents for **PedidosYa**,³⁰⁷ **aiqfome** (which bundle the privacy policy with the general terms of service),³⁰⁸ and **DiDi Food**.³⁰⁹ All three companies also receive a **partial** score for **F1a.3**.

³⁰⁴ “While the GDPR has required Google to reconsider its terms and policies, to make them clearer and more understandable to users, the discursive complexity of Google’s privacy policies have in fact increased. In the process of accommodating GDPR’s demand of increased transparency, Google has thus made the policies even more obscure to general users of their services. This is what we refer to as Google’s deliberative data politics, thus stressing contractual complexities as an integral part of the platform’s business model, and as such, serving a specific (and strong) socioeconomic purpose for Google.” See Valtysson, B., Jørgensen, R. F., & Mulkholm, J. L. (2021). Co-constitutive complexity: Unpacking Google’s privacy policy and terms of service post-GDPR. *Nordicom Review*, 42(1), 124–140. Available at: <https://doi.org/10.2478/nor-2021-0033>

³⁰⁵ “Overall there has been great change in Google privacy policies over the past two decades. The greatest takeaway for the authors is that, even though the policy gives the appearance and words associated with friendliness and positive sentiment, the policy is actually highly legalistic and allows for cross platform sharing and using of data for primarily any purpose”. Peslak, A., Kovalchick, L., Conforti, M., (2020). A Longitudinal Study of Google Privacy Policies. *Journal of Information Systems Applied Research* 13(2) pp 54-65. Available at: <http://jisar.org/2020-13/n2/JISARv13n2p54.html>

³⁰⁶ https://legal.rappi.com/colombia/terminos-y-condiciones-de-uso-de-plataforma-rappi-2/?_ga=2.163565243.620048710.1618956823-265447413.1581561278

³⁰⁷ <https://www.pedidosya.com.ec/about/terminos-condiciones>

³⁰⁸ <https://aiqfome.com/terminos>

³⁰⁹ The documents we were able to analyze after much effort and detective work were spent in locating them, as described in item 5.1, *above*, are fairly ordinary. We would be remiss if we did not mention we are still not clear whether they are valid or not.

5.3. Notification of changes

Elements **F2a.1**, **F2a.2**, and **F2a.3** all deal with notification of changes to platforms’ terms of service. Notifications must be direct, and about any changes to the terms (F2a.1), the company must disclose *how* users will be notified (F2a.2), and a timeframe must be offered to users indicating *when* changes will come into effect (F2a.3). Element F2a.4 asks if companies maintain a public archive or change log of the terms, so that users can compare and contrast previous versions of the documents.

All but one of the companies we ranked do not disclose that they will directly notify users of any modifications to their terms of service. **iFood** is the exception, with a *partial* credit in **F2a.1**. The remaining companies all scored a *no disclosure found* score. Scores for **F2a.2**, **F2a.3**, and **F2a.4** all follow the same pattern: *no disclosure found* for all companies except **iFood**, which also receives *partial* scores for the remaining elements.

Table 12 Notification of policy changes performance

F2. Notification of policy changes F2(a). Changes to terms of service	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
F2a.1 Does the company clearly disclose that it directly notifies users about all changes to its terms of service?	ND	ND	ND	PARTIAL	ND	ND	ND	ND
F2a.2 Does the company clearly disclose how it will directly notify users of changes?	ND	ND	ND	PARTIAL	ND	ND	ND	ND
F2a.3 Does the company clearly disclose the timeframe within which it directly notifies users of changes prior to these changes coming into effect?	ND	ND	ND	PARTIAL	ND	ND	ND	ND
F2a.4 Does the company maintain a public archive or change log?	NO	NO	NO	NO	NO	NO	NO	NO

All terms of service documents we examined contain a clause indicating that the text may be changed at any time, and that users are supposed to access the new terms and become acquainted with whatever was modified. This clause was fairly standard in all documents, with occasional variations in the intensity of the language used to stress that the user, not the company, is responsible for keeping up to date with the terms of service.

Changes are effective immediately in all of the terms of service, with a single exception. The general terms of **Mercado Libre** extend to all of Mercado Libre’s services—the terms for each specific Mercado Libre service are presented as annexes to the general terms—specify in its section 2 that *important* changes to the terms will be *published* 10 days prior to taking effect, so that users can evaluate if they want to continue using the platform. There is no disclosure, however, that users will be *notified* of those changes; the terms of service imply that users need to be in continuous surveillance for any changes, and that they will not be affected by important changes as long as they remain vigilant, due to the 10-day grace period.³¹⁰ As for

³¹⁰ "When we need to make significant changes to our services, we will post the modifications 10 business days in advance so that Users can review them and continue using the MELI Ecosystem. In no case will these affect operations that have already been completed." Interestingly, the English version of the terms is an altogether different document, and the corresponding clause reinforces the idea that users will not be notified: "Mercado Livre may, at any time, amend these general terms and conditions in order to enhance them and to improve the services provided. The new general terms and conditions will come into effect ten (10) days after their publication on the Websites. Within five (5) days from the placement of the new version, the User should come into contact via e-mail in the event it does not agree with the amended terms. In this case, the contractual relationship will cease to exist, provided that there are no outstanding bills or debts. In the absence of any communication within the stipulated deadline, the User will be understood as having accepted the new general terms and conditions of use and the agreement will remain binding upon the parties." Section 4, first paragraph, of: Mercado Libre. (n.d.). *General Terms*

changes Mercado Libre deems to be unimportant, these are valid from the moment the site gets updated.

AliExpress' formulation of the clause is the most basic and direct version possible:

“1.3 AliExpress.com may amend any Terms at any time by posting the relevant amended and restated Terms on the Sites. By continuing to access or use the Services or the Sites, you agree that the amended and restated Terms will apply to you”.

Shopee's terms of service, on the other hand, allow for some ambiguity. The document mentions that any part of the site (including the legal documents) can be "altered, modified, suspended or terminated" at any moment or "following previous notification, **according to local legislation**" (item 1.4, emphasis ours). There is no reference, however, to any specific legislation, which means Shopee might send users notification of changes if there is a legal requirement to do so, but in the absence of further elaboration, such a statement leaves the reader in a state of uncertainty. What users *can* be sure of, is that changes to the terms of service will be effective immediately after they are published.

The terms of service for **PedidosYa** state that “PedidosYa may make modifications and updates to these Terms and Conditions, for which, consent will be asked in part of Users to continue using the Portal”. Not terrible, if we disregard the absence of any information on how users will be notified so that consent can be obtained, and the ambiguity of the language used.³¹¹ To make matters more complicated, item 1 of the terms state that “[i]gnorance of the content of the Terms and Conditions does not justify non-compliance with them, and, even less so, authorize Users to take particular or legal measures that disregard what is set forth in these Terms and Conditions.” This clause, combined with the ambiguity of the previous one, allows for some confusion.

The terms for the ancillary service PedidosYa Envíos, furthermore, contain the following language, which reveals an entirely different—and unambiguous—approach to the same issue: “PedidosYa has the power and autonomy to unilaterally modify these Terms and Conditions at any time, for which it will always publish the most recent version of these on the Application and/or Website for the purpose of prior consultation before each Service Request the User intends to make. PedidosYa is not responsible for any damages that such modifications may cause to uninformed Users, as it is the Users' sole responsibility to review them periodically to become aware of potential modifications. Orders will be governed by the Terms and Conditions in effect at the time of their issuance”.³¹² Considering all of these issues, we do not feel comfortable giving PedidosYa anything above a **no disclosure found** credit in **F2a.1**.

Rappi, like AliExpress, is straightforward: “Rappi may autonomously and at any time modify formal, procedural, or substantial aspects of the present Terms and Conditions for using the

and Conditions of Website Use. Mercado Livre (Brasil).
<https://web.archive.org/web/20220628122444/https://www.mercadolivre.com.br/ajuda/3270>

³¹¹ The original Spanish version reads as follows: “PedidosYa podrá realizar modificaciones y actualizaciones a estos Términos y Condiciones, para lo cual, se solicitará el consentimiento por parte de los Usuarios como requisito para poder seguir utilizando el Portal”. “Se solicitará” can be read in a way that implies that users will be notified, or it can just be a polite way to say that users will have to agree to the new terms in order to proceed using the site.

³¹² Under “GENERAL”, second paragraph. PedidosYa. (n.d.). *PedidosYa Envíos*. PedidosYa (Ecuador). Retrieved September 7, 2022, from https://www.pedidosya.com.ec/about/tyc_courier

Rappi Platform, which will be updated and made available to Users/Consumers." No disclosure of notification.

The terms of service for **aigfome** come bundled with the platform's privacy policy in a single document. Provisions related to notifications for changes are also separate, and go in opposite directions. The section for "Modification of Terms" states that the terms of service "may, at any moment, have their content, or part thereof, modified for corrections and insertions, having as a goal the improvement of the services offered. The new conditions will be valid as soon as published on the app and website, and it is possible for the USER to manifest opposition to any of the modified terms, provided that they do so by writing, through e-mail, which will lead to the cancellation of REGISTRATION". This language does not mention direct communication, in stark contrast to the language used for changes to the privacy policy ("Modifications to this Privacy Policy"), which precedes the section for "Modification of Terms", and explicitly and unequivocally state that notification will be provided, with specification of the means through which it will be offered.

DiDi's general terms of service mention that terms are subject to change at any moment, with no indication that users will be notified. DiDi Food's terms of service for delivery workers specify in their preamble that the document is subject to change at any time, and that workers need to constantly check for updates themselves. The terms of service for restaurants contains no clause regarding changes to the terms because it is considered to be a *final agreement*.

iFood, the only company to get a *partial* score for **F2a.1**, **F2a.2**, and **F2a.3**. The terms of service for buyers (item 11.4) and the terms of service for delivery workers (item 19) adopt different approaches in how they deal with modifications. The terms of service for buyer's state that periodic revisions to the terms might take place, and that users will be informed through notices on the iFood platform itself, sent via email, or on the company's institutional website. The use of "or" instead of "and" could be problematic, but the language implies that users will be directly notified. The terms for delivery workers disclose that workers will be notified of changes, which are formally called "Additional Terms", because they constitute amendments to the contract iFood maintains with delivery workers. Notification for additional terms will be provided through a written notice on the iFood platform. Workers are required to cancel their accounts if they disagree with the changes, and they are offered a timeframe of a minimum of 30 days before the additional terms enter into effect (item 18). On the other hand, the terms of service for buyer's state that, despite a notification being provided to users, changes are valid from the moment they are published (item 11.4), no timeframe provided. The terms of service for iFood's restaurants and markets are unavailable for public consultation, so they were not part of our evaluation, but the company managed to get a partial credit for F2a.1, F2a.2, and F2a.3, for the aforementioned reasons.

In relation to element **F2a.4**, public archives and change logs are pretty much a luxury—as are dated documents. **Mercado Libre** maintains a public archive for privacy declarations,³¹³ with only two versions of the text,³¹⁴ but not for the terms of service. **Alibaba**'s Rules Center³¹⁵ has a "History rules" section, but it is confusing and includes all sorts of policy documents, including

³¹³ No changelog, though. Available at: <https://www.mercadolivre.com.br/privacidade/declaracao-privacidade>

³¹⁴ <https://www.mercadolivre.com.br/privacidade/declaracao-privacidade>. There are actually 4 entries, but they are basically the same. The numbering indicates that There was a declaration published around 21-33 September 2021 and 16-17 of 2020.

³¹⁵ <https://rulechannel.alibaba.com/icbu#/rules>

an avalanche of recall notices, and arcane documents such as the “Access Qualification Rules and Transaction Code of Conduct for Sellers in the Ferrous and Non-ferrous Metals Industry”;³¹⁶ a search for “aliexpress” within the Rules Center returns zero documents, which suggests this is mostly an archive for Alibaba.com and not AliExpress.com. The terms of service and the TSA are divided into two parts, one containing the current terms of service, and the other an older version of the text, so there is at least an attempt to provide users with the opportunity to contrast the current terms with a deprecated version of the text. But it is unclear whether or not there is just one past version of these documents, so this hardly counts as an archive.

Rappi has a specific site for Rappi promotions, which contains a bizarre calendar display of a myriad of terms for promotions and special offers,³¹⁷ with the occasional document that could possibly be more substantial, like a “Términos y condiciones para autorización de datos personales”, but which in close inspection relate directly to bonus points programs.³¹⁸ There is no search function available, and we could not locate the general terms of service for Rappi itself in any previous version.

Mercado Libre, AliExpress, and Rappi receive a *no disclosure found* score in element **F2a.4**.

5.4 Enforcement of terms of service

The next set of indicators have the central theme of due process. Are users adequately informed about what is allowed and not allowed in the platform? Are procedural safeguards in place to ensure that users understand how infringing content or accounts are identified, and is the process for enforcing platform rules publicly disclosed? Are users notified when content or accounts are restricted, and why that happened? Do companies openly publish data on content and accounts found to be in violation of the terms of service, in a way that is informative enough to ensure transparency and accountability?

Table 13 Process for policy enforcement performance

F3. Process for policy enforcement F3(a). Process for terms of service enforcement	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
F3a.1 Does the company clearly disclose what types of content or activities it does not permit?	YES	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	YES	PARTIAL
F3a.2 Does the company clearly disclose why it may restrict a user's account?	YES	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	YES	PARTIAL
F3a.3 Does the company clearly disclose information about the processes it uses to identify content or accounts that violate the company's rules?	YES	YES	PARTIAL	ND	ND	ND	PARTIAL	ND
F3a.4 Does the company clearly disclose how it uses algorithmic systems to flag content that might violate the company's rules?	ND	ND	ND	ND	ND	ND	ND	ND
F3a.7 Does the company clearly disclose its process for enforcing its rules once violations are detected	PARTIAL	PARTIAL	PARTIAL	ND	ND	ND	ND	ND

³¹⁶

<https://rulechannel.alibaba.com/icbu?type=detail&ruleId=20001510&cid=1396#/rule/detail?ruleId=20001510&cid=1396>

³¹⁷ <https://promos.rappi.com/colombia?view=calendar&month=08-2022>

³¹⁸ <https://promos.rappi.com/colombia/datosexitto>

5.4.1 Platform rules and reasons for content and account restriction

In analyzing a company's terms of service, it is important to separate what is standard and commonplace in any regular ToS, and what is specific to the platforms in our study, and thus deserving of special attention from an evaluation standpoint. Any terms of service document will contain generic statements such as "users are prohibited to violate any of the dispositions of these terms of service" or "users are required to comply with local legislation and not commit fraud or other illicit acts". These formulae are part of the conventional repertoire of provisions shared by the terms of all sorts of services, and do not have an impact in our evaluation, positive or negative.

Element **F3a.1** goes beyond boilerplate text and asks for an examination of the clarity and transparency of the terms of service with regard to what types of content and activities are not allowed in the platform. Therefore, documents that provide lists of prohibited behavior but include language such as "including, but not limited to", and "among other such acts", for example, are automatically disqualified for a full credit in this element. Disclosure must be exhaustive to justify full credit for **F3a.1**. Element **F3a.2** is closely related to **F3a.1**, and asks if companies clearly disclose *why* they may restrict users' accounts.

Marketplaces and food delivery services are very different in some key points. Marketplaces sell a vast assortment of items, some of which may belong to categories of products that are regulated, with varying degrees of intensity, or outright prohibited, from jurisdiction to jurisdiction. Examples abound: health products, alcohol, food products, guns and ammunition, drug paraphernalia, fireworks, just to name a few. There are also products that may occupy areas of uncertain or ambiguous legality, or products that are legal but that the company decides to block from its platform.³¹⁹ Local laws and regulations often differ significantly, and lists of prohibited products must be localized with great scrutiny and attention, if the marketplace operates across different jurisdictions. AliExpress' decision to make a general list, as we shall see below, cost the company a full credit in element **F3.1**.

Proscribed behaviors also involve content. Marketplaces have reputation systems with product, seller and buyer reviews, which are often publicly displayed, as well as product description images, leading to content moderation and removal rules, which must be clear to users. There are also private communications between sellers and buyers, that rules for what is considered to be acceptable in direct messaging systems.

Food delivery services, on the other hand, involve sector-specific problems that are entirely different. These platforms usually connect three types of third parties, buyers, sellers and delivery workers, with requirements and prohibitions that may relate to all three or just one or another class of participant. Trust and safety challenges are particularly prevalent due to the

³¹⁹ Mercado Libre's statement in that regard is particularly eloquent: "Firstly, we do not allow what the laws do not permit.

If you have doubts about any product, we recommend checking if the sale is legal. Basically, if the law does not allow it, we do not allow it either! For example: drugs, prescription medications, endangered animals, etc. And there are products that we prefer to avoid.

There are things that are allowed to be marketed (and in fact, you can find them for sale elsewhere), but we prefer not to offer them on our site." See https://www.mercadolivre.com.br/ajuda/Produtos-proibidos-para-a-venda_675

physical proximity between the three parties, particularly delivery workers and buyers.³²⁰ Issues related to content may exist depending on platform policies; like marketplaces, they also have reputation systems, affecting mostly delivery workers and restaurants, but reviews from buyers may or may not be open to the public, and contain text or be limited to star ratings. Still, the matter of acceptable private communications between parties applies to both types of services. On top of that, listings from restaurants can also be subject to content guidelines, since they can be deemed obscene or convey political messages.³²¹

The companies we evaluated performed fairly well in both F3a.1 and F3a.2, the main problem being the frequent use of language that implies or makes clear that prohibited content or activities are presented by the terms of service as merely illustrative, and that the company may interpret the terms to include additional, unstated prohibitions.

The general terms of service for **Mercado Libre**³²² and the terms of service for the Mercado Libre marketplace³²³ both contain provisions demanding general compliance to platform rules and legislation. The general terms state that "If the User violates a law or the Terms and Conditions, we may warn, suspend, restrict, or temporarily or permanently deactivate their account, without prejudice to other sanctions established in the particular usage rules of Mercado Livre's services" (item 7). The terms of service for the marketplace state that it is prohibited to "violate any clause of Mercado Libre's Terms and Conditions and applicable norms", "keep any kind of communication by means other than the messaging service provided by Mercado Livre", "use your reputation, qualifications or commentary received on the Mercado Livre site in any environment outside Mercado Livre" and "cancel a larger percentage of sales than permitted" (item 3).

At a high level of documentation, this is as far as Mercado Libre goes in specifying what is not permitted, and additional documentation must be read in order to get a sense of what is allowed and prohibited. The policies for product listings,³²⁴ prohibited products,³²⁵ and intellectual property³²⁶ are all well written and provide guidance for categories that could be subject to overinclusive interpretation.

³²⁰ Cases involving delivery workers being assaulted or humiliated by end users have become commonplace in Brazilian media. See, for example: Gama, Paula. "Tapa, arma e racismo: entregadores contam rotina de humilhações em delivery". UOL, March 23. Available at:

<https://www.uol.com.br/carros/colunas/paula-gama/2023/03/20/entregadores-relatam-rotina-de-humilhacoes-ate-ndendo-clientes-de-delivery.htm> and Figueiredo, Carolina and Slobodeicov, Laura. "Mulher que agrediu entregadores no Rio de Janeiro é investigada por injúria e lesão corporal". CNN Brasil, April 2023. Available at: <https://www.cnnbrasil.com.br/nacional/mulher-que-agrediu-entregadores-no-rio-de-janeiro-e-investigada-por-injuria-e-lesao-corporal/>

³²¹ The systems for an iFood service provider were compromised in 2021, and several restaurant names were altered to convey pro-Bolsonaro, anti-Lula and antivax messaging, affecting around 6% of iFood's restaurant listings. This is an extreme case, deriving from a security vulnerability, but it goes to show that there is communicative power in something as simple as a restaurant listing. See Gavras, Douglas and Soprana, Paula. "iFood tem nomes de restaurantes trocados por frases pró-Bolsonaro e ataques políticos". Folha de S. Paulo, November 2021. <https://www1.folha.uol.com.br/mercado/2021/11/ifood-tem-nomes-de-restaurantes-trocados-por-frase-s-pro-bolsonaro-e-ataques-politicos.shtml>

³²² https://www.mercadolivre.com.br/ajuda/Termos-e-condicoes-gerais-de-uso_1409

³²³ <https://www.mercadolivre.com.br/ajuda/23050>

³²⁴ https://www.mercadolivre.com.br/ajuda/Pol%C3%ADtica_de%20_An%C3%BAncios_s1011

³²⁵ <https://www.mercadolivre.com.br/ajuda/1028>

³²⁶ https://www.mercadolivre.com.br/ajuda/Produtos-que-violam-direitos-de-prop-intelectual_s1077

A good example is the entry for products and communication containing "Inappropriate language and unfounded accusations", which clarifies that a title such as Gabriel Garcia Marquez's "Memoria de Mis Putas Tristes" would be allowed, but not "content that is discriminatory towards gender, creed, age etc."³²⁷ The same clarity is present in examples for categories such as "Products or services for adults and used underwear"³²⁸ and "Violence and discrimination."³²⁹ The company also states that content can be moderated,³³⁰ and that there's a threshold for what is acceptable or not.³³¹ The same applies for the policy on prohibited images.³³² Mercado Libre's documentation often requires a lot of legwork from users to find out what is allowed or not, but the information is clear, and reasons are given for why users may have their accounts restricted. The company receives a **yes** rating for both **F3a.1** and **F3a.2**.

The terms of service for **Shopee**³³³ contain the expected list of restrictions to illegal and fraudulent content, which are mostly clear, and the Forbidden and Restricted Products Policy³³⁴ and Ad Violations Guide³³⁵ further specify what is not allowed in the platform. Nonetheless, the Forbidden and Restricted Products Policy also contains a few vague and potentially problematic categories such as "products or services related to political or social campaigns", "adult entertainment or content", and "products that are related to questions of public debate", with no clarifications about what exactly that means—an approach completely opposed to that adopted by Mercado Libre in the example given above, involving Gabriel Garcia Marquez's novel. The Shopee terms of service also contain language that gives the company leeway to remove content that is "in any way objectionable" (item 6.2, a). Additionally, Shopee may restrict accounts or content at its sole discretion and without prior notice (item 5.3), for any reasons it sees fit, including but not limited to those listed under the terms of service. The mix of very specific and completely vague presented by Shopee in its documentation is a clear example of a **partial** rating for both elements **F3a.1** and **F3a.2**.

AliExpress' terms of service include a dry, fairly thorough list of what is expected of users in terms of activities and content posted on the platform, in a clear and straightforward manner. Nonetheless, some of the language used, and the degree of discretionary power granted to AliExpress, result in **partial** scores in **F3a.1** and **F3a.2**. Item 5.10 of the terms of service makes the user acknowledge that AliExpress "[...] reserves the right to, but shall not be required to actively monitor or exercise any editorial control whatsoever over the content of any message or material or information (including User Content) created, submitted, posted, displayed or otherwise made by any Member." Clear guidance on what would be grounds for editorial control is not provided, in what amounts to a blanket authorization for moderation or exclusion of content on any grounds, beyond what is listed explicitly on the terms of service.

³²⁷ <https://www.mercadolivre.com.br/ajuda/1020>

³²⁸ https://www.mercadolivre.com.br/ajuda/Conteudos-inadequados-para-menores_1052

³²⁹ https://www.mercadolivre.com.br/ajuda/Viol-ncia-e-discrimina--o_1054

³³⁰ See "Policy on product commentaries". Available at: <https://www.mercadolivre.com.br/ajuda/26454>

³³¹ The aforementioned "Inappropriate language" page also covers communications between parties. Available at: <https://www.mercadolivre.com.br/ajuda/1020>.

³³² <https://web.archive.org/web/20230413195715/https://www.mercadolivre.com.br/ajuda/1024>

³³³ <https://help.shopee.com.br/portal/article/77113>

³³⁴ <https://help.shopee.com.br/portal/article/76226>

³³⁵ <https://help.shopee.com.br/portal/article/76225>

This is made clear by item 6.1 of the terms, in which “AliExpress.com reserves the right in our sole discretion to remove, modify or reject any User Content (in whole or in part) that you submit to, post or display on the Sites which we reasonably believe...[to be] otherwise found inappropriate in AliExpress.com’s sole discretion.”

Item 19 of the AliExpress Product Listing Policy, furthermore, prohibits “...the listing or sale of controversial or sensitive products that may breach lines of morality, humanity; violate any local society's basic norms; or jeopardize any social order are strictly prohibited. Such items include, but are not limited to, abortion tools, genetic related products, products related to animal or organ cloning, products related to animal or human experiments, or products that may cause detrimental harm to the environment or society.”³³⁶ The examples provided are clear and the reasons for prohibition are easy to understand, but the proviso at the end of the paragraph is broad enough to encompass products that are unrelated to the examples provided. The qualification “detrimental harm to the environment and society”, after all, is vague enough to admit multiple interpretations, and “harm to society”, in particular, can be a problematic concept depending on context. The same problem can be found in AliExpress’ Community Guidelines, which prohibits the dissemination of “[...] rumours to disrupt social order and destabilize social stability” (item 5, 6).

Finally, with regard to providing reasons for restrictions to user accounts, item 6.2 of the terms of service give AliExpress substantial discretion to suspend or terminate accounts for reasons beyond those stated in the terms of service.³³⁷

iFood’s terms of service for buyers³³⁸ are generally clear in relation to what is authorized by the platform, including a list of prohibited behavior that could lead to account suspension or cancellation (item 2.3), and a paragraph stressing that iFood will not tolerate “any form of prejudice, bullying and incitation to violence. Behavior involving homophobia, harassment, racism, religious and/or political intolerance, sexism, ableism, and any action that has as its objective to diminish and/or offend someone, are subject to suspension or cancellation of the User Account on our iFood Platform, without previous notice and without prejudice of the adoption of the pertinent judicial measures” (item 10).

Nonetheless, item 2.3 contains broad and vague language when it points out the possibility of suspension/cancellation of accounts when “iFood verifies any disobedience, action and/or omission intending to infringe on these terms, including, but not limited to, violations to our

³³⁶

https://campaign.aliexpress.com/wow/gcp/itemblocken/index?spm=a1zaa.8161610.0.0.4e5e1dc6VrUr22&wh_weex=true&wx_navbar_hidden=true&wx_navbar_transparent=true&ignoreNavigationBar=true&wx_statusbar_hidden=true&previewTime=1651045471708

³³⁷ “6.2 If any Member breaches any Terms, or if AliExpress.com has reasonable grounds to believe that a Member is in breach of any Terms, AliExpress.com shall have the right to take such disciplinary actions as it deems appropriate, including without limitation: (i) suspending or terminating the Member’s account and any and all accounts determined to be related to such account by AliExpress.com in its sole discretion without liability for any losses or damages arising out of or in connection with such suspension or termination; (ii) restricting, downgrading, suspending or terminating the subscription of, access to, or current or future use of any Service; (iii) removing any product listings or other User Content that the Member has submitted, posted or displayed, or imposing restrictions on the number of product listings or User Content that the Member may post or display; (iv) imposing other restrictions on the Member’s use of any features or functions of any Service as AliExpress.com may consider appropriate in its sole discretion; and (v) any other corrective actions, discipline or penalties as AliExpress.com may deem necessary or appropriate in its sole discretion.”

³³⁸ <https://webmiddleware.ifood.com.br/termos>

Code of Ethics and Conduct" (2.3, I), and when "iFood detects any anomaly on the User Account" (2.3, II). The terms for delivery workers³³⁹ list a series of responsibilities that workers have in their relationship with the platform, which are mostly well formulated, but also contain vague language, such as maintaining that delivery workers will "answer for the incorrect and/or improper use of the Platform" (item 4.1). Other items of the terms of service for workers include clear obligations such as not transferring user accounts to other workers (item 3.5), or not committing fraud (item 8.1), but "incorrect and/or improper use of the Platform" is language broad enough to include activities not explicitly defined by the terms of service. For these reasons, iFood scores a *partial* credit for elements **F3a.1** and **F3a.2**.

PedidosYa's terms of service³⁴⁰ do not deviate from the pattern we find in some of the other documents we examined. They include general rules of compliance with laws and regulations,³⁴¹ more specific rules on site usage and security, such as, for instance, a prohibition on attempts to "prove the vulnerability of a system or network without proper authorization or violate security or authentication measures",³⁴² a few standard intellectual property-related obligations that are weirdly protective of PedidosYa's intellectual property, including very trivial HTML code. There is nothing particularly offensive in the terms of service, which do not employ strong non-exhaustive language next to lists of obligations or prohibited activities. Unfortunately, the document's "General" section contains a clause so broad that automatically grants PedidosYa a *partial* credit for both F3a.1 and F3a.2: "PedidosYa reserves the right to refuse to provide the service, close accounts, delete accounts, or edit content at its entire discretion." This extremely general blanket provision allows the company to restrict content or accounts under any pretext, including for activities and reasons not stated in the terms of service. Therefore, it got a *partial* credit in **F3a.1** and **F3a.2**.

Section 6 of **Rappi's** terms of service³⁴³ lists 22 user obligations, and with the exception of one, all are specific and objective, and there is no accompanying language suggesting that the list is non-exhaustive. The exception, however, is very problematic: item (iv) states that users should "[a]bstain from using the Rappi Platform to conduct acts contrary to morality, law, public order, and good customs against Rappi, Independent Delivery Workers, Business Allies, and/or third parties." The meaning of "against morality and good customs" is both loaded and open to all sorts of interpretations, and allows Rappi a great degree of freedom to permanently block user accounts—a prerogative Rappi grants itself in the closing paragraph of section 6. A *partial* credit for elements **F3a.1** and **F3a.2** is entirely a consequence of the provision under section 6, item (iv) of the terms of service.

³³⁹ <https://entregador.ifood.com.br/wp-content/uploads/2020/03/TERMOS-E-CONDICOES-DE-USO.pdf>

³⁴⁰ https://www.pedidosya.com.ec/about/tyc_generals

³⁴¹ "GENERAL RULES

Users may not use the Portal in order to transmit, distribute, store, or destroy material (i) in violation of any applicable law or regulation; (ii) in a manner that violates laws on copyright, industrial property, trade secrets or any other intellectual property rights of third parties, or in a manner that violates the privacy, publicity or other personal rights of third parties; or (iii) in a manner that is defamatory, obscene, threatening or abusive. This is without prejudice to specific rules concerning the matter that are imperative in each of the legal systems corresponding to the territories in which PedidosYa will provide its service." Ibid.

³⁴² Under the heading "SECURITY RULES", *ibid.* The security obligations come with a general "by way of example and without limitation" condition that, despite opening the clause to the inclusion of other types of security violations, delimits the range of offenses to a very specific type of action, and consequently does not trigger our "vagueness and openness" criterion for an automatic *partial* credit.

³⁴³ https://legal.rappi.com/colombia/terminos-y-condiciones-de-uso-de-plataforma-rappi-2/?_ga=2.163565243.620048710.1618956823-265447413.1581561278

The terms of service and privacy policy for **aiqfome**³⁴⁴ clearly identify what types of content and activities are not permitted, such as "having duplicate accounts, not sharing login and account data, practicing fraudulent acts, and so on."³⁴⁵ Also of note is an entry on restaurant feedback, prohibiting content that may "(a) contain any defamatory, obscene or offensive material; (b) promote violence or discrimination; (c) infringe the intellectual property rights of third parties; (d) infringe any property rights of third parties (such as a right to non-disclosure); (e) promote illegal activities or invade the privacy of third parties; (f) be used to impersonate another person or represent affiliation to another person incorrectly".³⁴⁶ The company also states that any violation of the user obligations described under the section "Registration and User Obligations" may result in account exclusion, suspension of access, or warning. Since user obligations are clearly defined and objective, without the use of language that is overbroad and open to the inclusion of obligations not explicitly defined, the company receives full credit for both elements. Therefore, it receives for **F3a.1** and **F3a.2** a **yes** score.

DiDi Food's terms of service are concerned, first and foremost, with limiting DiDi's liability with regard to any of the services provided through its platforms. With this in mind, the general terms of service for the DiDi services claim that DiDi reserves the right to terminate any services provided if "DiDi considers that the User has incurred in any violation".³⁴⁷ The document also makes sure that the user understands that DiDi will consider seeking compensation if the company believes users to be "violating any term of the present Terms and Conditions", "infringing any rights of third parties" or "abusing the Site or the services",³⁴⁸ but one does not get a clear picture of exactly what types of content and activities are prohibited. The terms for restaurants³⁴⁹ and delivery workers³⁵⁰ are more specific, including long lists of obligations and restrictions. Nevertheless, vagueness can still be found if we consider that the terms mention that both restaurants and delivery workers have to obey DiDi and DiDi Food's Community Guidelines, and that we could not find any such documents.³⁵¹ Additionally, DiDi reserves the right to block delivery workers' accounts if the company perceives that there was "damage to moral or good manners" in interactions between delivery workers and other delivery workers, restaurants, and end-users, without defining any of the criteria guiding such decisions.³⁵²

DiDi also states that it may unilaterally terminate any of its services if it considers that users are in violation of the terms of service.³⁵³ Since there is considerable vagueness involved in defining

³⁴⁴ <https://aiqfome.com/termos>

³⁴⁵ See the section "Registration and User Obligations".

³⁴⁶ See section "On Restaurant Reviews".

³⁴⁷ This provision can be found under the heading "Términos y Condiciones", but the original document is offline as of the drafting of this report. Archive link: <https://web.archive.org/web/20220911215024/https://web.didiglobal.com/co/legal/terminos-y-condiciones/>

³⁴⁸ Provision included under the heading "Indemnización". Ibid.

³⁴⁹ Document offline. Archive link: https://colombia.didiglobal.com/wp-content/uploads/sites/15/2021/11/CO_TyC_DiDiFood_Tiendas.pdf

³⁵⁰ Document offline. Archive link: <https://colombia.didiglobal.com/wp-content/uploads/sites/15/2021/05/CO-Terminos-y-Condiciones-DiDiFood-Socio-Repartidor.pdf>

³⁵¹ For restaurants, see item 5.2; for delivery workers, item 2.5, viii, but under section 3, not section 2. This is due to a typo, the correct reference should have been 3.5, viii.

³⁵² Item 2.10, *ibid.*

³⁵³ General DiDi terms of service, under "Términos y Condiciones"; terms of service for restaurants, section 8; terms of service for delivery workers, section 14.

some of the activities that could be found to be in violation of the terms, as explained above, the company scores a *partial* credit in both elements.

5.4.2 Information on enforcement processes

We could not find clear disclosure about the processes used to identify content or accounts in violation of company rules (element **F3a.3**) for **iFood**,³⁵⁴ **PedidosYa**,³⁵⁵ **Rappi**, and **DiDi Food**; all receive *no disclosure found* scores. For the remaining companies, only **Mercado Libre** and **AliExpress** score a *full* score. **Shopee** and **aiqfome** are both assigned *partial* credit.

Mercado Libre's transparency reports for 2021 mention that the platform uses algorithmic processes for flagging and restricting content (accounts are not explicitly mentioned, but heavily implied), along with user and partner notifications.³⁵⁶ The company claims that most of the infringing content is detected through automated means, with 99.4% of removed content "detected by Mercado Libre. The rest has been reported by our users or by competent agencies within the framework of several collaboration agreements".³⁵⁷ With regard to these agreements, the report states that Mercado Libre seeks to "[...] constantly build formal and informal bridges with governmental and civil society players to deepen the impact of our products, making our best tools available to them to help fight bad practices or criminal activities" such as "[...] the agreements made with educational authorities and institutions that address issues such as grooming, racial hatred and anti-semitism, among others. Upon request of the competent public authorities, we remove any illegal content and, in certain cases and within the framework of legal procedures, we disclose data to collaborate with investigations."³⁵⁸

Alibaba's 2022 Annual Report makes it clear that algorithmic enforcement is used throughout the group's websites in order to detect and remove listings suspected of intellectual property

³⁵⁴ We could locate some disclosure for iFood's use of algorithms for purposes such as restaurant recommendations and logistics, but nothing related to enforcement of terms of service. See, for example: Capeleiro, Thiago. "Os bastidores do seu pedido no iFood". iFood Tech (Medium), February 21 2020. Available at: <https://medium.com/ifood-tech/os-bastidores-do-seu-pedido-no-ifood-e351c50ef841>

³⁵⁵ The Delivery Hero 2021 Annual Report provides some brief commentary on the company's use of technology, but not in the context of identifying violation of company rules. The most relevant information we get is the following paragraph: "During 2021 we successfully developed and implemented a full suite of proprietary tech solutions for our Q-Commerce business. We also extended our payment solutions in the areas of wallet and online payment fraud detection and added new machine learning based solutions in the area of personalization, dynamic pricing and marketing optimization.". Not enough for a partial or full credit for element F3a.3. Delivery Hero 2021 Annual Report, p. 68. PedidosYa's technical blog, much like iFood's, has some general technical posts, but nothing containing the information we are looking for. PedidosYa Tech (Medium), available at: <https://medium.com/peva-tech>

³⁵⁶ "We rely on technology to be increasingly efficient in protecting our products: in less than a second, our systems can analyze more than 5,000 variables to detect and pause or delete in real time listings in violation of our Terms and Conditions." Mercado Libre Transparency Report - January / June 2021, p. 9.

³⁵⁷ Ibid., p. 4.

³⁵⁸ Ibid., p. 11.

rights violations.³⁵⁹ The report also claims that data analytics are used “to identify manufacturers and dealers of suspicious goods so they can be brought to justice”,³⁶⁰ and that “[m]easures to prevent, detect and reduce the occurrence of fictitious transactions on our platforms that we have implemented include [...] analyzing transaction patterns to identify anomalies [...] enabling consumers and merchants to report suspicious transactions and [...] collaborating with law enforcement authorities to combat fictitious activities by merchants, websites and mobile apps that enable fictitious activities”.³⁶¹ There is also, as expected of marketplaces, a dedicated channel to report intellectual property rights violations,³⁶² and an in-app channel through which abusive behavior can be reported to the company.³⁶³

Shopee’s terms of service provide an email for general complaints of ToS violations (item 7.2), and the site platform also provides a form that can be filled for complaints related to intellectual property violations.³⁶⁴ From that, we can assume that Shopee will screen posts that are flagged through those channels. Unfortunately, there is little else in the terms of specifics specifying other means through which Shopee will identify content and accounts violating platform policies, including the use of algorithms for automated detection of rules infringement. There is indication that automation may be involved with regard to fraud detection in the payment’s accounts linked to shops in the marketplace (item 10.10), but this is not explicitly spelled out, and taken together with the absence of more specific information present in the terms of service, credit is *partial* for element **F3a.3**.

The terms of service and privacy policy for **aiqfome** mention that users' personal data is collected for "verification, monitoring and control", and that these data may be used to "carry out investigations and preventative measures related to combating illegal activity, fraud, financial crimes, crimes of money laundering and/or financing terrorism" (see the "Data and Use of Data" section). The terms also mention that there is a communications channel that may be used for "problems, criticism, suggestions and contact", through which aiqfome can also receive complaints about violations of terms of service. But this is the extent of disclosure that we could find, hence a *partial* credit.

Element **F3a.4** asks whether the company clearly discloses *how* it uses algorithmic systems to flag content found in violation of company rules. The only two companies that explicitly acknowledged that they use algorithmic systems for the detection of rules violations were

³⁵⁹ “We utilize our proprietary algorithms to proactively detect the presence of suspicious goods and remove them from our marketplaces without requiring the notice of a rights holder. Our continued optimization of proactive monitoring has recently included an increased focus optical content recognition (“OCR”) in connection with text and photos. In addition to scenario-specific governance measures such as anti-counterfeiting and other trademark misuse prevention strategies, we have also expanded the scope and extent of measures to prevent image theft. Our detection technology continuously improves through machine learning, which means we continue to become faster and more efficient at removing problematic products. Furthermore, to support this effort, an increasing number of rights holders also contribute information about their products and online trends they observe so we can further optimize our algorithms and detection methods. In turn, Alibaba provides timely feedback to participating members about the effectiveness of the proactive controls.” Alibaba 2022 Annual Report, p. 69.

³⁶⁰ Ibid., p. 69.

³⁶¹ Ibid, p. 70.

³⁶² <https://ipp.alibabagroup.com/policy/en.htm>

³⁶³

https://customerservice.aliexpress.com/knowledgeDetail?categoryId=21037523&hcAppId=1248&hcFromCode=Xn2Tk1tb7&hcSessionId=26-1248-286e6383-1a33-415f-ac56-5fd4da2d216&knowledgId=101746901&spm=service_hall.24300484.category.101746901

³⁶⁴ <https://help.shopee.com.br/portal/webform/330d1a2a3ef6413e975ec7e404f16c0c>

Mercado Libre and Alibaba, but neither offer descriptions of *how* exactly their algorithms operate with regard to the flagging of content,³⁶⁵ and thus receive **no disclosure found** credit for this element, along with all the other companies included in this report.

The general rule for element **F3a.7**, which assesses disclosure on processes for enforcing rules once violations are detected, is that sanctions are usually spelled out clearly by the companies we assessed, but processes are entirely opaque, or can only be understood by digging deep into the help center or FAQ sections of a platform's website. Companies usually have a boilerplate clause in their terms of service allowing for unilateral enforcement of rules at any moment, and clearly detailed explanations on process are rare. Only two companies managed to achieve a partial credit in element F3a.7: Mercado Libre, AliExpress and Shopee. The remaining companies all scored **no disclosure found**.

No information on the process for enforcement of rules can be found in the terms of service for **Mercado Libre**. The general terms of service mention sanctions for violation of terms of service, which include "notice, suspension, restriction, or temporary or definitive account deactivation, without prejudice of other sanctions established by the specific rules of use of Mercado Libre services" (item 7), but nothing is stated in relation to the specifics of enforcement. One can get a sense that there is a different approach for each type of violation, given that there are a variety of "What happened to my listing?" pages in the Mercado Libre help center, each dealing with a different reason for suspension or removal of listings, such as, for example, violation of the image policy,³⁶⁶ items no longer allowed by the platform,³⁶⁷ and intellectual property violations.³⁶⁸ All of these include the possibility for revision, but procedures may differ, as exemplified by the procedure for intellectual property rights violations, which involves form that is exclusive for that type of violation, which is not the same as the one used for the revision of a sanction related to items no longer allowed by Mercado Libre.³⁶⁹ There is no single point of reference provided by Mercado Libre with an explanation for rules of procedure; these are all contingent on violations taking place and users being redirected to or finding a page explaining what happened and how to proceed. Likewise, there is no document offering a flowchart or other type of explanatory materials detailing these processes. Mercado Libre scored a partial credit in element **F3a.7**.

Shopee reserves the right to enforce platform rules unilaterally and without prior notification (item 6.4 of the terms of service), and consequently establishes a blanket rule for enforcement regardless of any specific process. Nonetheless, the platform discloses some information about how and under what circumstances terms are enforced, and penalties applied, for sellers.³⁷⁰

³⁶⁵ When explanations are attempted, as is the case with AliExpress' ranking algorithms, the descriptions are far from being illuminating: "When searching for products and unless otherwise indicated therein, products shown in search result page are ranked by "Best Match" (relevance) criterion, which is mainly determined by an algorithm that takes into account several factors which may change over time, including in particular the pertinence regarding the keywords used or the popularity of the relevant product with other users." AliExpress. (n.d.). *What are the rules for products ranking?* Retrieved July 24, 2023, from https://customerservice.aliexpress.com/knowledgeDetail?categoryId=75446053&hcAppld=1257&hcFromCode=gtlis4gha&hcSessionId=26-1257-9cffc1d7-0259-4304-95cc-28cfbe95f8fa&knowlegeld=489441&spm=service_hall.24220272.searchresult.489441

³⁶⁶ <https://www.mercadolivre.com.br/ajuda/20589>

³⁶⁷ <https://www.mercadolivre.com.br/ajuda/18736>

³⁶⁸ <https://www.mercadolivre.com.br/ajuda/18207>

³⁶⁹ https://www.mercadolivre.com.br/ajuda/O-meu-anuncio-foi-denunciado_2839

³⁷⁰ <https://seller.shopee.com.br/edu/article/8933/Avoiding-account-penalties>

There is a points systems for violations,³⁷¹ and penalties that include reduced visibility of product listings,³⁷² as well as frozen or canceled accounts.³⁷³ Customers, however, are not given the same attention in the company's publicly available materials, and the broad right reserved by Shopee to enforce rules unilaterally and without previous notice reveals its full weight in relation to this category of user. A Community Guidelines page provides some general rules, such as "be respectful" and "use good judgment", but no detailed description of how these rules are enforced is provided.³⁷⁴ The guidelines also indicate that depending on "internal policy", different sanctions may be applied, such as "a warning, a temporary suspension or, in more serious offenses, a suspension for indeterminate period". Still, considering the more detailed disclosure concerning the penalties applied to sellers, Shopee receives a *partial* credit in **F3a.7**.

AliExpress reserves itself the right to impose, "as it deems appropriate", a diverse selection of disciplinary actions against its users "[i]f any Member breaches any Terms, or if AliExpress.com has reasonable grounds to believe that a Member is in breach of any Terms [...]".³⁷⁵ The AliExpress.com Free Membership Agreement, in its section about community discussion boards and breaches to policies related to user-generated content, has a provision stating that "[...] AliExpress.com may ban, delete or prohibit any Content that relates to those breaches or that AliExpress.com in its sole discretion consider to be harmful to the public or the rights of AliExpress.com or any of its affiliates, licensors, partners or Members." (item 5.8). The company also affirms that it will "take whatever action it deems necessary" to prevent these breaches, and that "[a]ll incidents will be logged and AliExpress.com's decision shall be final in all such cases" (item 5.9).³⁷⁶

As a rule, processes for enforcement of these actions are not clearly disclosed, and the Help Center reinforces the notion that detailed information on the subject is not easy to find, as illustrated by the FAQ entry "Why my feedback is not displayed?" [sic], which states that "[...] the feedback might be removed if it violate [sic] feedback rules", but has nothing to say about

³⁷¹ <https://seller.shopee.com.br/edu/article/7955/Sistema-de-Pontos-de-Penalidade-do-vendedor>

³⁷² <https://seller.shopee.com.br/edu/article/15335/politica-de-reducao-de-visibilidade-de-produtos>

³⁷³ <https://seller.shopee.com.br/edu/article/8933/Avioding-account-penalties>

³⁷⁴ [https://help.shopee.com.br/portal/article/117286-\[Shopee-Live\]-Diretrizes-da-Comunidade?previousPage=secondary%20category](https://help.shopee.com.br/portal/article/117286-[Shopee-Live]-Diretrizes-da-Comunidade?previousPage=secondary%20category)

³⁷⁵ 6.2 If any Member breaches any Terms, or if AliExpress.com has reasonable grounds to believe that a Member is in breach of any Terms, AliExpress.com shall have the right to take such disciplinary actions as it deems appropriate, including without limitation: (i) suspending or terminating the Member's account and any and all accounts determined to be related to such account by AliExpress.com in its sole discretion without liability for any losses or damages arising out of or in connection with such suspension or termination; (ii) restricting, downgrading, suspending or terminating the subscription of, access to, or current or future use of any Service; (iii) removing any product listings or other User Content that the Member has submitted, posted or displayed, or imposing restrictions on the number of product listings or User Content that the Member may post or display; (iv) imposing other restrictions on the Member's use of any features or functions of any Service as AliExpress.com may consider appropriate in its sole discretion; and (v) any other corrective actions, discipline or penalties as AliExpress.com may deem necessary or appropriate in its sole discretion." AliExpress.com Terms of Use. Available at: https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alieexpress/suit_bu1_alieexpress202204182115_66077.html?spm=service_hall.24300481.0.0.1c7f4300HidLhQ

³⁷⁶ https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alieexpress/suit_bu1_alieexpress202204182115_37406.html?spm=service_hall.24300481.0.0.1c7f4300zWCCk1

the process taken by AliExpress after identifying the violation.³⁷⁷ The Help Center does contain information on some processes, which can be very detailed, as is the case with IPR violations. There is some disclosure on the process for sellers wanting to dispute customer feedback, and a page with “transaction non-fulfillment rules” is available on another Alibaba site, containing information on sanctions, but not a lot on process. To summarize: process for enforcement of rules is clearly disclosed for IPR-related violations, but not for other types of rules. Whatever information is available is scattered, may be stored in different web domains belonging to Alibaba, and is often incomplete. The partial credit to AliExpress is assigned due to the IPR enforcement procedures, which is something to be expected of all online marketplaces.

PedidosYa’s terms of service include the usual discretionary power to suspend or cancel users’ accounts in clause 21: "PedidosYa reserves the right, at its sole discretion, to suspend or cancel the registration of Users, and consequently deny access to the Portal, in the event of non-compliance with these Terms and Conditions by Users or the inability to verify or authenticate any information that they have provided in the registration to access the Portal [...]". No disclosure could be found about processes related to termination or other penalties directed at the platform’s users, and company materials about delivery workers are gated behind a registration process.³⁷⁸

The situation is similar in **Rappi**’s case. The paragraph that closes section 6 of the Rappi terms and conditions document (“User/Consumer Obligations”) states that “[i]n case of breach of any of the obligations contained in the present section, Rappi reserves the right to permanently block the User/Consumer's account on the Rappi Platform”. Section 9 (Improper Use of the Rappi Platform) reinforces the possibility of unilateral temporary or permanent blocking of accounts if the company observes “(ii) non-compliance with any of the provisions of these Terms and Conditions;”and “(c) if the User/Consumer engages in conduct detrimental to Rappi and/or third parties;”. No information is available on process for enforcement of the terms of service, and no materials publicly available on Rappi’s portal for delivery workers describe how the company enforces rules violations for that category of platform participant.³⁷⁹

iFood’s terms of service for buyers do not contain an item dealing with enforcement of terms in a general way, but section 10, "What does iFood not tolerate?", which is dedicated to discriminatory behavior, states that the company declares that it may suspend or cancel "the User Account on our iFood Platform, without previous notice and without prejudice of the adoption of the pertinent judicial measures".

The terms of service for delivery workers specify in clause 8.1 that "iFood may impede, suspend, make inactive or deactivate, temporarily and definitively, Delivery Worker access to the Platform in the case of fraud, without need of any previous communication [...]". Clause 9.1 allows iFood or delivery workers to terminate contracts at any time, *without* justification, if previous notification is offered 5 days before termination. Clause 9.2 authorizes termination *with* justification and without previous notice if any of the parties “(i) fails to comply with the provisions contained in these Terms and/or applicable legislation” or “(ii) gives cause to

³⁷⁷

https://customerservice.aliexpress.com/knowledgeDetail?categoryId=21038571&hcAppId=1248&hcFromCode=Xn2Tk1tb7&hcSessionId=26-1248-286e6383-1a33-415f-ac56-5fdf4da2d216&knowledgeId=587&spm=service_hall.24300484.category.587

³⁷⁸ <https://www.repartosya.com.ec/>

³⁷⁹ <https://soyrappi.com.co/>

damages and/or harm, directly or indirectly, to the other party.” Termination of delivery workers, as well as other penalties such as suspensions or account restrictions, are extremely problematic, and have long been a topic of contention, as detailed in section 3.2.2, above. Accusations of unfair enforcement of terms of service against delivery workers are frequent, often affecting individuals who have iFood as their primary or sole source of income.³⁸⁰ iFood provides some information about what can cause or motivate sanctions to delivery workers, as well as the periods for temporary restrictions or deactivations of accounts, but the process itself is ultimately not transparent,³⁸¹ and decisions are entirely at iFood’s discretion.³⁸²

5.5 Data about account or content restrictions

In this section we sum up to indicators that share the same goal: Question whether or not the companies inform qualitative data about the number contents (F4a indicators) and number of accounts (F4b indicators) have been restricted for violating the company’s own rules, and what is the level of detail of such information.

As we can see on the following tables, on F4a indicators, only Mercado Libre got a relatively well performance in comparison with the rest companies, obtaining a *partial* credit on F4a.1, F4a.4 and F4a.5).

Table 14 Data about content restrictions to enforce ToS performance

F4. Data about policy enforcement F4(a). Data about content restrictions to enforce terms of service	Mercado Libre (Brazil)	AllExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
F4a.1 Does the company publish data about the total number of pieces of content restricted for violating the company’s rules?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
F4a.2 Does the company publish data on the number of pieces of content restricted based on which rule was violated?	ND	ND	ND	ND	ND	ND	ND	ND
F4a.3 Does the company publish data on the number of pieces of content it restricted based on the format of content? (e.g. text, image, video, live video)?	ND	ND	ND	ND	ND	ND	ND	ND
F4a.4 Does the company publish data on the number of pieces of content it restricted based on the method used to identify the violation?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
F4a.5 Does the company publish this data at least four times a year?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
F4a.6 Can the data be exported as a structured data file?	ND	ND	ND	ND	ND	ND	ND	ND

Table 15 Data about account restrictions to enforce ToS performance

F4. Data about policy enforcement F4(b). Data about account restrictions to enforce terms of service	Mercado Libre (Brazil)	AllExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
F4b.1 Does the company publish data on the total number of accounts restricted for violating the company’s own rules?	ND	ND	ND	ND	ND	ND	ND	ND
F4b.2 Does the company publish data on the number of accounts restricted based on which rule was violated?	ND	ND	ND	ND	ND	ND	ND	ND
F4b.3 Does the company publish data on the number of accounts restricted based on the method used to identify the violation?	ND	ND	ND	ND	ND	ND	ND	ND
F4b.4 Does the company publish this data at least four times a year?	ND	ND	ND	ND	ND	ND	ND	ND
F4b.5 Can the data be exported as a structured data file?	ND	ND	ND	ND	ND	ND	ND	ND

On the F4b indicators, performance is really poor among all the companies, none of them provides any publicly information about how many accounts is being restricted for violating the

³⁸⁰ See, for example: Cícero, José. "Sem que entregadores saibam, iFood tem contrato que prevê direitos trabalhistas". *Pública*, May 2022.

<https://apublica.org/2022/05/sem-que-entregadores-saibam-ifood-tem-contrato-que-preve-direitos-trabalhistas/>

³⁸¹ See Desgranges, Nina. Os algoritmos do empreendedorismo: A plataformação do trabalho de entregadores de iFood. *Pensata*, 9(2), 2021. Available at: <https://doi.org/10.34024/pensata.2020.v9.11136>

³⁸² <https://entregador.ifood.com.br/para-suas-entregas/regras-de-ouro/restricoes-inativacoes-e-desativacoes/>

company's own rules, nor even any data about which rule suspended or restricted accounts violated, among others. Therefore, *no disclosure* credit was granted to all of them.

5.5.1 Online marketplaces, food delivery platforms, and transparency reports

Out of the 9 companies included in our review, only **Mercado Libre** publishes regular transparency reports. Despite our best efforts, we could not find enough information to satisfy the disclosure requirements of indicators F4a and F4b for the remaining companies, and even Mercado Libre failed to score a *partial* or *yes* credit for F4b. In any case, the analysis provided below focuses only on Mercado Libre, but a few observations need to be addressed before we move on to the ratings.

Marketplaces, in particular, have a good reason to publish transparency reports: intellectual property rights infringement, and the need to establish a corporate image of compliance to copyright, trademarks, geographic indications and patents, among other, comparatively less salient fields of IP protection, such as industrial design and integrated circuit protections. There is also the issue of compliance with local laws and regulations, since marketplaces sell products that might be prohibited or regulated to varying degrees.

Due to the nature of their business, marketplaces face a variety of associations of rights holders, representing a wide range of industries, with their efforts in lobbying, or triggering direct enforcement actions (via the judiciary or law enforcement agents), media advocacy, and so on. These associations are usually well organized, and have accumulated years of experience in pressuring online platforms. Pressure on an online marketplace, arguably, should be even more intense than the usual copyright-focused attention a video sharing network might attract. In this context, transparency reports can be an effective way to advertise compliance, and in the case of Mercado Libre that seems to be one of the main goals of the report. It is surprising that the other marketplaces we evaluated chose not to employ a similar strategy, instead resorting to more general overviews of how they deal with IPR violations in their reports, with rarely a number presented.

Sea Limited's Sustainability Report 2021 stresses that "Intellectual Property Protection & Competitive Behavior" is one of the group's key ESG factors of analysis, but for game publisher Garena, not Shopee.³⁸³ The company is, of course, acutely aware of the problems involved in IPR protection and litigation,³⁸⁴ and Shopee maintains a dedicated channel for intellectual

³⁸³ Sea Sustainability Report, p. 21. Available at: <https://cdn.sea.com/webmain/static/resource/seagroup/Sustainability/Social%20Impact%20reports/61m2ELuLpRBg1oEkjkbT/Sea%20Sustainability%20Report%202021.pdf>

³⁸⁴ From Shopee's 20-F SEC filing for the fiscal year ended December 2022, p. 25: "With the increasing use of e-commerce marketplaces and development of legislation in different markets towards e-commerce marketplaces, proposed and newly enacted laws as well as recent court decisions in certain markets may increase our liability as a marketplace platform for the actions of, content created by, and/or products sold by third party sellers that use our Shopee platform. For example, the issuance of Decree 85/2021/ND-CP, or Decree 85, in Vietnam makes ecommerce platforms jointly liable to the buyer under certain circumstances if they fail to comply with the requirements of Decree 85 such as taking remedial measures upon detection or receipt of reports of goods or services that violate local laws, or to support the relevant authorities in Vietnam in investigating and handling illegal acts and settling disputes. We may also be held directly or secondarily liable for intellectual property infringement, product related claims or consumer protection deficiencies, privacy and data protection incidents, regulatory violations by sellers, or other similar conduct of sellers over which we have limited or no influence or control. As Shopee is readily identifiable, buyers may seek claims against us rather than the seller, which in the aggregate could be costly to defend. We also receive inquiries or demands from regulators and law enforcement regarding defective, unregistered, unlicensed or fraudulent products sold by sellers through our Shopee platform. We have developed

property rights violations.³⁸⁵ Alibaba is more forthcoming with extensive paragraphs on frameworks for combating IPR infringement,³⁸⁶ industry partnerships,³⁸⁷ algorithms for automatic detection of infringing listings.³⁸⁸ Alibaba's 2021 ESG report offers some numbers on counterfeiting cases, but nothing that would remotely satisfy any of the elements for indicator F4a or F4b.³⁸⁹

robust consumer protection policies and procedures focused on requiring sellers to comply with applicable laws and creating a secure and reliable shopping environment for our buyers. When these policies and procedures are circumvented or fail to operate sufficiently, our business could be adversely impacted and our reputation could be harmed. In addition, we could face civil or criminal liability for unlawful activities by our sellers," Available at: <https://cdn.sea.com/webmain/static/resource/seagroup/pressrelease/2022AR/6XNmuGkDrCopmdEwH15M/2023-04-06%20-%20Form%202020-F.pdf>.

³⁸⁵ <https://help.shopee.com.br/portal/webform/330d1a2a3ef6413e975ec7e404f16c0c>

³⁸⁶ "A secure environment for intellectual property rights (IPR) development is key to promoting innovation. Alibaba established an intellectual property rights protection system as early as 2002. Through extensive stakeholder cooperation over the past 20 years, we have built this system into a comprehensive framework. It covers a breadth of protection: from trademarks to many other rights, both online and offline enforcement, supporting large global brands and MSMEs, and combating counterfeiting while developing systems that encourage innovation and originality. Alibaba 2022 Annual Report, p. 119-120. Available at: <https://data.alibabagroup.com/ecms-files/886023430/c330302f-bfdd-4c79-a5ac-614446292e68.pdf>.

³⁸⁷ "In January 2017, Alibaba, along with 30 domestic and international intellectual property rights holders, founded the AACA, the first alliance of its kind. Owners of famous global consumer brands, such as 3M, Amway, Ford, Johnson & Johnson, Mars, Procter & Gamble, and Spalding, have participated as founding members in the AACA. By March 31, 2022, the AACA's membership had expanded to over 210 rights holder members, representing over 1,000 brands from 21 different countries and now encompasses 14 industries, such as electronics, automotive, pharmaceuticals and luxury goods, which regularly collaborate through Industry Working Groups, or IWGs". Ibid, p. 69.

³⁸⁸ "We utilize our proprietary algorithms to proactively detect the presence of suspicious goods and remove them from our marketplaces without requiring the notice of a rights holder". Ibid, p. 69.

³⁸⁹ "Alibaba is committed to continuously optimizing our sophisticated notice-and-takedown system, the Alibaba Intellectual Property Protection Platform ("the IPP"). We enable protection across a wide range of scenarios encountered by the vast number of rights holders who work with us. As of March 31, 2022, more than 660,000 IP rights worldwide were protected on the IPP, through over 590,000 accounts. Ensuring the effectiveness of the IPP, 98% of takedown requests are acted upon within 24 hours" [...] "Alibaba assists law enforcement agencies and rights holders to crack down on counterfeiters and counterfeit goods using intelligent algorithms. In FY2022, Alibaba assisted authorities to carry out offline enforcement, and assisted in the investigation and resolution of 2,802 counterfeiting cases, with a total estimated case value of RMB3.557 billion." Alibaba 2022 Environmental, Social, and Governance Report, p. 119-120. Available at: <https://data.alibabagroup.com/ecms-files/1452422558/5feb0e46-f04b-4d9c-9568-e4a5912db37e.pdf>

Both Shopee³⁹⁰ and AliExpress³⁹¹ have been included in the United States Trade Representative 2022 Notorious Markets³⁹² list, alongside perennial favorites such as The Pirate Bay and

³⁹⁰ "Shopee is an online and mobile e-commerce market based in Singapore with individual country-focused platforms primarily serving Southeast Asia, Europe, and Brazil. Right holders report overall high volumes of counterfeits across some of Shopee's platforms, with complaints about cumbersome and duplicative processes among the individual country-focused platforms, differing requirements for takedown requests, and slow response times. Shopee's Taiwan and Vietnam platforms appear to be positive examples of better engagement with right holders and improved anticounterfeiting efforts, but some right holders indicate counterfeits are also present on those country platforms. In 2022, Shopee launched a pilot program for its new brand protection portal and, with a newly hired global brand protection director, increased its engagement with right holders. Right holders urge Shopee to improve its procedures for vetting sellers, enhance deterrence against counterfeit goods through increased penalties, and cooperate with right holders in investigations of the supply chain for counterfeit goods purchased on the platform." "2022 Review of Notorious Markets for Counterfeiting and Piracy". United States Trade Representative (USTR), p. 33-34. Available at: [https://ustr.gov/sites/default/files/2023-01/2022%20Notorious%20Markets%20List%20\(final\).pdf](https://ustr.gov/sites/default/files/2023-01/2022%20Notorious%20Markets%20List%20(final).pdf)

³⁹¹ "AliExpress is a business-to-consumer e-commerce platform that connects China-based sellers with buyers around the world. AliExpress is owned by Alibaba and shares certain anticounterfeiting tools and systems with other Alibaba platforms. As a whole, owner Alibaba is known for anti-counterfeiting processes and systems that are among the best in the e-commerce industry, in particular its significant support for law enforcement and brand owners' investigations and enforcement actions against counterfeiters. Despite these efforts, right holders report the continued lack of effective seller vetting and repeat infringer controls, such that AliExpress is a dominant upstream distributor of counterfeit goods in wholesale quantities for online markets in the United States and other countries. Alibaba notes that, notwithstanding disclaimers on the AliExpress website that it does not guarantee the authenticity or accuracy of seller information, it requires business license or national identification information in order to sell on the platform and checks such information against official government databases. However, right holders express concerns that counterfeit sellers have been able to obtain accounts fraudulently by using an unrelated business license. Another key concern of right holders is that penalties for repeat infringers do not stop known counterfeit sellers on AliExpress from remaining on the market, such as by operating multiple accounts". Ibid, p. 22.

³⁹² A supplementary component of the Special 301 materials published by the USTR: "USTR developed the 2022 NML in coordination with the federal agencies represented on the Special 301 Subcommittee of the Trade Policy Staff Committee (TPSC). Information about Special 301 and other intellectual property-related processes and issues is available at <https://ustr.gov/issueareas/intellectualproperty>." [sic, actually <https://ustr.gov/issue-areas/intellectual-property>]. "2022 Review of Notorious Markets for Counterfeiting and Piracy". United States Trade Representative (USTR), p. 53. Available at: [https://ustr.gov/sites/default/files/2023-01/2022%20Notorious%20Markets%20List%20\(final\).pdf](https://ustr.gov/sites/default/files/2023-01/2022%20Notorious%20Markets%20List%20(final).pdf)

Sci-Hub.³⁹³ Shopee's 20-F SEC filing for 2022³⁹⁴ and Alibaba's 2022 Annual Report demonstrate

³⁹³ The USTR is the US government agency in charge of the Special 301 Process, which includes a yearly ranking of countries found to be in violation of US interests in the Intellectual Property Rights field. These reports are based on information supplied by industry associations and players, such as the International Intellectual Property Alliance (IIPA), for copyright, and the Pharmaceutical Research and Manufacturers of America (PhRMA) for patents in the pharmaceutical industry. See, for example, PhRMA's 2023 Special 301 submission, available at: <https://phrma.org/resource-center/Topics/Intellectual-Property/PhRMA-Special-301-Submission-2023> and IIPA's 2023 Special 301 report, available at: https://www.iipa.org/files/uploads/2023/01/2023SPECIAL301FILING_WEBSITE-1.pdf. The final report produced by the USTR, following a consultation period dominated by industry players such as the ones indicated above, are reports that classify countries in tiers of non-compliance with US IPR interests: mainly a Priority Watch List, and a Watch List. The 2022 report can be read here: <https://ustr.gov/sites/default/files/IssueAreas/IP/2022%20Special%20301%20Report.pdf>. In past times, these lists were used as stepping stones for the justification of unilateral trade sanctions directed at the countries included on the lists. In a post-WTO world, the Special 301 reports have lost much of their edge, but remain somewhat useful as instruments of pressure, particularly when they influence media outlets and politicians in the countries they target.

³⁹⁴ "With the increasing use of e-commerce marketplaces and development of legislation in different markets towards e-commerce marketplaces, proposed and newly enacted laws as well as recent court decisions in certain markets may increase our liability as a marketplace platform for the actions of, content created by, and/or products sold by third party sellers that use our Shopee platform. For example, the issuance of Decree 85/2021/ND-CP, or Decree 85, in Vietnam makes ecommerce platforms jointly liable to the buyer under certain circumstances if they fail to comply with the requirements of Decree 85 such as taking remedial measures upon detection or receipt of reports of goods or services that violate local laws, or to support the relevant authorities in Vietnam in investigating and handling illegal acts and settling disputes. We may also be held directly or secondarily liable for intellectual property infringement, product related claims or consumer protection deficiencies, privacy and data protection incidents, regulatory violations by sellers, or other similar conduct of sellers over which we have limited or no influence or control. As Shopee is readily identifiable, buyers may seek claims against us rather than the seller, which in the aggregate could be costly to defend. We also receive inquiries or demands from regulators and law enforcement regarding defective, unregistered, unlicensed or fraudulent products sold by sellers through our Shopee platform. We have developed robust consumer protection policies and procedures focused on requiring sellers to comply with applicable laws and creating a secure and reliable shopping environment for our buyers. When these policies and procedures are circumvented or fail to operate sufficiently, our business could be adversely impacted and our reputation could be harmed. In addition, we could face civil or criminal liability for unlawful activities by our sellers," Shopee's 20-F SEC filing for the fiscal year ended December 2022, p. 25. Available at: <https://cdn.sea.com/webmain/static/resource/seagroup/pressrelease/2022AR/6XNmuGkDrCopmdEwH15M/2023-04-06%20-%20Form%2020-F.pdf>.

special concern about the company's inclusion on the USTR notorious markets list,³⁹⁵ which also lists popular physical markets such as Mexico's Tepito, Brazil's Rua 25 de Março and surroundings in São Paulo, and La Salada in Buenos Aires, Argentina.

To Latin American readers, it is unnecessary to explain all the complex issues related to street vendors, markets for physical pirated and counterfeited goods, and the social and economic needs that they meet in countries with a substantial contingent of informal workers that often turn into the sale of a variety of cheap items, legal or illegal.³⁹⁶ What we are seeing now is, in many ways, a revival of old discussions regarding street markets, informality, and Chinese manufacturing—with copious amounts of sinophobia thrown around in industry discourse and even in legislative debates—but transferred to online marketplaces.

In Brazil, this connection was immediately picked up by local retailers, who quickly worked to disseminate the idea that marketplaces such as Shopee and AliExpress are “camelódromos virtuais”—“camelódromo” being an often derogatory term used to describe markets that operate in zones of ambiguous legality, mixing legal and illegal goods, and formal and informal work. This led to a tiresome and still developing discussion on taxation of products acquired on, mainly, SHEIN, Shopee, and AliExpress, and to the unfortunate naturalization and adoption, by mainstream media outlets, of the term “camelódromo virtual”.³⁹⁷ The alternative accusation of “online contraband” is not much better, since it both miscategorizes what are, at most, tax

³⁹⁵ “Regulators in China and other jurisdictions, including the United States, are increasingly seeking to hold Internet platforms liable for product liability, illegal listings and inappropriate content. We have been and may continue to be subject to significant negative publicity, regulatory scrutiny and allegations of civil or criminal liability based on allegedly unlawful activities or unauthorized distribution of products or content carried out by third parties through our online marketplaces. Due to our role as an operator of online marketplaces, we may also become subject to criminal liabilities if we are found to have knowingly assisted or supported any other person who was committing certain crimes. We have also acquired certain companies, such as Youku, Lazada and Ele.me, that from time to time are subject to allegations and lawsuits regarding alleged infringement of third-party intellectual property or other rights, and we may continue to acquire other companies that are subject to similar disputes.

In addition, we have been and may continue to be subject to significant negative publicity in China and other countries based on similar claims and allegations. For example, in past years and again in February 2022, the USTR identified Taobao as a “notorious market.” In 2022, the USTR also identified AliExpress as a notorious market. The USTR may continue to identify Taobao and AliExpress as notorious markets, and there can be no assurance that the USTR or other relevant authorities in the United States or other countries will not identify Taobao, AliExpress or any of our other businesses as notorious markets in the future. In addition, government authorities have in the past accused, and may in the future accuse, us of perceived problems and failures of our platforms, including alleged failures to crack down on the sale of counterfeit goods and other alleged illegal activities on our marketplaces. As a result of any claims or accusations by government authorities, by industry watchdog organizations, including the U.S. Commission on the Theft of American Intellectual Property, by brand and intellectual property rights holders or by enterprises, there may be a public perception that counterfeit or pirated items are commonplace on our marketplaces or that we delay the process of removing these items. This perception, even if factually incorrect, and existing or new litigation as well as regulatory pressure or actions related to intellectual property rights protection, could damage our reputation, harm our business, diminish the value of our brand name and negatively affect the trading prices of our ADSs, Shares and/or other securities. Alibaba 2022 Annual Report, p. 253. Available at: <https://data.alibabagroup.com/ecms-files/886023430/c330302f-bfdd-4c79-a5ac-614446292e68.pdf>

³⁹⁶ To readers from outside Latin America, a good overview of the overlaps between informality and intellectual property infringement in developing countries, with chapters dedicated to Brazil, Mexico, and Bolivia, can be found in the Media Piracy in Emerging Economies report, published by the Social Science Research Council (Karaganis, 2011). The report also includes the influence of USTR's Special 301 process on lawmaking and law enforcement, which remain relevant even after the creation of the WTO. See Karaganis, Joe (ed.). Media piracy in emerging economies. New York: Social Science Research Council, 2011. Available (in English, Spanish, and Chinese) at: <https://piracy.americanassembly.org/the-report/>

³⁹⁷ See Pupo, Fábio. “Receita Federal mira sites de compras estrangeiros”. 25 March 2022. Available at: <https://www1.folha.uol.com.br/mercado/2022/03/receita-federal-mira-sites-de-compras-estrangeiros.shtml>

related offenses, and constructs the image that these companies' entire operations are criminal in nature.³⁹⁸

Given all this pressure, it is interesting that Shopee and AliExpress do not publish more detailed information on restrictions to content and accounts. These involve, certainly, much more than IPR-related offenses, but the incentive is there, and was taken by Mercado Libre. A blog post by the Brazilian Association of Corporate Communication (Aberje) celebrating the publication of an edition of the Mercado Libre transparency report makes it clear that intellectual property and privacy legislation compliance are the main reasons for the reports existing,³⁹⁹ and press releases reinforce that.⁴⁰⁰ This makes sense, since Mercado Libre has been, in the past, a target of past pressure from intellectual property rights holders.⁴⁰¹ Yet, Shopee and Alibaba are lagging behind, and we are left only with the Mercado Libre reports for analysis.

It is worth emphasizing that companies should disclose data concerning content and account restrictions for reasons of transparency and accountability, not merely as self-defense against external pressure, and that intellectual property rights infringement is but one of the many causes for restrictions included in platform policies. In the case of food delivery platforms, which are not the target of the same attention from IPR associations, disclosure is particularly important because it involves the rights of delivery workers to know and understand how the platform enforces its rules, and how algorithmic management manifests itself in concrete numerical terms. The same goes for sellers in online markets: there is a deep connection between knowledge about enforcement practices at a quantitative level and how restrictive practices can be understood, and companies be held accountable. Analysis of well-structured, consistent, frequently published, and meaningful data would allow for a better—despite limited—understanding of how platforms operate, and platforms have more to gain by adopting even modest, but honest disclosure practices, instead of using transparency reports

³⁹⁸ See Barifouse, Rafael. "Por que varejistas criticam Shein, Shopee e AliExpress por 'contrabando digital' no Brasil". *Folha de S. Paulo*, 28 March 2023. Available at: <https://www1.folha.uol.com.br/mercado/2023/03/por-que-varejistas-criticam-shein-shopee-e-aliexpress-por-contrabando-digital-no-brasil.shtml>

³⁹⁹ "Another important point of the report involves the work of protecting intellectual property rights. To guarantee the authenticity, integrity, and quality of the products offered on the platform, Mercado Livre provides brands with a series of tools to report ads that violate their rights. Beyond that, the company has a Brand Protection Program (BPP), which is focused on artificial intelligence and automated technology to combat piracy, counterfeiting, and fraud on the platform in Latin America.

"We have established a partnership system with more than 5.4 thousand intellectual property holders in the region who, by using the free tool we provide, can report suspicious products on the platform, allowing for the quick and efficient removal of ads that infringe on trademarks, copyrights, patents, or industrial designs," emphasizes Igor Donato de Araújo, manager of Intellectual Property Protection at Mercado Livre in Brazil." See "Mercado Livre apresenta seu segundo relatório de transparência na América Latina". Aberje, October 2021. Available at: <https://www.aberje.com.br/mercado-livre-apresenta-seu-segundo-relatorio-de-transparencia-na-america-latina/>

⁴⁰⁰ "Mercado Libre releases its third Transparency Report, reporting continued improvements in the fight against counterfeiting and piracy". Mercado Libre Investor Relations site, May 2022. Available at: <https://investor.mercadolivre.com/news-releases/news-release-details/mercado-libre-releases-its-third-transparency-report-reporting>

⁴⁰¹ See Porto, Walter. "Cercos a livros piratas pressionam Mercado Livre a respeitar direitos autorais". *Folha de S. Paulo*, January 2021. Available at: <https://www1.folha.uol.com.br/ilustrada/2021/01/cercos-a-livros-piratas-pressionam-mercado-livre-a-respeitar-direitos-autorais.shtml> and "Mercado Livre promete expulsar usuários que vendem livro pirata no marketplace". *Folha de S. Paulo*, April 2022. Available at: <https://www1.folha.uol.com.br/colunas/painelsa/2022/04/mercado-livre-promete-expulsar-usuarios-que-vendem-livro-pirata-no-marketplace.shtml>.

as mere vehicles for marketing or defensive tools against specific interest groups, as our analysis of the Mercado Libre transparency reports will demonstrate in the following section.

5.5.2 The Mercado Libre transparency reports

Mercado Libre has, as of this writing, released 4 transparency reports. The first three adopted the bold subtitle “DOING THE RIGHT THING”, which is always a good thing and appreciated, but the fourth report adopted a more sober tone, using a “Transparency Report” title only. The first report was published in 2020, covering the second half of that year. The report for the first half of 2021 was published in October 2021, the report for the second half of 2021 in May 2022, and the one for the first half of 2022 in November 2022.

Although it is commendable that Mercado Libre publishes a transparency report, something that the company itself seems to take pride in, this should be standard practice for all of companies that operate in the sectors we are looking into, and even Mercado Libre’s report is far from being an exemplary model on how transparency data should be presented.

Before we proceed with our reasoning for the ratings, we assigned to the F4 indicators, it is useful to provide readers with a bird’s eye view and comparison of the Mercado Libre reports, specifying what type of data they contain, and highlighting how they have evolved over four iterations. It is also useful to spell out in explicit terms the narrative and discourse of these reports, something that can be clearly understood by anyone closely reading the documents, but is a didactic example of a transparency report that has as its main objective the extolment of how virtuous the company is in legal compliance and how advanced it is in producing technology for automated enforcement, and not a clear, thorough, disclosure of transparency data. The numbers provided are not entirely meaningless, but the reports are, first and foremost, a preemptive defense against accusations of non-compliance with legislation, with a strong narrative defending the merits of self-regulation and automated enforcement by technology. This, as we shall see, gets in the way of full scores in the F4 indicators.

The Mercado Libre transparency reports are entirely structured around a defense of the following messages: **1)** Mercado Libre is a model of compliance with legislation and absolutely rigorous in its approach to violations of terms of service; **2)** Mercado Libre collaborates with government authorities and a wide range of private organizations to take care of problematic content; **3)** Nonetheless, despite recognizing the importance of collaborative efforts, Mercado Libre is also a model in self-regulation and the use of AI and technological systems to automate the enforcement of terms of service violations; **4)** These systems, in fact, are increasingly efficient in how they can detect and remove infringing listings, to the point that collaboration might someday be unnecessary; **5)** Mercado Libre is mindful of users’ privacy rights, and is taking efforts to automate the exercise of ARCO (access, rectification, cancellation, and opposition rights); in fact, it is even in the process of automating the exercise of those rights, so maybe someday users will also be able to have every right enforced automatically by the platform.⁴⁰²

The reports are relentless in asserting those claims, using the accompanying data with the primary goal of supporting evidence, and not as an objective release of data that is useful to make informed, nuanced assessments of transparency. Indicators F4a and F4b ask for precise

⁴⁰² Since we have personally gone through the effort of using one of these automated systems ourselves, we will have a lot to say about the accuracy of point 5 in section 6.6.4, below.

information on account and content restrictions, ideally offered as downloadable and structured data files that can be processed by a variety of data analysis tools, in consistent datasets that are released frequently and in regular intervals of time, so that a time series can be composed.

As stressed above, this is not what we get out of these four reports. But here is a summary of what data they do contain:

- **The reports provide numbers for listings only.** As stressed above in section 5.4.1, listings for products are the main, but not sole type of content that is posted in Mercado Libre’s marketplace. Communication between users and sellers, either privately or on separate sections of listings, are also subject to moderation or removal. By adopting listings as the main item for the report, Mercado Libre is not really clear about whether or not this category includes, for example, the public communications of between users and sellers as included in the concept of *listing*, since communications content can be restricted without affecting the listing itself. A reasonable guess would be to assume that this sort of moderation is not included in the concept of listing, but guesswork is definitely not something that should be associated with transparency reports;
- The fourth report (January-June 2022) went through a design change, and displays information using different approaches to visualization than those adopted by the previous reports. These changes are improvements in some situations, and a step backwards in others;
- **Data disclosure requests (from governments)** is an item included in every report, with the exception of the first one (July-December 2020):
 - Mercado Libre provides **data on how many information requests were received, how many of them were answered with the requested information, and how many were not answered** because they were “incorrect or related to information that we do not collect” (January-June 2021, p. 4) or “because we didn’t have that information or such requests were improper” (July-December 2021, p. 4). Note the lack of consistency between “incorrect” and “improper”, and that we have no way to tell whether incorrect/improper refer to poorly formulated requests or requests that were not legally valid, a distinction that is not insignificant;⁴⁰³
 - These **requests for data are broken down by each month of the period contemplated by the report**, accompanied by commentary such as “In our role as increasingly relevant socioeconomic stakeholders, we seek to add value to all those processes oriented to encourage trust in digital environments. In a proactive way, we are innovating on an ongoing basis to develop technologies to optimize our cooperation with public powers, which are responsible for preventing and punishing crimes.” (July-December 2021, p. 5). This is one of many examples of the type of rhetoric we criticized above, and how the information provided is turned into a backdrop for company storytelling instead of being described or interpreted in terms of its actual meaning. By

⁴⁰³ Mercado Libre states that “[w]e analyze and answer any valid order in a timely manner, to collaborate with those authorities who seek to protect the digital ecosystem legality and security (January-June 2021, p. 4). This is slightly more descriptive, since “valid” implies a check on the legality of the order, but it does not change the ambiguity of how this information is presented.

way of example, the numbers for January in the January-June 2021 report and January-June 2022 are significantly lower than the numbers for the remaining months, but the report does not offer any explanations about why that might be the case, or if that is just a coincidence and not a pattern;

- **Total number of listings in the period, number of listings reported by users as infringing Mercado Libre’s terms of service, and number of listings detected and moderated by Mercado Libre.** These numbers are not described consistently by the reports. The July-December 2020 and January-February 2021 reports provide numbers for “Total listings”, “Listings reported by users through the button intended for violation of our Listing and Prohibited Items Policies” and “Listings we detect and moderate due to violation to our Listing and Prohibited Items Policies (p. 8 and 7, respectively). The reports for July-December 2021 and January-June 2022 label the data differently: “Number of listings [c]reated or modified in the reporting period”, “Listings reported by users through the report button”, and “Listings we detect and moderate in violation with our Terms & Conditions” (p. 7). The “created or modified” addition for the total number of listings is particularly interesting; is that a more precise description for “total listings” descriptor of the first report? how relevant is it to interpret the data the fact that a listing was “modified”? Another interesting inconsistency is the specific reference to the Prohibited Items Policies being replaced by the more encompassing “Terms & Conditions”. Does that make a difference? Yes, since the terms and conditions include more rules than simply those related to prohibited products.
 - Regardless of inconsistencies, the data are presented as background illustration for a percentage figure that is highlighted in all reports: “99,15% **[f]rom deleted contents** are detected by our teams and systems. Less than 1% account for listings reported by users or authorities, which highlights the efficiency of an increasingly interactive and intelligent tool” (July-December 2021, p. 7, emphasis in original). The numbers for the July-December 2020 and January-June 2021 reports are curiously the same, 99.4%. Coincidence? Oversight?
 - The July-December 2021 and January-June 2022 (p. 7 on both reports) add data on the number of listings created or modified per hour in the platform (133 and 116 thousand, respectively), without explaining if that is an average for the period. One can reasonably assume (but not confirm) that that is the case, an unfortunate statement to make about data that is supposed to be properly described. What matters here, though, is the observation attached to the number: “Our systems are improved day by day to manage complex monitoring efficiently and proactively moderate the increasing level of activity in our platforms.”. Proactive moderation, always evolving systems, complex monitoring of large volumes of data. Again, the data is not provided for the sake of transparency, but to endorse a narrative.
- **The top 10 main categories of content categories in violation.** The data are presented in a bar chart representing categories such as “e-books”, “tobacco”, “adult products”, etc. in the July-December 2020 report (p. 9), with numbers for each occurrence. This is information that can be fun (and useful to attract attention to the report), and useful, since understanding trends and volume of listings by category of infringement is useful

information. However, there is not a lot of clarity with regard to what some categories actually stand for. The Mercado Libre policy for adult products, for example, includes more than 10 prohibited products, making the information not descriptive enough.⁴⁰⁴

- The other three reports do a breakdown by country of the top 10 categories of content found to be in violation in Argentina, Brazil, Mexico, Chile, Colombia, Uruguay, Peru and RLA (Rest of Latin America). In other words, data is not provided for all of the countries where Mercado Libre is operational. On one hand, this is understandable, given the financial information provided in 3.1.1, above, and the disproportionate degree of importance a country such as Brazil represents in Mercado Libre's balance sheet. On the other hand, data is certainly available, and could be disclosed even if not included in the report, as part of downloadable .csv or .json files;
- Absent from this new country by country top 10 list are figures for listings in each category, which the first report included, albeit in aggregate numbers. Instead, the report just offers a top 10, and it is impossible to tell the distribution of infringing listings across these categories. A second-place position in the ranking might represent a marginal difference, in numerical terms, between 1st and 2nd place, or a much larger proportion of items in the top category;
- The narrative point for this top 10 list is that “[o]ur fraud prevention teams supported by innovating technologies, artificial intelligence-based tools, and machine learning models make ongoing efforts to detect and remove listings in violation.” (July-December 2021, p. 8). Nothing that was not stated before, and nothing that is really specific to the top 10 list. The statement is just reinforcing a point that was already driven home eloquently in previous pages of the report;
- The next section of the reports offer a comparison between “Number of listings detected in violation to our Policies on Listing & Prohibited Items” against the “Number of active listings on our site” (July-December 2020, p. 10, January-June 2021, p. 9), broken down according by the same country/area selection: Argentina, Brazil, Mexico, Chile, Colombia, Uruguay, Peru and RLA (Rest of Latin America).⁴⁰⁵ The report for January-July 2022 does not contain this information;
- Both figures are offered in absolute numbers for each country in the list, instead of relative to population. At best, this is not a particularly useful way of displaying the data, considering that countries such as Brazil and Uruguay have vastly differing population sizes. At worst, it can lead to erroneous interpretations, as the immediate conclusion that a less statistics-aware person could take is that criminality is much more severe in Brazil than it is in Colombia or Mexico, due to the massive differences between the numbers presented. Brazil, of course, has a very high criminality rate, as represented by the number of homicides in recent years, for example. But the data in the

⁴⁰⁴ https://www.mercadolivre.com.br/ajuda/Conteudos-inadequados-para-menores_1052

⁴⁰⁵ The July-December 2021 report uses different labels for the data: “Number of listings detected in violation to our Terms & Conditions and “Number of listings created or modified”, keeping up with the differences found in the labeling of infringing listings: the use of the broader “Terms & Condition” document, and the qualification that active listings include “created or modified” entries (p. 9). January-June 2022 skips this information entirely.

report does not allow anyone to reach that sort of conclusion, and this is a risk that is real when data is presented without context and care. The only conclusion that can be taken from the data is that Brazil has a larger number of listings that violate Mercado Libre's terms of service because it is the country with the largest population out of those listed. Hardly insightful analysis;

- Instead of providing context or at least adjusting numbers to the population sizes of each country, readers are hit over the head with commentary such as: "We rely on technology to be increasingly efficient in protecting our products: in less than a second, our systems can analyze more than 5,000 variables to detect and pause or delete listings which violate our Terms and Conditions in real time. Also, we have a wide interdisciplinary team of Fraud Prevention to strengthen our ecosystem." (July-December 2021, p. 9), as if the point of automated enforcement was not hammered home enough in the previous pages;
- **Automated detection-based information.** Yes, again. A pie chart (in the first three reports, replaced by a bar in the fourth) displays percentages for "Listings in violation properly automatically detected" and "Listings going back to the platform" after false positives. The percentage for the properly detected listings is always above 90%, and the explanation provided, redundant as it is, is at least descriptive of the data: "[t]he percentage of improper automatic detection where listings are reactivated (rollback) due to any situation not detected by our control or monitoring systems is minimum." (July-December 2021, p. 10). Once again, the rhetoric of next-to-perfect control and enforcement via technological means is the main attraction here, not the data;
- **Collaboration agreements.** This is a very interesting section of the reports. Mercado Libre lists different examples of collaboration agreements with third parties, both public and private, along with quotations from some of these organizations or public entities praising the cooperative nature of Mercado Libre. The description of how these agreements work is interesting due to the questions it raises: "We constantly build formal and informal bridges with governmental and civil society players to deepen the impact of our products, making our best tools available to them to help fight bad practices or criminal activities. Good examples are the agreements made with educational authorities and institutions that address issues such as grooming, racial hatred and anti-Semitism, among others." (July-December 2020, p. 12).
 - We did not conduct an exhaustive search in all jurisdictions where Mercado Libre operates, but found lists of cooperation agreements for Brazil, Argentina and Mexico. There are no such lists for other countries either because there are no agreements in those jurisdictions, or because they somehow have not been disclosed. Bolivia, Ecuador and Colombia all lack a cooperation agreements page;
 - The report for January-June 2022 breaks the format of the previous reports and highlights numbers related to a specific collaboration agreement with the World Jewish Congress. The report does not explain what the agreement entails, but the collaboration agreements pages for Brazil and Argentina mention that "[t]he WJC cooperates with Mercado Livre in identifying publications related to the sale of products and/or services that promote racial hatred and anti-Semitism." The data offers percentages highlighting that 89%

less cases were reported by the JWC for infringement of policies related to violence and discrimination, with a 23% increase in detection of this type of infringement by internal ML resources. Another claim related to Mercado Libre's constantly evolving systems for automated enforcement, and not information that we can analyze further than the argument the data is used to support.

- **Information on intellectual property rights violation.** This section is a big showcase for Mercado Libre's Brand Protection Program (BPP) and close collaboration with rights holders, with data to support the claim that while Mercado Libre has a system through which associates of its BPP can send takedown notices, the company usually does that work automatically before a request is even necessary, because it has algorithms and technology that are just that good.
 - The reports offer numbers of reports received, counter-notices filed by users accused of IPR infringement, and the interesting metric of "Rights adhered to by the BPP". Intellectual property rights include copyright, patents, industrial design, protection related to integrated circuits, geographic indications, plant variety rights, to name a few examples. It would be helpful to have a list of takedowns broken down by type of IPR infringed, country of listing, and originating entity, if the complaint was filed by an association or corporation;
 - There's also data related to the number of BPP participants, and the percentage of listings reported for IPR infringement among all Mercado Libre product listings, a number that is always small (0.28% in January-June 2021, p. 13), mainly to support the point that "we developed self-mapping tools, based on artificial intelligence, to "learn" from the notices received and proactively remove listings that we find to be in violation. With this methodology, we achieve great efficiency by working closely with the brands." (January-June 2021, p. 13), and that proactive delisting are the rule, since "**85% Of contents taken down** due to violation to Intellectual Property Rights are proactive detections. There was a total of 2.737.427 in the reporting period. Most complaints and requests of removal arise from automated processes through more and more intelligent and accurate monitoring tools." (July-December 2021, p. 14);
 - If that was not enough to impress you, Mercado Libre's AI tools are evolving: "As our tools are continuously "learning", our ecosystem gets stronger every time, with original and quality products. In this period, we received 41.2% less complaints from BPP members than in the previous reported period" (July-December 2021, p. 14).
- **Data on privacy.** The data on "data disclosure requests" that opens the report should probably be placed in this section, but the focus here is on users' ARCO (access, rectification, cancellation and opposition rights).
 - An overall number of ARCO rights exercised, broken down by country (Argentina, Brazil, Colombia, Chile, Mexico, Peru, Uruguay, Rest of Latin America);
 - Numbers breaking down requests according to type of right (aggregated, not country specific);

- Number of total requests, number completed, pending, and rejected requests. Specification about reasons for rejection would be good to have, but is not available;
- The January-June 2022 report has a number of important changes in how this section is structured, and the narrative it is attempting to establish. Gone are the numbers of completed, pending, and rejected requests, and more countries are included in the list of overall number of ARCO rights exercised per country;
- The most noticeable change, however, is the radical increase in the total number of requests, which jumped from around 13 thousand in July-December 2021 to more than 100 thousand in January-June 2022. A likely explanation for this is the inclusion of a new section in the report highlighting how Mercado Libre is automating ARCO rights-related requests. A plausible explanation for the abnormally higher number in the latest report, is due to the inclusion of the exercise of rights via automated means. Of the total number of cases reported, 86% are presented as instances where users were able to use systems deployed by Mercado Libre to automatically exercise their rights, no human intervention necessary.
- This is complicated because it does not necessarily reflect that rights were satisfyingly exercised via these systems. Our experience with requesting a personal data report would probably be included as an “exercised right” in the report, but we did not get what we were expecting in our data report, and do not consider that the system worked as advertised. More details on that in section 6.6.4, below.

After this deep dive into the Mercado Libre transparency reports, it is easy to justify our ratings for **F4a**, which include 3 **no disclosure found**, and 3 **partial** scores. The company scores **no disclosure found** for all **F4b** elements, because the report only deals with restrictions to *listings*, which fall under the category of content, but has nothing to say about restrictions to accounts. A substantially better performance than that of the other companies covered by this report all of which lacked transparency reports. But as we took great lengths to explain in the previous paragraphs, having a better score here for at least attempting to produce a transparency report does not get a company very far in the RDR ratings if the report fails to meet with the expectations set out by the standards, which are extensive but entirely reasonable if a company wants to provide the public with precise, consistent, frequently updated, and easily machine-processable data. Elements **F4a.2**, **F4a.3**, and **F4a.6** received a **no disclosure found** score.

The first report, pertaining to July-December 2020, contained a top 10 list of main categories of products found to be in violation of Mercado Libre’s Listing and Prohibited Items Policies, along with numbers of listings for each item in the list (p. 9). In this ranking, we are told that the most common violation relates to listing selling “courses”⁴⁰⁶ (around 7 million), a considerable step ahead, numerically, from the second category in the ranking: “medicine, health and/or beauty substances and products” (around 1.3 million). The last position of the list “products and financial services” represented only a little over 126 thousand removed listings. This would

⁴⁰⁶ “Curses in intangible format” not sold by the original rightsholder. See <https://www.mercadolivre.com.br/ajuda/cursos-em-formato-intangivel> 4102

satisfy, at least partly, element **F4a.2**, “ Does the company publish data about the total number of pieces of content restricted for violating the company's rules?”. Unfortunately, Mercado Libre changed the format for how the top 10 list is presented, and now provides a ranking broken down by a selection of countries, but without any numbers representing each category. This change affected all subsequent reports.

Element **F4a.3** requires that the company publish data on the number of pieces of content it restricted, categorized by *format* of content, such as video, audio, text, etc. Since the main unit of data adopted by the reports is that of *listings*, representing an entire product listing, it leaves out other types of content removal that take place on the platform. We know, for example, that some images can be found to be in violation of the terms of service,⁴⁰⁷ and that there are guidelines for acceptable communications in comments and messages sent via the platform.⁴⁰⁸ Nevertheless, the transparency reports are just concerned with listings, and even in relation to those, the focus seems to be on prohibited products.

Element **F4a.6** is an exceptionally important element: does the company present the data in such a way that it can be exported as a structured data file? This should be standard behavior in every data disclosure effort by companies seriously invested in transparency and openness: not only disclose relevant, consistent, useful data, but allow it to be easily interpreted and processed by researchers or any interested party. Since the Mercado Libre reports are only presented as a PDF document that is designed as a series of slides—and it is reasonable to assume that they have been used exactly that way in at least a few meetings and presentations—it would be naive to expect the option of exporting data as a structured data file.

Element **F4a1** received a *partial* score. The transparency reports published by Mercado Libre in 2021 include information about "Listings we detect and moderate in violation with our Terms & Conditions". 8,815,828 (January-June) and 6,394,118 (July-December). The use of the term "listing", once again, is not clear enough to distinguish between moderation due to the listed products themselves being prohibited, and content on the page of a listing eventually moderated for violating the terms of service (comments, text, images). Also, while we are working with the assumption that the reports use the term "listing" to refer to the entire page of a product listing (products and all accompanying text and images), the transparency reports are very product-centric. Heavy emphasis is placed on prohibited items, with a list of types of infringing products included. This is an important—perhaps the most important—type of infringement in Mercado Libre's marketplace, but the terms of service and other documents point out that it is not the only type of content that can be moderated. Partial disclosure, partial credit.

F4a.4 is about methods used to identify violations, a topic that is near and dear to the Mercado Libre transparency reports. There is a lot of discourse, as we have pointed out, on Mercado Libre's technical solutions for detection and removal of infringing content. Element F4a.4, however, requires publication of data on the number of pieces of content restricted based on method used, and the report does not offer that exact information.

⁴⁰⁷ <https://www.mercadolivre.com.br/ajuda/1024>

⁴⁰⁸ <https://www.mercadolivre.com.br/ajuda/1020>

We will use the January-June 2021 report as a reference for our analysis, not only because it is representative of the structure of all 4 reports (with minor changes when compared to the first report), but because it raises specific questions that are less pronounced, albeit still present, in the other reports. All reports differentiate between infringing listings detected by Mercado Libre and those reported by users. The labels for the pie chart on page 7 of the January-June 2021 report are: the general “Total listings”, the very specific “Listings reported by our users through the button intended for violation of our Listing and Prohibited Items Policies”, and the more open to interpretation “Listings we detected and moderated due to violation to our Listing and Prohibited Items Policies”. In addition to that, there is a particularly interesting highlight on the same page pointing out that 99.4% “[o]f removed content has been reported by our users or by competent agencies within the framework of several collaboration agreements” (emphasis in original). This implies that the pie chart does not specify how many listings were removed due to collaboration agreements, and includes them in “listings we detected and moderated” numbers.

To complicate matters, there is no clear specification of the methods used in the “listings detected by Mercado Libre” category. Even if we can assume the heavy use of automated means,⁴⁰⁹ human intervention is also part of the process: (“Our fraud prevention teams seek to detect different types of non-complying listings”, p. 8).

In summary, there is no data broken down by content **(a)** restricted strictly through automated means, **(b)** reported by users; **(c)** restricted by a combination of automated means and human intervention; and **(d)** restricted due to collaboration agreements with public authorities or even civil society organizations.⁴¹⁰ It is also unclear if the “[l]istings reported by our users through the button intended for violation of our Listing and Prohibited Items Policies” category includes reports sent through the Brand Protection Program: “we have developed a set of solutions, grouped in our Brand Protection Program (BPP), that enable IPR holders to report infringing listings in any of the 18 countries where we operate” (p. 13).

On top of all that, the issue of the “listings” category and its meaning is an additional complicating factor here, and element **Fa.4** only receives a *partial* credit because there is, after all, some disclosure.

The *partial* score for element **F4a.5** “Does the company publish this data at least four times a year”—is entirely predicated on the fact that two reports are published by year. Publication of the reports also lacks a clear and regular schedule. The July-December 2020 report was published in 2020, but only one was published in 2021, covering the first semester of that year. Two reports were published in 2022: July-December 2021 and January-June 2022.

⁴⁰⁹ “We are pioneers in self-regulation policies, and we have developed disruptive control tools, which have been evolving and adding innovation to prevent any activity which impact our quality services”, January-June 2021 report, p. 9.

⁴¹⁰ “We are strongly committed to our social and economic role in the region, and we believe that joint work between public and private actors is essential to make the promises that technological innovation have for the region come true.

We constantly build formal and informal bridges with governmental and civil society players to deepen the impact of our products, making our best tools available to them to help fight bad practices or criminal activities.

Good examples are the agreements made with educational authorities and institutions that address issues such as grooming, racial hatred and anti-semitism, among others. Upon request of the competent public authorities, we remove any illegal content and, in certain cases and within the framework of legal procedures, we disclose data to collaborate with investigations”. January-June 2021 report, p. 11.

5.6 Government demands to restrict content or accounts

5.6.1 Process for responding to government demands

Indicator **F5a** is composed of 7 elements on whether companies clearly disclose the processes they adopt when responding to government demands, both judicial and non-judicial, to remove, filter, or in any way restrict content or accounts. Requests for user information are not included in this indicator (see 6.7, below). Companies fared poorly in **F5a**, receiving **no disclosure** scores across the board with some exceptions. Let's see.

Table 16 Process for responding to third-party requests to restrict content or accounts performance

F5: Process for responding to third-party requests to restrict content or accounts F5(a). Process for responding to government demands to restrict content or accounts	Mercado Libre (Brazil)	AllExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
F5a.1 Does the company clearly disclose its process for responding to non-judicial government demands?	ND	ND	ND	ND	ND	ND	ND	ND
F5a.2 Does the company clearly disclose its process for responding to court orders?	ND	ND	ND	ND	ND	ND	ND	ND
F5a.3 Does the company clearly disclose its process for responding to government demands from foreign jurisdictions?	ND	PARTIAL	ND	ND	ND	ND	ND	ND
F5a.4 Do the company's explanations clearly disclose the legal basis under which it may comply with government demands?	PARTIAL	PARTIAL	PARTIAL	ND	ND	ND	ND	ND
F5a.5 Does the company clearly disclose that it carries out due diligence on government demands before deciding how to respond?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
F5a.6 Does the company commit to push back on inappropriate or overbroad demands made by governments?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
F5a.7 Does the company provide clear guidance or examples of implementation of its process of responding to government demands?	ND	ND	ND	ND	ND	ND	ND	ND

Elements **F5a.1** and **F5a.2** ask, respectively, whether companies clearly disclose their processes for responding to *non-judicial government demands* and *court orders*. Non-judicial demands are any requests coming from government entities that are not part of the judiciary, including, for example, administrative authorities of various kinds, regulatory agencies, police departments, etc. Companies usually stress that they foster a culture of compliance and cooperation with government authorities, and include provisions in their terms of service, privacy policies, and other documents alerting users that they could be subject to restrictions originating from these authorities or even legal procedures and law enforcement actions.⁴¹¹ Nevertheless, the handling of government requests remains opaque. The idea of “collaboration” or “cooperation” with authorities takes precedence over due diligence on

⁴¹¹ For example: Rappi's Terms and Conditions, 9 (IMPROPER USE OF THE RAPPI PLATFORM), paragraph 2: “In the event that any of the situations described in this section occur, Rappi commits to cooperate with the relevant authorities; and, upon a court order, reserves the right to carry out a forensic analysis on the User/Consumer's devices”; Shopee Terms of Service, “6.5 You acknowledge, consent to and agree that Shopee may access, preserve, and/or disclose your Account information and Content to any legal, regulatory, or governmental authority, the relevant rights owner, or other third parties if required to do so by law, pursuant to an order of a court or lawful request by any governmental or regulatory authority having jurisdiction over Shopee, or in a good faith belief that such access preservation or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce these Terms of Service or our Prohibited and Restricted Items Policy; (c) respond to claims that any Content violates the rights of third parties, including intellectual property rights; (d) respond to your requests for customer service; or (e) protect the rights, property or personal safety of Shopee, its Users and/or the public”; iFood Terms and Conditions of Use for Delivery Workers: “9.3 iFood may permanently deregister or temporarily deactivate the Delivery Worker's access to the Platform, as applicable, without prior notice, when the Delivery Driver: [...] (iv) in compliance with a court order or legal request by a competent public authority; [...]”. aiqfome User Terms of Use and Privacy, under “COM QUEM NÓS PODEREMOS COMPARTILHAR OS DADOS PESSOAIS, Autoridades judiciais, policiais, ou governamentais”: “We must provide personal data of Clients and/or Users in compliance with court orders, requests from administrative authorities, legal or regulatory obligations, as well as to act collaboratively with government authorities, generally in investigations involving unlawful acts.”

whether demands are valid, and no information is offered on internal processes adopted by companies to respond to such demands. Some of the compliance rhetoric can even be somewhat exotic in how excessive it gets, such as AliExpress' inclusion of cooperation with "private investigators/and injured third parties" alongside governmental or regulatory authorities.⁴¹²

Marketplaces, for reasons we have stressed in section 5.5.1, often disclose how they handle requests related to intellectual property rights, offering a reasonable amount of documentation and dedicated systems and platforms through which these requests are received and processed, sometimes granting counter-notice opportunities to users, with timeframes for appeals and responses.⁴¹³ But companies can also establish collaboration agreements with public entities, and Mercado Libre brings attention to that fact in the transparency reports analyzed in section 5.5.2.

By examining the lists of agreements provided for Brazil, Mexico, and Argentina—we could not find any for Bolivia, Ecuador, and Colombia—it is clear that quite a few of those entities are governmental. In fact, most of the agreements listed for Brazil have been signed with government entities.⁴¹⁴ The agreements are presented in very general terms, and basically allow for entities to identify listings that violate laws and regulations related to their scope of authority, oversight, or control, or, in the case of private entities, their area of expertise. Entities are then granted the power to unilaterally remove content just by notifying Mercado Livre.⁴¹⁵

⁴¹² "6.4 AliExpress.com reserves the right to cooperate fully with governmental or regulatory authorities, law enforcement bodies, private investigators and/or injured third parties in the investigation of any suspected criminal or civil wrongdoing. Further, to the extent permitted by applicable laws and policies, AliExpress.com may disclose the Member's identity, contact information and/or information regarding the Member's account(s), transactions or activities carried out on or via the Site, if requested by a government, regulatory or law enforcement body or an injured third party, or as a result of a subpoena or other legal action. AliExpress.com shall not be liable for damages or results arising from such disclosure, and Member agrees not to bring any action or claim against AliExpress.com for such disclosure" "AliExpress Term of Uses, available at: https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alieexpress/suit_bu1_alieexpress202204182115_66077.html?spm=a2g0o.home.0.0.650c2145GRh1Gm

⁴¹³ For Mercado Libre, see the July-December Transparency report, p. 13; for AliExpress, the Alibaba Group Intellectual Property Protection Handbook; and for Shopee, the Brand IP Portal User Guide 2022. Available, respectively, at: <https://investor.mercadolivre.com/static-files/867b386b-0e29-4e20-ab96-afb57e8d6234>; <https://files.alicdn.com/tpsservice/515c9f8c7103bc64bd3f42bc535c513b.pdf?spm=a1zmmc.index.0.0.f1b7719dhKyUAI&file=515c9f8c7103bc64bd3f42bc535c513b.pdf>; and [https://de0.shopeemobile.com/shopee/cmscdn_bucket/76944265f2ab432288c08dd62ced08b5_Brand%20IP%20Portal%20User%20Guide%20\(updated%201%20Dec%202022\).pdf](https://de0.shopeemobile.com/shopee/cmscdn_bucket/76944265f2ab432288c08dd62ced08b5_Brand%20IP%20Portal%20User%20Guide%20(updated%201%20Dec%202022).pdf)

⁴¹⁴ Examples include the Public Prosecution Service of São Paulo (MPSP), the Public Prosecution Service of Minas Gerais (MPMG), the Federal Public Prosecution Service of Rio de Janeiro (MPF-RJ), the Brazilian Health Regulatory Agency (ANVISA), the National Cinema Agency (ANCINE). "Acordos com entidades", Mercado Livre Brasil, available at: https://www.mercadolivre.com.br/ajuda/Convenio-de-regulacao_3273. Agreement lists for Argentina and Mexico can be found, respectively, at: https://www.mercadolivre.com.ar/ayuda/convenios-con-entidades_3186 and https://www.mercadolivre.com.mx/ayuda/Convenios-con-entidades-regula_3184.

⁴¹⁵ For the private entities included in the Brazil list of agreements, such as Wildlife Conservation Society Brazil, the language is less legalistic and more suggestive of special expertise, sometimes using softer terms, like "...sharing information and technical knowledge, with the aim of promoting biodiversity conservation and preventing protected species from being traded by platform users, violating national and international environmental protection regulations". Or, in the case of the World Jewish Congress, a more straightforward description of assistance to identify "...publications related to the sale of products and/or services that promote racial hatred and anti-Semitism." See https://www.mercadolivre.com.br/ajuda/Convenio-de-regulacao_3273.

According to the preamble included in the Cooperation Agreement pages, listings are immediately taken down upon notification: “If any of your listings are reported, we will terminate them. If you have any questions, you can contact the entity or authority that reported your listing”. That implies no counter-notice process, as is often the case with intellectual property rights complaints, and users are supposed to contact authorities directly, in hopes of potentially sorting things out if content is wrongly identified as infringing. Under these agreements, a proviso applicable to public entities points out that they report listings “under their exclusive responsibility”. Ultimately, Mercado Libre can conveniently distance itself from potentially thorny content moderation issues, while outsourcing part of that process to third parties.

Does that qualify for a clear disclosure on the process for responding to non-judicial government demands, as far as the public entities that have struck agreements with **Mercado Libre** are concerned? We have no alternative but to acknowledge that, no matter how unsatisfactory the information provided is—the full terms of the agreements should be made available, especially with regards to government entities, and remedies should be instituted; users should not have the burden of finding out if they are allowed to protest removals by directly contacting authorities—**Mercado Libre** describes the process in very objective terms: entities identify infringing content based on internal criteria, backed by laws and regulations that they have the authority to enforce, and are thus authorized to flag specific listings, resulting in automatic takedowns. Not satisfactory, but clear, and meeting the requirements for a *no disclosure* credit for **F5a.1** and **F5a.2**, since we do not get a clear picture of the processes adopted by each of the entities collaborating with **Mercado Libre**.

Element **F5a.3** requires companies to provide explanations clearly disclosing the legal basis under which they may comply with government demands from foreign jurisdictions. Omission is typically the standard practice here: terms of service do not necessarily state, in explicit terms, that companies will respond to demands from foreign jurisdictions to restrict accounts or content, but these can safely be interpreted to be part of the general government and law enforcement cooperation clauses that are standard in terms of service. Disclosure tends to be more explicit with regard to the sharing of user information, but even in that case, as a rule, processes are not clearly outlined. Only **AliExpress** got a *partial* credit in this element.

Element **F5a.3** requires companies to provide explanations clearly disclosing the legal basis under which they may comply with government demands. The companies in this study generally make liberal use of standard, boilerplate formulas such as “rules and regulations” or “legislation in effect”. This makes the job of companies that operate across several jurisdictions much easier, since the localization of legal documents can be a time-consuming effort, and requires maintenance that is equally burdensome.

iFood, for example, has a provision in its Terms and Conditions of Use for users (buyers) stating that accounts may be suspended or canceled due to a “judicial order and/or violation of any laws” (item 2.3, V), but has nothing to say in terms of specifics. The Declaration of Privacy for Users does mention Law 12.965/ 2014 (the Civil Rights Framework for the Internet), which contains rules on data retention and takedown of UGC, but the reference is there only to justify the categorization of location data as registration data.⁴¹⁶ The iFood Terms and Conditions of Use for Delivery Workers establish that workers have the obligation to obey all municipal, state

⁴¹⁶ Side box under 4.1, c. Available at: <https://privacidade.ifood.com.br/privacidade-clientes/>

and federal laws, regulations and rules in the execution of delivery services (clause 4.1, viii), without referencing, even in the form of examples, these laws and regulations, which could arguably trigger government demands.

The Brazilian Terms of Service for Shopee limit themselves to the general formula "applicable laws and regulations", without reference to specific examples, with the exception of a general mention of the Civil Rights Framework for the Internet, but only to specify that Shopee itself is classified as an application provider under that law (item 1.2). In other documents, such as the Privacy Policy, there is mention of "privacy laws" (item 1.1), but no specification of the legal documents and relevant provisions. The intellectual property complaints form mentions violations to copyright, trademarks, industrial designs and patents, but does not refer to any specific piece of legislation by its official name or number.⁴¹⁷ Some of the entries in the Prohibited and Restricted Products Policy contain actual references to laws and regulations (for example, under item 7, "Fauna, flora and derivatives", but these are only a few in a document that, ideally, should be very specific with regard to legal references.⁴¹⁸ AliExpress is even more generic in its Prohibited and Controlled Information List and lays on sellers the responsibility to do extensive research for all jurisdictions they would like to ship to.⁴¹⁹

Shopee comes close to touching upon the subject in item 6.5 of its terms of service: "[...] Shopee may access, preserve, and/or disclose your Account information and Content to **any legal, regulatory, or governmental authority**, the relevant rights owner, or other third parties if required to do so by law, pursuant to an order of a **court or lawful request by any governmental or regulatory authority having jurisdiction over Shopee.**" (emphasis ours). Though the text refers to disclosure of account information, the use of the word "content", in this context, allows for an interpretation inclusive of restrictions and not strictly constrained to the sharing of data. Therefore, it got a *partial* credit on **F5a.4**.

iFood is more explicit about demands from foreign jurisdictions, albeit still focusing on the "sharing of information", rather than restrictions to content or accounts. Identical to **Shopee**, no information on the company's process for tackling these demands is available.⁴²⁰ Both got a *no disclosure found* credit on **F5a.4**.

⁴¹⁷ "Violação de propriedade intelectual". Shopee. Available at: <https://help.shopee.com.br/portal/webform/330d1a2a3ef6413e975ec7e404f16c0c>

⁴¹⁸ [https://help.shopee.com.br/portal/article/76226-\[Pol%C3%ADticas\]-Pol%C3%ADtica-de-Produtos-Proibidos-e-Restritos](https://help.shopee.com.br/portal/article/76226-[Pol%C3%ADticas]-Pol%C3%ADtica-de-Produtos-Proibidos-e-Restritos)

⁴¹⁹ "Registered members of the platform shall not post or sell any item that is restricted or prohibited by any federal, state or local law in any country or jurisdiction.

We have listed some categories of prohibited or restricted items. However, this list is not exhaustive; you, as the seller, are responsible for ensuring that you are not posting an item that is prohibited by law in any jurisdiction.

There may also be products that are restricted by national laws, or are restricted for cross-border sales. Please refer to the relevant national laws and any product prohibition or restriction notices published by the platform from time to time." AliExpress Prohibited and Controlled Information List. Available at:

https://sell.aliexpress.com/en/_pc/5axUHb74js.htm?spm=5261.ams_93743.0.0.fc6esT26sT26hO

⁴²⁰ 8.8 Public authorities. Food may also share your information with law enforcement or judicial authorities and competent public authorities.

Both within and outside the country where you reside, this may be required by applicable law, by court order, and upon request from authorities, or if necessary to respond to legal proceedings or to participate in any disputes or litigation of any nature." (emphasis ours). iFood Privacy Declaration for Users. Available at: <https://privacidade.ifood.com.br/privacidade-clientes/>

F5a.5 and **F5a.6** are elements that are better interpreted jointly, and relate to due diligence on government demands, and commitments to push back against inappropriate or overbroad requests. None of the companies in our report passed this test with the exemption of Mercado Libre that for a *partial* score on **F5a.5** but *no disclosure found* in **F5a.6**.

Finally, element **F5a.7**, on guidance or examples of implementation of processes for responding to government demands: *no disclosure found* for all companies.

5.6.2 Data on government demands

All of the companies we reviewed scored a *no disclosure found* for all of the 10 elements of indicator F6. This should come as no surprise, given the scores for indicators F4a and F4b. F6 evaluates whether companies regularly publish data on government demands to remove, filter, or restrict content and accounts, and we could find no data, structured or not, that met the requirements of elements **F6.1** to **F6.10**.

Table 17 Data about government demands to restrict for content and accounts performance

F6. Data about government demands to restrict for content and accounts	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
F6.1 Does the company break out the number of government demands it receives by country?	ND	ND	ND	ND	ND	ND	ND	ND
F6.2 Does the company list the number of accounts affected?	ND	ND	ND	ND	ND	ND	ND	ND
F6.3 Does the company list the number of pieces of content or URLs affected?	ND	ND	ND	ND	ND	ND	ND	ND
F6.4 Does the company list the types of subject matter associated with the government demands it receives?	ND	ND	ND	ND	ND	ND	ND	ND
F6.5 Does the company list the number of government demands that come from different legal authorities?	ND	ND	ND	ND	ND	ND	ND	ND
F6.6 Does the company list the number of government demands it knowingly receives from government officials to restrict content or accounts through unofficial processes?	ND	ND	ND	ND	ND	ND	ND	ND
F6.7 Does the company list the number of government demands with which it complied?	ND	ND	ND	ND	ND	ND	ND	ND
F6.8 Does the company publish the original government demands or disclose that it provides copies to a public third-party archive?	ND	ND	ND	ND	ND	ND	ND	ND
F6.9 Does the company report this data at least once a year?	ND	ND	ND	ND	ND	ND	ND	ND
F6.10 Can the data be exported as a structured data file?	ND	ND	ND	ND	ND	ND	ND	ND

Delivery Hero's 2021 Annual Report contains a section on SASB's Content Index for Internet and Media Service industries, and some of the information presented is interesting.⁴²¹ Even though they have a closer link to the **P11b** indicator, the disclosures made by Delivery Hero shine a light upon the group's approach to data on government and law enforcement requests.

As part of the topic on "Data Privacy, Advertising Standards & Freedom of Expression", the SASB questionnaire inquires: "(1) Number of law enforcement requests for user information, (2) Number of users whose information was requested, (3) Percentage resulting in disclosure" as components of a single metric, to which Delivery Hero responds "We currently do not have this information available on a global level". Another item asks for the "[n]umber of

⁴²¹ Delivery Hero Annual Report 2021, p. 200. Available at: <https://ir.deliveryhero.com/media/document/35f8a680-3a33-44e4-b1a0-0b750e751b60/assets/DE000A2E4K43-JA-2021-EQ-E-01.pdf>

government requests to remove content, percentage compliance with request.” Delivery Hero responds: “0 countries”.

Leaving aside the question of whether or not it makes sense for a group with a global presence as wide as Delivery Hero’s, with companies in several jurisdictions, to have received 0 government requests to remove content—something perhaps explained away with the hypothesis that food delivery services are less prone to be targeted by government request for content restriction⁴²² —it is still surprising that information was not available at a “global level”. The first implication of this statement is that there may be data available at a jurisdiction level, at least for some of Delivery Hero’s companies, and that such data remains undisclosed. The second implication is that Delivery Hero does not maintain a policy mandating the companies it owns to record this type of information.

Mercado Libre, a company that certainly has access to the data indicator F6 is looking for, could have used its transparency reports as an opportunity to reveal more information on government demands. Nonetheless, as we have covered in section 5.5.2, above, the reports are remarkably unable to serve the functions expected of a transparency report, and adopt a tone that is, at the same time, defensive against accusations of non-compliance with legislation, and overconfident in selling Mercado Libre as a role model for self-regulation by technology. Despite being saturated with language that emphasizes cooperation with government and law enforcement agents, that data delivered by the reports offers no actual numbers specifying government demands to remove, filter, or restrict content and accounts.

5.4.6 Notification of restrictions to content or accounts

Indicator F8 assesses whether companies clearly disclose that they: notify users about restrictions to user-generated content (F8.1); notify users attempting to access content that has been restricted (F8.2); include a reason in the notification as to why the content was restricted (F8.3); and notify users when their accounts are restricted (F8.4).

Table 18 User notification about content and account restrictions performance

F8. User notification about content and account restriction	Mercado Libre (Brazil)	AllExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	alqfome (Brazil)	DiDi Food (Colombia)
F8.1 If the company hosts user-generated content, does the company clearly disclose that it notifies users who generated the content when it is restricted?	PARTIAL	PARTIAL	PARTIAL	ND	ND	ND	ND	ND
F8.2 Does the company clearly disclose that it notifies users who attempt to access content that has been restricted?	ND	ND	ND	ND	ND	ND	ND	ND
F8.3 In its notification, does the company clearly disclose a reason for the content restriction (legal or otherwise)?	ND	ND	ND	ND	ND	ND	ND	ND
F8.4 Does the company clearly disclose that it notifies users when it restricts their accounts?	ND	ND	PARTIAL	PARTIAL	ND	ND	ND	ND

Of all the companies we analyzed, only the marketplaces managed to achieve a partial score in **F8.1**, since their systems for IPR violations involve procedures that involve notices and

⁴²² There is at least one clear possibility of a takedown request, considering a platform that does not publicly publish written consumer reviews (a prime target for takedowns): judicial requests based on trademark law when a restaurant feels its rights were infringed, or even more general accusations of unfair competition, not backed by a trademark, when a restaurant passes itself as another, more established one, with behavior as simple as closely imitating a popular dish. An example, from Brazil, involving a dispute of what restaurant had the right to serve a dish called “international shrimp” in a rectangular plate: Santos, Rafa. “Restaurantes disputam quem serve “camarão internacional” em travessa retangular”. Consultor Jurídico, February 2020. Available at: <https://www.conjur.com.br/2020-fev-25/restaurantes-disputam-quem-serve-camarao-internacional>

counternotices—basically an industry standard even in countries that do not have such systems in place for copyright law, which was easily ported to any IPR-related violation and adopted by online marketplaces. The food delivery companies all scored zero credit, even though they often involve UGC, even if product reviews are not public: product listings are UGC, as is private communication between parties.

All companies received *no disclosure found* credit for elements **F8.2** and **F8.3**, with the exception of **Shopee** and **iFood**, both of which managed to receive a *partial* score in **F8.4**. The **F8.2** element is particularly tricky to evaluate if companies do not make it extremely clear that users are notified every time they attempt to access content that has been restricted. We have much more evidence that there are cases in which users are certainly not notified, than instances where there is a clear statement, in company materials that are available to the general public, that a notification is provided in such cases.

We should, yet again, stress that **clear disclosure** is what we are looking for, and that the companies we evaluate could, in fact, be providing users with the notifications described by **F8**. The opposite, however, may also be true; we have no way of knowing without breaking rules and testing the system ourselves, which is something that raises ethical concerns.

It is not hard for companies to be compliant with **F8**, but explicit disclosure is necessary, preferably concentrated in policy documents that detail procedures for all enforcement-related practices carried out by the platform. Information that is gatekept behind a registration process that involves registering as a delivery worker, for example, does not count as disclosure no matter how detailed it may be.

Mercado Libre hosts UGC from both buyers and sellers in its marketplace service, including descriptions and images of products, comments and responses related to products and shipping conditions, product reviews, as well as private communications between buyers and sellers. The site's help section contains a variety of pages with the title "What happened to my listing?", each for a different type of policy violation, as mentioned above in 5.4.2. These pages contain procedural information, such as a link to contest content removals, suggesting that users are probably notified about restrictions and redirected to the relevant page, which explains why content was restricted and provides opportunity to dispute the sanction, whenever possible. This, however, is purely speculative on our part, since the platform itself does not clearly disclose that users will be notified when their content is restricted, and the RDR indicators ask for exactly that. The same can be said about notifications being given to users attempting to access restricted content, or notifications about account restrictions.

Shopee offers orientation to sellers with regard to when and under what circumstances listings may be suspended, removed, or have their visibility limited, with notices being either implied or explicitly provided. The Policy for Product Visibility Reductions, for example, explains that "Shopee will send weekly communications via e-mail and notifications on the Seller Center to affected sellers, informing them of the products involved and when their visibility status will be resumed to normal status", and that that "[a]t the end of the period, there will also be notifications of closure on the same channels."⁴²³ It is not clear, however, if Shopee sends out notifications every time it restricts content or accounts, and one of the FAQ pages on the Seller

⁴²³ <https://seller.shopee.com.br/edu/article/15335/politica-de-reducao-de-visibilidade-de-produtos>

Education Center, “Why is my account being limited?”, suggests that users may find themselves surprised about having their accounts restricted.⁴²⁴

As long as a notification is provided, and considering the existence of a penalty points system⁴²⁵ attached to specific metrics or the violation of specific rules—related both to content, such as product listings, as well as other ToS violations, such as fraud—one can also expect that a reason will be given for restrictions to content or accounts, but we would be scoring based on speculation if we assigned anything other than a *no disclosure found* as a score to element **F8.3**.

As for UGC that falls outside of the scope of a product listing, such as communications between sellers and buyers or product reviews, the Shopee Community Guidelines mention that “[v]iolations of our Community Guidelines lead to different intervention resolutions, as established by our internal policy, and may include a warning, a temporary suspension, or in the case of more serious violations, suspension for indefinite time”.⁴²⁶ At least in the case of a warning, it is reasonable to assume that it passes as a notice in and of itself, and that a reason for the penalty will be provided, though it is not clear if that happens at all in the case of outright suspensions. In any case, there is enough disclosure for **Shopee** to receive a *partial* credit in elements **F8.1** and **F8.4**.

AliExpress has strongly worded clauses in its Terms of Use⁴²⁷ and Free Membership Agreement,⁴²⁸ indicating that content and accounts can be restricted without prior notice, and the Help Center page seems to confirm that notifications are not guaranteed. The “Why my feedback is not displayed?” [sic] lists as one of the reasons simply that comments may be removed if they violate feedback rules,⁴²⁹ which implies that notification might not be given in at least some cases involving content moderation.

The food delivery companies include UGC mostly generated by restaurants and markets in restaurant and market listings, as well as private communications between sellers, delivery

⁴²⁴ <https://seller.shopee.com.br/edu/article/3704>

⁴²⁵ <https://seller.shopee.com.br/edu/article/7955/Sistema-de-Pontos-de-Penalidade-do-vendedor>

⁴²⁶

[https://help.shopee.com.br/portal/article/117286-\[Shopee-Live\]-Diretrizes-da-Comunidade?previousPage=secondarily%20category](https://help.shopee.com.br/portal/article/117286-[Shopee-Live]-Diretrizes-da-Comunidade?previousPage=secondarily%20category)

⁴²⁷ “2.2 You must register as a member on the Sites in order to access and use some Services. Further, Alibaba.com reserves the right, without prior notice, to restrict access to or use of certain Services (or any features within the Services) to paying Users, or subject to other conditions that Alibaba.com may impose in our discretion.”

⁴²⁸ On the section related to member discussion boards: “5.3 To the extent permitted by applicable laws, AliExpress.com reserves the right to, but shall have no obligation to, delete or edit any postings in its sole discretion without prior notice. AliExpress.com may but shall not be obliged to monitor posting activities of any Member who is in breach of this Agreement and may restrict their ability to post messages on the discussion boards on the Sites. Under no circumstances will AliExpress.com be liable in any way for any Content, including (without limitation) any errors or omissions in any Content, or for any loss or damage of any kind incurred as a result of the use of the discussion boards by such Member. Each Member agrees to evaluate and bear all risks associated with the use of any Content including any reliance on its accuracy or completeness. Each Member understands that by using the AliExpress.com discussion boards on the Sites, such Member may be exposed to Content that is offensive, indecent or objectionable.” Available at:

https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alieexpress/suit_bu1_alieexpress202204182115_37406.html?spm=service_hall.24300481.0.0.1c7f4300zWCCK1

⁴²⁹

https://customerservice.aliexpress.com/knowledgeDetail?categoryId=21038571&hcAppId=1248&hcFromCode=Xn2Tk1tb7&hcSessionId=26-1248-286e6383-1a33-415f-ac56-5fdf4da2d216&knowledgeId=587&spm=service_hall.24300484.category.587

workers, and clients. Some platforms allow public reviews, while others may opt to include only star ratings. Regardless, we found **no disclosure found** for **PedidosYa**, **DiDi Food**, **iFood**, and **aiqfome** on the questions asked by elements **F8.1**, **F8.2**, and **F8.3**.

The terms of use for **aiqfome** include rules about restaurant reviews, but nothing specific about how these rules will be enforced, including on matters of notification. The only information provided is that and aiqfome reserves the right to edit or exclude any commentary or information produced by its users when reviewing restaurants.⁴³⁰ **PedidosYa** “reserves the right to refuse service, close accounts, or remove or edit content at its entire discretion”, but offers no information about notifications.⁴³¹ **Rappi**’s terms and conditions list a series of 22 user obligations, some of them quite vague, and upon any violation the company “reserves the right to definitively block the User’s/Consumer’s account on the Rappi Platform”.⁴³² Similar language of unilateral termination of services can be found on **DiDi Food**’s terms, which are equally devoid of any disclosure on notifications related to restrictions to accounts or content.

iFood’s terms and conditions, as mentioned above, contains a clause stating that “[b]ehavior that involve homophobia, racism, religious and/or political intolerance, sexism, ableism or any action that has as its goal to diminish and/or offend someone, are subject to suspension or cancellation of the User’s account on our iFood Platform, **without prior notice and without prejudice to the adoption of appropriate legal measures**” (emphasis ours).⁴³³

In addition, the terms and conditions for delivery workers indicate that, for a variety of reasons, “iFood may permanently unregister or temporarily deactivate the Driver’s access to the Platform, as the case may be, **without prior notice** [...]” (emphasis ours).⁴³⁴ Nonetheless, an article on iFood’s portal for Delivery Workers on the subject of account suspensions and deactivations discloses information that allows for a **partial** credit in F8.4. Penalties imposed on delivery workers usually occur automatically—one of the main problems associated with automated enforcement and algorithmic management—and while it is reasonable to believe workers will receive a notification via the app or when opening the app, there is no clear disclosure on that. The article, however, describes a specific type of account deactivation that explicitly mentions that workers receive previous notification, followed by a three-day period during which they can contest the penalty.⁴³⁵

⁴³⁰ Under “SOBRE AVALIAÇÕES DE RESTAURANTES”. Available at: <https://aiqfome.com/termos>

⁴³¹ Under “1. GENERAL”. Available at: https://www.pedidosya.com.ec/about/tyc_generals

⁴³² Under “6. DEBERES DEL USUARIO/CONSUMIDOR”. Available at: https://legal.rappi.com/colombia/terminos-y-condiciones-de-uso-de-plataforma-rappi-2/?_ga=2.163565243.620048710.1618956823-265447413.1581561278

⁴³³ Clause 10. Available at: <https://webmiddleware.ifood.com.br/termos>

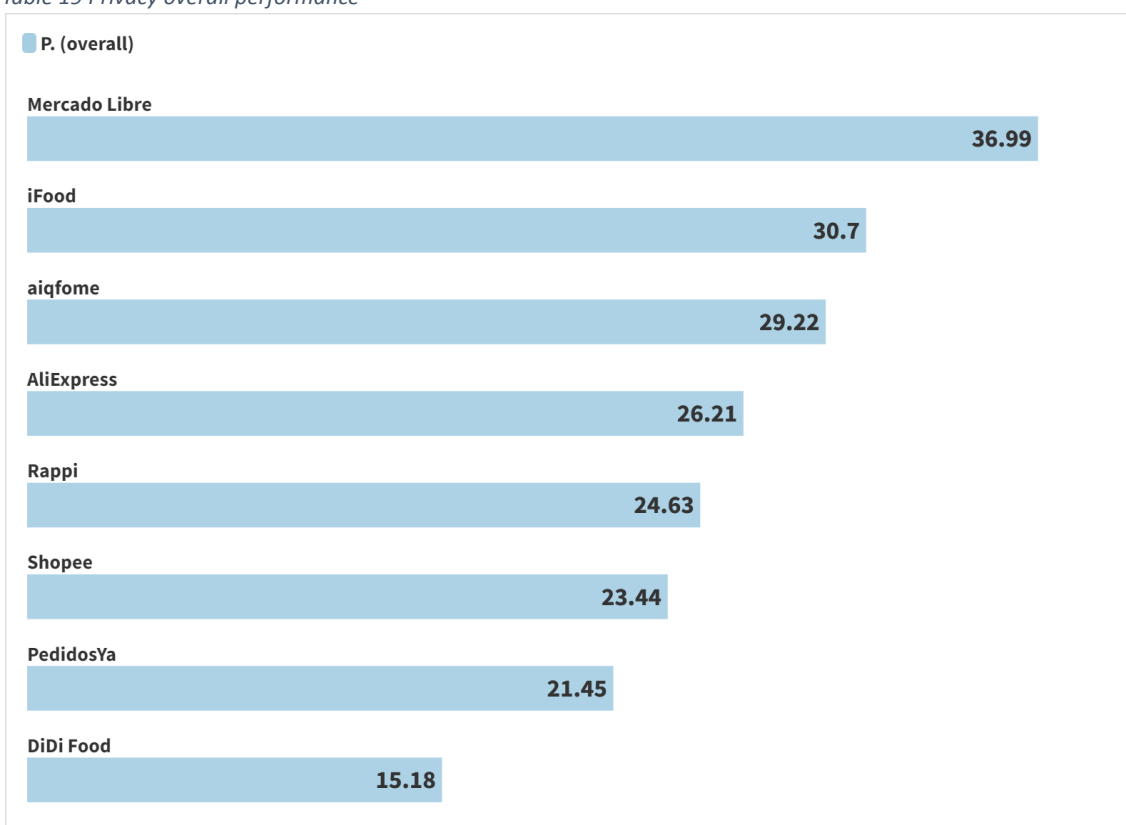
⁴³⁴ Clause 9.3. Available at: <https://entregador.ifood.com.br/wp-content/uploads/2020/03/TERMOS-E-CONDICOES-DE-USO.pdf>

⁴³⁵ “Restrições, inativações e desativações”. iFood Portal do Entregador. Available at: <https://entregador.ifood.com.br/para-suas-entregas/regras-de-ouro/restricoes-inativacoes-e-desativacoes/>

6. Privacy

The P indicators and sub indicators are the most extensive of our report. They cover the most basic aspects of data protection such as clearly informing the users about the data protections rules of each companies' services to more the more sophisticated ones that asks whether or not there are process for responding to demands for user information, if companies offer or not data about demands for their user information, among others.

Table 19 Privacy overall performance



6.1 Access to privacy policies

Elements **P1a.1** and **P1a.2** mirror their F group counterparts: are privacy policies easy to find, and are they available in the primary language(s) spoken in the company's home jurisdiction?

Table 20 Access to privacy policies performance

P1. Access to privacy policies	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P1a.1 Are the company's privacy policies easy to find?	YES	YES	YES	YES	YES	YES	YES	NO
P1a.2 Are the privacy policies available in the primary language(s) spoken by users in the company's home jurisdiction?	YES	YES	YES	YES	YES	YES	YES	YES
P1a.3 Are the policies presented in an understandable manner?	YES	PARTIAL	PARTIAL	YES	PARTIAL	PARTIAL	PARTIAL	NO

Mercado Libre, AliExpress, Shopee, iFood, PedidosYa, Rappi, and aiqfome all received a **yes** credit in element **P1a.1**.

The main **Mercado Libre** websites in all jurisdictions link to a special Privacy page⁴³⁶ that contains a simplified explanation of the company's privacy policy, displayed in clear, well defined sections, and with a link to the legal document itself, the "Mercado Libre Privacy and Confidentiality of Information Declaration",⁴³⁷ which applies to Mercado Libre services, in all jurisdictions where the company operates. Some minor differences can be found, such as a jurisdiction-specific annex, included after the declaration's text, containing additional information on, for example, local company addresses and identification, or additional legally required information. The simplified Privacy page also contains, in the case of Brazil, a link to a document containing a table justifying why some clauses in the declaration specify the legal bases for the processing of data according to the GDPR.⁴³⁸

AliExpress, for which we assigned a *partial* score in **F1a.1**, does a better job in making its privacy policy easier to find. The front page for AliExpress is still crowded and confusing, but there is no way to get sidetracked by the links to the Transaction Services Agreement for users outside of the EU/UK, which leads to the Alibaba.com rules center and the bureaucratic nightmare therein. A link to the AliExpress Privacy Policy can be found at the very bottom of the page, and this is enough for a full score.⁴³⁹

Shopee's page for policies,⁴⁴⁰ where the terms of service can be found, is a click away from the front page and also contains a link to the Shopee Privacy Policy. Additionally, the front page offers a direct link to the privacy policy.⁴⁴¹ It bears mentioning that the sites for Brazil and Colombia are inconsistent with regard to how they link to the terms of service: the Brazil site only links directly to the Shopee Policies and Privacy Policy pages, while the Colombian site provides links to both the terms of service and privacy policy, without the additional step of visiting the Policies page.

iFood has separate privacy policies for each category of platform user. The documents for buyers (deemed "users", source 3),⁴⁴² delivery workers,⁴⁴³ and sellers (deemed "partners")⁴⁴⁴ are all available one click away from their respective main sites.

⁴³⁶ Brazil: <https://www.mercadolivre.com.br/privacidade>

⁴³⁷ Brazil: <https://www.mercadolivre.com.br/privacidade/declaracao-privacidade>

⁴³⁸ "Informações adicionais sobre o tratamento dos Dados Pessoais pelo Mercado Livre". <https://www.mercadolivre.com.br/ajuda/17934>

⁴³⁹ AliExpress Privacy Policy. Spanish: https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alieexpress/suit_bu1_alieexpress201911041031_29376.html;

Portuguese: https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alieexpress/suit_bu1_alieexpress201912031136_53144.html;

English: https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alieexpress/suit_bu1_alieexpress201909171350_82407.html

⁴⁴⁰ Brazil: <https://help.shopee.com.br/portal/article/76346>; Colombia: <https://help.shopee.com.co/portal/category/425-Informaciones-Generales/497-Pol%C3%ADticas?page=1>

⁴⁴¹ Portuguese (Brazil): <https://help.shopee.com.br/portal/article/77068>; Spanish (Colombia): <https://help.shopee.com.co/portal/article/77100-Pol%C3%ADtica-de-Privacidad-de-Shopee>

⁴⁴² "Declaração de Privacidade". <https://privacidade.ifood.com.br/privacidade-clientes/>

⁴⁴³ "Declaração de Privacidade iFood para Entregadores". <https://entregador.ifood.com.br/declaracao-de-privacidade-ifood-para-entregadores/>

⁴⁴⁴ "Declaração de Privacidade iFood para Parceiros". <https://parceiros.ifood.com.br/restaurante/privacidade>

aiqfome has a single document containing both the terms of service and privacy policy, available one click away from the main page. The same is true for **PedidosYa**⁴⁴⁵ and **Rappi**,⁴⁴⁶ which also includes a sidebar with links to the terms and conditions, cookies policy, and, in the case of Colombia an additional “Authorization for the Processing of Personal Data - Users”, which contains provisions especially directed at users of the Rappi platform, since the main privacy policy also applies to employees, job applicants, delivery workers, and shareholders.⁴⁴⁷ In the Brazilian site, the terms for Rappi’s money account (previously named RappiPay) are also presented.⁴⁴⁸ Rappi’s privacy documents for Colombia, Brazil and Ecuador have substantial differences when read side by side, which we will highlight whenever they provide insight into how different legislations impact the way policies are worded. Nevertheless, as stressed in the methodology section, the Colombian policies were the ones we used for ranking the company.

Finding the privacy policies for **DiDi Food** was a task as problematic as the one we faced in locating the terms of service. Both major portals for DiDi services (didi-food.com and didiglobal.com), in their Colombian versions, do not offer a link to the relevant privacy documents. The didiglobal.com “Privacidad” link just leads to a page with a short, general a general exclusion of liability notice for the site, not for the service itself,⁴⁴⁹ and didi-food.com’s corresponding link just loops back to the front page, after flashing the same notice, but in English language.

We cannot help but mention that at the bottom of the general terms of service for the DiDi services available in 2022,⁴⁵⁰ one could read the following message: “[IO1]Here, please include the link to our new Unified Privacy Notice, which includes, among other things, rules for use of cookies. In this regard, please liase [sic] with Billy Hu or Matthew Ratcliffe.” This new Unified Privacy Notice, one can assume, was supposed to be linked under the privacy section of the terms, since the placeholder tag “[IO1]” was also present there. Unfortunately, neither Billy Hu or Matthew Ratcliffe were apparently liaised with by the time we finished the data collection process.

Nonetheless, we were able to locate a full set of the DiDi Food privacy policies for Colombia. The documents are available at the Didi Privacy Center,⁴⁵¹ a site as useful as the name implies, but which was mysteriously not linked from any of the DiDi pages we visited while collecting data for the rankings, and that required some detective work to be located. Please be advised that the portal is dynamic, and retrieves all relevant policy documents by request with no URL change. Sadly, this means that we do not have a different source link for each document. Also, sadly, **DiDi Food** receives **zero** credit for element **P1a.1**.

⁴⁴⁵ “Políticas de Privacidad (Ecuador): https://www.pedidosya.com.ec/about/privacy_policies

⁴⁴⁶ “Política de Tratamiento de Datos Personales (Política de Privacidad), Colombia: <https://legal.rappi.com.co/colombia/politica-de-proteccion-y-tratamiento-de-datos-personales-rappi-s-a-s/>

⁴⁴⁷

<https://legal.rappi.com.co/colombia/autorizacion-de-tratamiento-de-datos-personales-usuarios-rappi-s-a-s/>

⁴⁴⁸

<https://legal.rappi.com.co/brazil/termos-e-condicoes-de-uso-de-conta-de-pagamento-antiga-rappipay/>

⁴⁴⁹ <https://web.didiglobal.com/co/food/privacidad/>

⁴⁵⁰ The link we originally used now leads to a “Page Not Found. Visit our Home Page” notice. Link to the archived copy: <https://web.archive.org/web/20220911215024/https://web.didiglobal.com/co/legal/terminos-y-condiciones/>

⁴⁵¹ DiDi Centro de Privacidad Colombia: <https://privacy-center.didiglobal.com/CO/privacy-notice>

Yaigo's Políticas de Privacidad are still available on the company's website, despite the merger with Yummy and the phasing out of the Yaigo app, which was discontinued by the end of 2022 (see the chart on Ecuador's food delivery apps in the annex). They are, however short enough to fit a footnote,⁴⁵² and this serves as an illustration of why Yaigo scored a **zero** for most of the indicators in our study—**full** credit for **P1a.1**, though—and was ultimately excluded from the overall ranking.

All companies scored a **full** credit for element **P1a.2**, including **DiDi**. Despite being hard to locate, DiDi Food's privacy policies are, after all, presented in Spanish.

6.2 Language and clarity

The same observations and commentary we made in our analysis of terms of service documents apply here, especially the points regarding the potential pitfalls of friendly language and the use of images, which can obfuscate a proper comprehension of the policies, and potentially divert the attention of readers away from information that is more relevant. This can be done maliciously, or simply occur as a consequence of companies' desire to comply with legislation and appear more approachable at the same time.

Another point raised above that should be stressed here is the increase of complexity in privacy policies following the requirements imposed by the GDPR, in opposition the regulation's

⁴⁵² The policy was formatted to better fit this footnote, but is presented in its entirety: "**Políticas de privacidad.** El presente Política de Privacidad establece los términos en que YAIGO usa y protege la información que es proporcionada por sus usuarios al momento de utilizar su sitio web o aplicaciones móviles cliente, comercio y conductor. Esta compañía está comprometida con la seguridad de los datos de sus usuarios. Cuando le pedimos llenar los campos de información personal con la cual usted pueda ser identificado, lo hacemos asegurando que sólo se empleará de acuerdo con los términos de este documento. Sin embargo esta Política de Privacidad puede cambiar con el tiempo o ser actualizada por lo que le recomendamos y enfatizamos revisar continuamente esta página para asegurarse que está de acuerdo con dichos cambios.

Información que es recogida. Nuestro sitio web y aplicaciones móviles podrá recoger información personal por ejemplo: Nombre, información de contacto como su dirección de correo electrónica e información georeferencial. Así mismo cuando sea necesario podrá ser requerida información específica para procesar algún pedido o realizar una entrega o facturación.

Uso de la información recogida. Nuestro sitio web emplea la información con el fin de proporcionar el mejor servicio posible, particularmente para mantener un registro de usuarios, de pedidos en caso que aplique, y mejorar nuestros productos y servicios. Es posible que sean enviados notificaciones push respecto a nuestra operación para uso de nuestras aplicaciones móviles, YAIGO está altamente comprometido para cumplir con el compromiso de mantener su información segura. Usamos los sistemas más avanzados y los actualizamos constantemente para asegurarnos que no exista ningún acceso no autorizado.

Eliminación de datos y cuenta Yaigo. El usuario Yaigo puede eliminar su cuenta y datos cuando lo desee, siguiendo los siguientes pasos: 1.- Abrir la aplicación y iniciar sesión con tu cuenta. 2.- Ir a la sección "Mi Perfil" que se encuentra en la parte superior lado derecho en la foto de su perfil. 3.- Elegir la sección "Eliminar cuenta". 4.- Siga los pasos, se hará una validación con el número de teléfono de su cuenta, para asegurarnos que es el dueño real de la cuenta. 5.- Datos de la cuenta eliminados con éxito.

Control de su información personal. Esta compañía no venderá, cederá ni distribuirá la información personal que es recopilada sin su consentimiento, salvo que sea requerido por un juez con un orden judicial.

YAIGO Se reserva el derecho de cambiar los términos de la presente Política de Privacidad en cualquier momento" (emphasis in original). Available at: <https://www.yaigoapp.com/#/politicasydeprivacidad>

original intent of enabling transparency, eloquently described in recital 58,⁴⁵³ and made into concrete and binding terms by Article 14, which calls for communications that are “concise, transparent, intelligible”, in “easily accessible form, using clear and plain language”.

The above observations notwithstanding, the effects of the transparency requirements of the GDPR, as well as those of other laws that took inspiration from it, can be noticeable when privacy policies and terms of service are compared. They tend to be presented in clearer terms, even when they contain technical information, and are user-centric instead of platform-centric—though this does not necessarily mean they value user privacy above corporate interests. The policies are problematic in many ways, as our evaluation of the remaining P indicators will demonstrate, but almost all companies received at least a partial credit in P1a.3. The exception is DiDi Food, which scored a zero.

We are unable to provide a comparison of character and word count like the one we did for the terms of service as a direct consequence of the intensive use of images containing text in iFood’s policies, and because DiDi presents all its policies in a format that does not allow text extraction or even printing. This is a good opportunity to stress, yet again, that a simple text version of policy documents should always be available, for reasons of accessibility and research.

Mercado Libre and **iFood** received a **yes** score; **AliExpress**, **Shopee**, **PedidosYa**, and **Rappi** all received a **partial** credit in element **P1a.3**. Not all full credits are created equal, however; some are more deserving than others, and our justifications for the individual ratings will exemplify an issue that is to be expected when evaluating an indicator element such as **P1a.3**, which only asks for “understandable manner” as a criterion: the threshold for the fulfillment of the criterion can be met, but the ways through which it can be met can differ significantly.

Mercado Libre’s front page has a link at the bottom titled “How do we take care of your privacy?”, which takes users to a Privacy portal providing a short summary of Mercado Libre’s privacy policies, and a broad picture of the actual privacy policy legal document.⁴⁵⁴ There are small variations in the contents of this page according to jurisdiction,⁴⁵⁵ but they are mostly the same. The use of illustrations is restrained, and information is clearly laid out; users are given links to other relevant documents, as well as to other sections of the site where they can alter privacy settings, or make requests related to, for example, automated decisions.⁴⁵⁶

⁴⁵³ “The principle of transparency requires that any information addressed to the public or to the data subject be concise, easily accessible and easy to understand, and that clear and plain language and, additionally, where appropriate, visualisation be used. Such information could be provided in electronic form, for example, when addressed to the public, through a website. This is of particular relevance in situations where the proliferation of actors and the technological complexity of practice make it difficult for the data subject to know and understand whether, by whom and for what purpose personal data relating to him or her are being collected, such as in the case of online advertising. Given that children merit specific protection, any information and communication, where processing is addressed to a child, should be in such a clear and plain language that the child can easily understand”. GDPR, recital 58.

⁴⁵⁴ Ecuador: <https://www.mercadolibre.com.ec/privacidad>; Bolivia: <https://www.mercadolibre.com.bo/privacidad> Brazil: <https://www.mercadolivre.com.br/privacidade>; Colombia: <https://www.mercadolibre.com.co/privacidad>

⁴⁵⁵ For instance, the Brazilian page links to a table where the legal bases for processing user information, as required by Brazil’s LGPD, are displayed in table format: <https://www.mercadolivre.com.br/ajuda/17934>

⁴⁵⁶ “Como posso solicitar a revisão de decisões automatizadas, por exemplo, desativação de conta, limite de crédito e outras ações do Mercado Livre?": <https://www.mercadolivre.com.br/ajuda/17221>

The legal document itself is presented in readable font, and still easy to understand, despite its more formal style of exposition and length. As a whole, this was the best implementation of element **P1a.3**'s requirements we found among the companies we examined.

AliExpress' Privacy Policy,⁴⁵⁷ while somewhat long, combining sections that apply to different jurisdictions in the same body of text, is clearly structured, and written in language that is more convoluted than that of Mercado Libre's privacy policy, but generally easy to understand. There is no use of illustrations or summaries, but relatively complex information on cookies is displayed in table format, which is a resource that policies could use more often, for other types of information.

PedidosYa follows a similar path, with a shorter document, written in clear language, and also makes good use of tables, despite not offering any additional aids.⁴⁵⁸

The last company to receive a full credit, **iFood**, deserves special consideration because the privacy policies for users (buyers) and delivery workers make extensive use of illustrations and extravagant design decisions. On the one hand, this makes the policies appear more approachable and friendly. On the other hand, it is also a good example of excess in design, with style trumping substance, and aesthetics taking precedence over function.

Consider, for example, the way iFood displays information on data that is generated when the platform is used (Privacy Declaration for Users) 4.2. There is really no justification for information to be displayed like this, other than to make it look interesting. A simple bullet list would be much more functional, easier to understand, and would not require users to turn their heads around an illustration in order to read the items. In fact, one could argue that the choice of presentation makes this section of the policy harder to understand when compared to a simple list.

⁴⁵⁷

https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alibaba/suit_bu1_alibaba20191104103_1_29376.html

⁴⁵⁸ https://www.pedidosya.com.ec/about/privacy_policies

4.2 Dados gerados durante a utilização dos serviços

a) Dados dos seus dispositivos

Nós podemos, automaticamente, coletar informações sobre os dispositivos a partir dos quais você acessa o iFood, como:

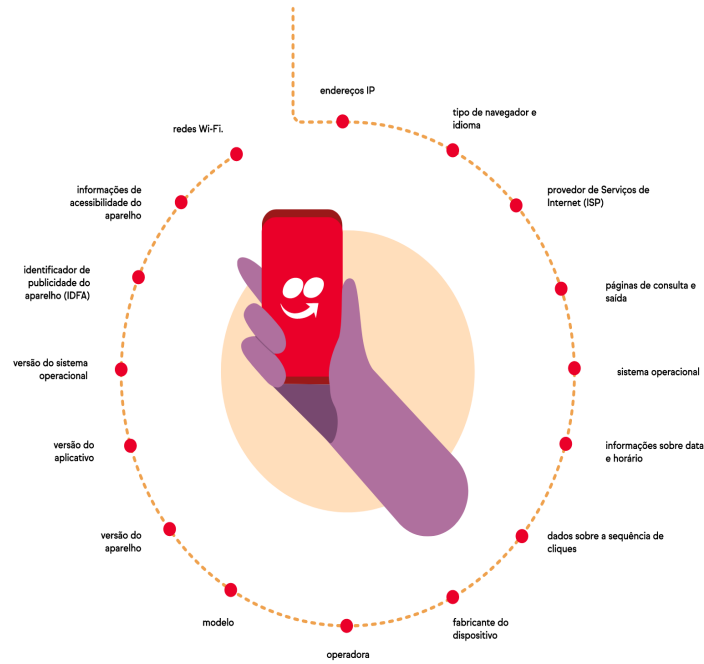


Figure 6 iFood's privacy policy as displayed in the Brazilian website - screenshot A



7. Como os dados são armazenados?

Saiba onde e por quanto tempo armazenamos os seus dados.

7.1 Onde os dados são armazenados?

Os dados que coletamos de você são armazenados em serviços de nuvem confiáveis, de parceiros que podem estar localizados no Brasil ou em outros países que ofereçam serviço de armazenamento em nuvem confiáveis e usualmente utilizados por empresas de tecnologia, tais como Estados Unidos da América (EUA) e em países da América Latina e da Europa.

Na contratação desses serviços, o iFood sempre busca empresas que empregam alto nível de segurança no armazenamento de suas informações, estabelecendo contratos que não violam as definições de privacidade previstas nesta Declaração e na legislação aplicável.

7.2. Por quanto tempo os dados são armazenados

O iFood armazena as suas informações durante o período necessário para as finalidades apresentadas nos **Termos e Condições de Uso do iFood** e nesta Declaração de Privacidade, respeitando o período de retenção de dados determinado pela legislação aplicável.

Caso você solicite a exclusão de sua conta, os seus dados pessoais fornecidos ao iFood durante a sua utilização dos nossos serviços serão excluídos, salvo para cumprir finalidades permitidas pela legislação de proteção de dados.

Em alguns casos, poderemos reter suas informações mesmo que você exclua a sua conta, tais como:



nas hipóteses de guarda obrigatória de registros previstas em leis aplicáveis,

caso houver uma questão não resolvida relacionada à sua conta (como, por exemplo, uma reclamação ou disputa não resolvida),

para o exercício regular de nossos direitos,

ou ainda caso seja necessário para atender nossos interesses legítimos, como prevenção de fraudes e aprimoramento dos esforços de segurança em benefício dos usuários.

Figure 7 iFood's privacy policy as displayed in the Brazilian website - screenshot B

How helpful is it having a squiggly, dotted line wrapping around examples of cases in which iFood may retain user information, even after accounts are deleted? This is very important information, presented in a way that obfuscates meaning, and is gratuitous from a design standpoint. Lines like the one in the picture often indicate a process that unfolds across time, or information that follows a logical order, such that one entry is conditional of the entry that follows it. Not the case here, and a simple list with bullet points would be easier to understand. Another issue is one of structure: since items 7.1 and 7.2 are displayed on parallel columns, to what section of the declaration do the examples of data retention provided below the columns belong?

Other examples could be extracted from the privacy declarations for users and delivery workers, because the problem of terrible design affects the entire document. Curiously, the declaration of privacy for restaurants is presented as a straightforward text document, without any flourishes.⁴⁵⁹ iFood still receives *full* credit, but only because the text itself is clear enough, and a plain text version of the declaration for restaurants exists, and has very similar content. Nonetheless, there is certainly a conversation to be had about expanding the description of element **P2a.3** to explicitly account for accessibility issues, as well as excessive or hostile design and presentation choices.

Shopee, Rappi, aiqfome scored a *partial* credit for **P1a.3**.

As is the case with the terms of service for **Shopee**, the privacy policy⁴⁶⁰ is written in legalese that might be confusing to the average user, and no additional effort was carried out to make the contents, which are conveyed through long blocks of text, more palatable. The policy itself is clear insofar as one can understand the gist of what is being said, and the text is presented in readable font, following a coherent structure. But the specifics of what data treatment and collection entails are not necessarily easy to grasp, and can often be vague or contain language that is overbroad.

Rappi's general Privacy Policy⁴⁶¹ and the additional Authorization for the Processing of Personal Data for Users,⁴⁶² are written in clear language, with no visual aids, with information on cookies presented as a separate policy document.⁴⁶³ However, the presentation is problematic due to the occasional use of *extremely* long walls of text. Consider the following image, a screen capture taken from a computer monitor, of a section in the additional policy for users, containing very important information on purposes for processing user information. Consider, as well, that the screen had to be reduced by 67% in order to fit the entire paragraph:

⁴⁵⁹ <https://parceiros.ifood.com.br/restaurante/privacidade>

⁴⁶⁰ <https://help.shopee.com.br/portal/article/77068>

⁴⁶¹

<https://legal.rappi.com.co/colombia/politica-de-proteccion-y-tratamiento-de-datos-personales-rappi-s-a-s/>

⁴⁶²

<https://legal.rappi.com.co/colombia/autorizacion-de-tratamiento-de-datos-personales-usuarios-rappi-s-a-s/>

⁴⁶³ <https://legal.rappi.com.co/colombia/politica-de-cookies-rappi-s-a-s/>

Finalidad de Tratamiento: El titular de la información acepta de manera expresa, voluntaria e informada el tratamiento de sus datos personales y que estos sean consignados, sean recopilados y almacenados en las bases de datos de RAPPI conforme a las finalidades que a continuación se enuncian:

(i) Recibir o recolectar los datos personales e incorporarlos y almacenarlos en nuestra base de datos; (ii) Ordenar, catalogar, clasificar, dividir o separar la información suministrada; (iii) Utilizar los datos suministrados en campañas de comunicación, divulgación y promoción de productos, actividades y servicios desarrollados como parte de estrategias internas de la compañía; (iv) Conservar registros históricos de la compañía y mantenerlos en contacto con los titulares del dato; (v) Verificar, comprobar o validar los datos suministrados; (vi) Estudiar y analizar la información entregada para el seguimiento y mejoramiento de los productos, el servicio y la atención; (vii) Entregar la información recolectada a terceros con los que la compañía contrata el almacenamiento y administración de los datos personales, bajo los estándares de seguridad y confiabilidad a los cuales RAPPI está obligada según lo contenido en las leyes pertinentes; (viii) Transmitir los datos personales a cualquier país o territorio en el mundo; (ix) Comunicar y permitir el acceso a los datos personales suministrados a terceros proveedores de servicios de apoyo general y a las personas naturales o jurídicas asociadas de RAPPI; (x) Recibir, tener, manejar y utilizar la información para realizar control y generación del fraude, control y prevención de lavado de activos y financiación del terrorismo; (xi) Calibración, ejecución y gestión de las apuestas de negocios y contratos objeto de los servicios prestados; (xii) Realizar de conformidad con la ley los reportes a centros de riesgo por incumplimiento de las obligaciones financieras derivadas de la relación comercial; (xiii) Envío de comunicaciones a través de cualquier canal incluyendo pero sin limitarse a, redes sociales, mensajes de texto, notificaciones push, correo electrónico, llamada telefónica, etc., relacionados con el objeto social de RAPPI tales como actividades de marketing y/o cualquier solicitud realizada por el titular de RAPPI, entre otros; (xiv) Prestar los servicios ofrecidos y/o contratarlos de forma adecuada y con una mediana calidad; (xv) Creación y administración de la cuenta del usuario; (xvi) Prestar el mantenimiento, desarrollo y/o control de la relación comercial entre el usuario y RAPPI; (xvii) Proveer a los usuarios de la información necesaria, a través de la página Web y/o plataformas de contacto, sobre los productos de los oferentes, para formalizar la relación de consumo de dichos productos; (xviii) Realizar procesos al interior de la empresa, con fines de desarrollo que sirven al desarrollo de sistemas; (xix) Prestar los servicios de la empresa y realizar el seguimiento de acuerdo con las necesidades particulares del usuario, con el fin de brindar los servicios y productos adecuados para cubrir sus necesidades específicas; (xx) Llevar un registro histórico de la información, con fines de estadísticas al usuario, desarrollo de análisis sobre los intereses y necesidades, brindando de esta manera un mejor servicio; (xxi) Realizar estrategias de marketing mediante el estudio del comportamiento del usuario frente a la oferta y/o ello registrar en su contenido, personalizando presentación y servicios; (xxii) Elaboración de propuestas comerciales y segmentación de mercados; (xxiii) Realizar encuestas de satisfacción y ofrecimiento o reconocimiento de beneficios propios de nuestro programa de lealtad y/o servicios para calificar el servicio y la atención por medio de los canales dispuestos para ello; (xxiv) Adelantar las actividades necesarias para gestionar las solicitudes, quejas y reclamos de los usuarios de la empresa o terceros y dirimirlos a las áreas responsables de emitir las respuestas correspondientes; (xxv) Presentar reportes ante las autoridades de inspección, vigilancia y control, y tramitar los requerimientos realizados por entidades administrativas cualificadas; (xxvi) Gestión contable, económica, fiscal y administrativa de usuarios; (xxvii) Conservación de la información por los términos establecidos en la ley, especialmente el referente a la información de los libros y papeles de comercio que deben ser archivados por un periodo de diez (10) años, según lo dispone el artículo 28 de la Ley 950 de 2005; (xxviii) Transmisión de Datos Personales nacional e internacionalmente a terceros con los que RAPPI desarrolla actividades en cumplimiento de su objeto social, administrativo, y/o para hacer Transmisión y Transferencia a los datos estratégicos de la empresa para que ejecuten actividades de marketing, publicidad y promociones asociadas con el objeto social, todo de acuerdo con las disposiciones de la normativa colombiana; (xxix) Brindar información a los Encargados del Tratamiento para facilitar y mejorar la calidad del servicio de RAPPI; (xxx) Solicitar la autorización de cobro ante las entidades definidas y autorizadas para ello.

RAPPI podrá transmitir o transferir a terceros los datos personales de los que es Responsable. Los datos también podrán ser transferidos a otras empresas que se encuentren bajo la misma o una política de control de RAPPI. Dichos terceros podrán estar ubicados en Colombia o en otros países que a juicio de la

Figure 8 Rappi's privacy policy as displayed in the Colombian website - screenshot A

Also note that this huge block of text is actually a numbered list of *purposes for the processing of user data*, ranging from “(i)” to “(xxx)”, and lacks even the most obvious consideration it could provide to its readers: using boldface to highlight the number in order to make the transition between items more noticeable. Displaying the information in bullet points certainly would make the document look longer, but also much more readable, and less of a hassle to understand. P1a.3 receives a **partial** credit.

The privacy policy for **aiqfome** is presented in the same document that contains the terms of service for the platform, in a separate section.⁴⁶⁴ The policy has moderate length, and is presented in legible font, but the page blocks selecting and copying the text, and one has to access the HTML source in order to obtain the contents, if that is necessary due to accessibility or research concerns. The language of the document mixes standard legalese with more approachable, informal language, and is overall easier to understand than the dense legalese usually found in terms of service. No additional effort is made, however, to make the text easier to understand.

Finally, we get to **DiDi Food's** privacy policies for users (buyers), delivery workers, and restaurants, which we only could find after a lot of effort, chronicled above in section 6.1. The policies are available at the DiDi Privacy Center,⁴⁶⁵ and are displayed in a format that does not allow for easy text extraction, and in fact, is not even printable. It is unclear to us whether the text is being rendered as an image, or some combination of methods involving CSS and/or JavaScript to control the printing and selection of text. In any case, the text for the policies is presented in two columns, containing separate versions of each document in Spanish and English, and a lot of screen real estate is necessary to read the text properly. Luckily, we have access to a large monitor and were able to read through the policies. The experience of reading them on a laptop with a small screen, however, was uncomfortable to the point of being impractical.

⁴⁶⁴ <https://aiqfome.com/terminos>

⁴⁶⁵ <https://privacy-center.didiglobal.com/CO/privacy-notice>

An image of how the DiDi Privacy Center displays the privacy policies is worth including here, since a description can barely do it justice:

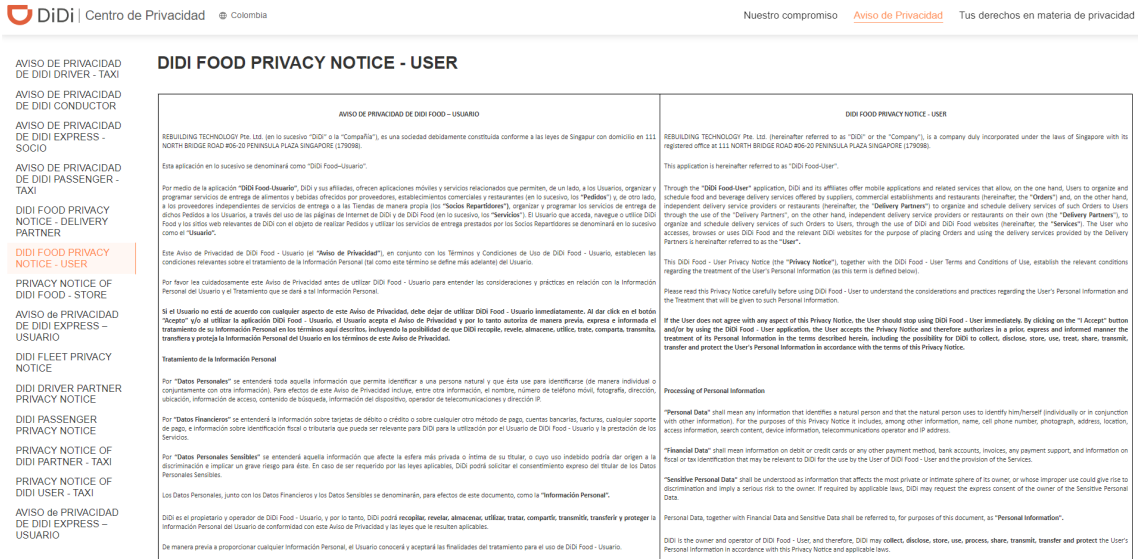


Figure 9 DiDi's privacy policy as displayed in their privacy center website - screenshot A

Using a browser's zoom function to make the policies more readable works only to a certain degree, since the columns get progressively narrower, and the heading and sidebar eventually invade the screen and push the columns containing the text away from view.

The mobile version is arguably even worse:

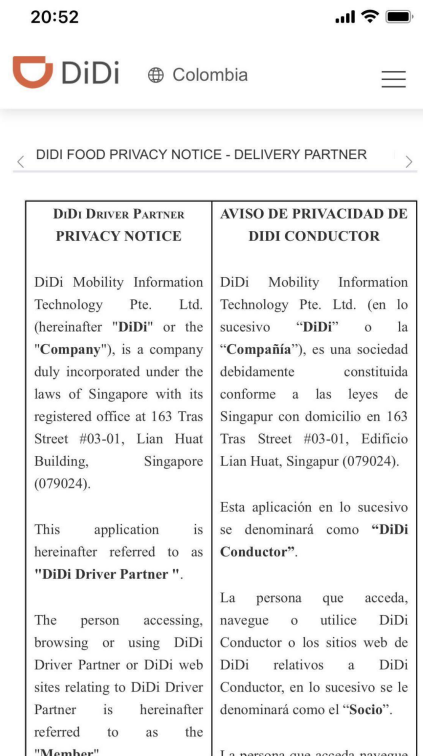


Figure 10 DiDi's privacy policy as displayed in the mobile application - screenshot B

As for the policies themselves, they are all very similar, with minor changes between the documents for users, delivery workers and restaurants. They all share the same structure, and the same substantial content. As far as these types of documents go, they are in standard legalese and not particularly abstruse, but it should not be a surprise, at this point, that visual aids, tables, or summarized versions of the policies are not available. Nor should it be a surprise that DiDi receives a **zero** score in element **P1a.3**, on account of the company’s incredibly hostile approach to presenting something as straightforward as a policy document. This is the exact opposite of what we are looking for, with the company taking extra steps for their privacy policy to be harder to understand than it would be, had it been provided in a different format, even something as simple as a straightforward plaintext document (score would be *partial*, had this been the case).

6.3 Notification of changes

The easiest way to ensure compliance with elements **P2a.1**, **P2a.2**, and **P2a.3** is to explicitly disclose that users will be notified of all changes to the privacy policy, no matter how insignificant, and how these notifications will be provided, with a timeframe offered as a first step to ensure that consent is obtained, whenever necessary. This is not an unreasonable request for a privacy policy, and good practice for companies wanting to avoid potential consent-related issues. **P2a.4**, asks for archives of previous policies and changelogs; these are very important tools, which offer invaluable insight into how company policies evolve over time, and how changes may have affected users’ rights.

The companies included in this report had varying success in meeting the requirements of elements **P2a1** to **P2a4**, and none managed to achieve a full score in **P2a.4**.

Table 21 Notification of changes performance

P2. Notification of changes P2(a). Changes to privacy policies	Mercado Libre (Brazil)	AllExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	alqfome (Brazil)	DiDi Food (Colombia)
P2a.1 Does the company clearly disclose that it directly notifies users about all changes to its privacy policies?	YES	PARTIAL	ND	PARTIAL	PARTIAL	ND	PARTIAL	PARTIAL
P2a.2 Does the company clearly disclose how it will directly notify users of changes?	YES	ND	ND	YES	PARTIAL	ND	YES	ND
P2a.3 Does the company clearly disclose the timeframe within which it directly notifies users of changes prior to these changes coming into effect?	ND	ND	ND	ND	ND	ND	ND	ND
P2a.4 Does the company maintain a public archive or change log?	PARTIAL	ND	ND	ND	ND	ND	ND	ND

The **Mercado Libre** privacy declaration clearly states that users will be notified whenever changes are made to the document. It also mentions that the company “will notify you of these changes through our usual channels, such as email or messages via our applications”, and that consent will be obtained whenever necessary.⁴⁶⁶ **Full** credit for elements **P2a.1** and **P2a.2**, secured by a well written, concise, clause. Unfortunately, **Mercado Libre** does not offer a timeframe for changes, and although there is an archive of the previous versions of the declaration, accessible via a sidebar to the right of the document, there is no changelog. **No disclosure found** mark for **P2a.3**, and **partial** for **P2a4**.

⁴⁶⁶ "Mercado Livre will carry out periodic updates to the Privacy Statement to reflect changes in the services we offer. These updates will inform you in a transparent manner of the way we treat personal information. We will notify you of these changes through our usual channels, such as email or messages via our applications. In cases where it is applicable, we will request your consent ."Mercado Livre's Declaration of Privacy and Confidentiality of Information. Available at: <https://www.mercadolivre.com.br/privacidade/declaracao-privacidade>

AliExpress’s privacy policy⁴⁶⁷ does the bare minimum necessary to comply with the general data protection standards related to users’ rights of consent, such as the ones established by the GDPR and similar laws, while retaining discretionary power to make changes to the policy unilaterally if it considers that the modifications do not affect those rights. Item I of the policy states the following:

“I. CHANGES TO THIS PRIVACY POLICY

We may update this Privacy Policy from time to time in response to changing legal, technical or business developments.

When we update our Privacy Policy, we will take appropriate measures to inform you, consistent with the significance of the changes we make and as required by applicable law, such as by posting an amended Privacy Policy on the Platform”. (emphasis in original)

The expression “consistent with the significance of changes” and “as required by applicable law” is a less direct, carefully worded version of “we will only notify you of changes only if we think changes are significant enough, according to the jurisdiction you are in, to require such a notification”. Only one method of notification is provided depending on interpretation, suggests an equivalence between the act of posting the new policy on the platform and users being notified of changes; far from the level of disclosure necessary here. Therefore, **AliExpress** receives a *partial* score for **P2a.1**, and *no disclosure found* for **P2a.2**. No timeframe is established, and the score for **P2a.3** is *no disclosure found*.

Although **AliExpress** does not have a changelog or archive for its privacy policies, Alibaba.com has a fascinating, labyrinthine, Rules Center site,⁴⁶⁸ where one can find a massive amount of policy documents, interpretations of policy documents, a “risk screening center”, and a “History rules” tab under the “Rules list” section. This historical archive contains over 50 outdated documents, all related to Alibaba.com and not AliExpress, with the exception of the Transaction Services Agreement, applicable to both sites, as explained in 5.1. above. Using the search bar in the Rules Center with a variety of terms can provide visitors with a captivating glimpse into the complexities of international commerce, with dozens of recall notices, niche regulations, exotic prohibited merchandise, and other compelling rules and revocations of rules. Unfortunately, we could not find any documents related to AliExpress’ privacy policy, and the company scores a *no disclosure found* in element **P2a.4**.

The same observations we made regarding **Shopee**’s approach to notifications of changes to policies in section 5.1, above, apply here. Since the policies all seem to be translations of the same document, written to be generic enough so that localization efforts would be minimal, they adopt the strategy of using general statements coupled with the inclusion of the *possibility* of exceptions, *if and only if* those are required by local legislation. **Shopee** scored *partial* credit for **F2a.1**, and the same would be true for **P2a.1** if Shopee did not specify that notification of changes occurs only via “posting those changes or the amended Privacy Policy

⁴⁶⁷ The AliExpress.com Privacy Policy is the same for every jurisdiction we examined, but presented in each country’s primary language. We will use the Spanish, English, or Portuguese language document for quotations, in correspondence with the different translations of this report. The English version of the policy is available at: https://terms.alicdn.com/legal-agreement/terms/suit_bu1_alieexpress/suit_bu1_alieexpress201909171350_82407.htm

⁴⁶⁸ <https://rulechannel.alibaba.com/icbu#/>

on our Platform”,⁴⁶⁹ a statement that is open to an interpretation that equates “we will notify you by the mere act of uploading the new policy to the site”—incidentally, this means that element **P2a.2** receives a **no disclosure found** credit, since it is unclear whether Shopee directly notifies users even if the words “we will notify you” are used.

To make things worse, the language the privacy policy adopts for the “local legislation exception” strongly suggests that Shopee will adopt an extremely elastic definition of user consent: “We reserve the right to amend this Privacy Policy at any time. **To the fullest extent permissible under applicable law**, your continued use of the Services or Platform, including placing of any orders, shall constitute your acknowledgment and acceptance of the changes made to this Privacy Policy.” (clause 1.3, emphasis ours). While the approach here is similar to the one used for notification of changes to the Shopee Terms of Service, clause 1.3 of the Privacy Policy is problematic enough that a **no disclosure found** score is unavoidable. The same is applicable to **P2a.3**, since a timeframe for notification is not offered.

iFood states in its three privacy policies that the company “[...] may update this Privacy Statement periodically, with the latest version always being the one in effect”, and that “[i]f we make any material changes to the Statement, we will post a notice on the Platform or send an email, along with the updated Privacy Statement”.⁴⁷⁰ P2a.1 and P2a.2 receive a **partial** and **yes** score, respectively. No timeframe nor archive or changelog are offered, and scores for **P2a.3** and **P2a.4** are **no disclosure found**. Additionally, the policies recommend that users check the date of the current version at the beginning of the document, but dates are provided only in the declarations for buyers and partners.

The **aiqfome** Terms of Use and User Privacy clearly states that despite the fact that “every time a relevant condition of the Privacy Policy is altered they will be valid, effective, and binding after the new version is published on our app”, users will be notified via any of the channels provided during registration, including e-mail, SMS, and WhatsApp.⁴⁷¹ Partial credit is given to P2a.1 due to the policy not stating that notification will be provided for every change, but only for changes in “relevant conditions”. This is a risky clause to have in a privacy policy, because “relevant changes” usually imply the necessity of obtaining the consent of users, and the declaration never explicitly mentions that consent will be obtained for collection and use of data outside of what is described by the document. Element **P2a.2** receives a **full** score, since there is disclosure on how aiqfome will notify users, in cases where notifications are provided. **P2a.3** receives a **no disclosure found** mark, as the policy is clear in informing users that changes are effective immediately, notification notwithstanding for cases where they are deemed to be “relevant”. No archive and changelog are available, so **no disclosure found** for **P2a.4**.

⁴⁶⁹ The complete text reads as follows: ““1.3 By using the Services, registering for an account with us, visiting our Platform, or accessing the Services, you acknowledge and agree that you accept the practices, requirements, and/or policies outlined in this Privacy Policy, and you hereby consent to us collecting, using, disclosing and/or processing your personal data as described herein. IF YOU DO NOT CONSENT TO THE PROCESSING OF YOUR PERSONAL DATA AS DESCRIBED IN THIS PRIVACY POLICY, PLEASE DO NOT USE OUR SERVICES OR ACCESS OUR PLATFORM. If we change our Privacy Policy, we will notify you including by posting those changes or the amended Privacy Policy on our Platform. We reserve the right to amend this Privacy Policy at any time. To the fullest extent permissible under applicable law, your continued use of the Services or Platform, including placing of any orders, shall constitute your acknowledgment and acceptance of the changes made to this Privacy Policy”. Shopee Privacy Policy, English version. Available at: <https://help.shopee.sg/portal/article/77149>

⁴⁷⁰ Item 13 of both the declarations for users and delivery workers, and item 12 of the declaration for restaurants

⁴⁷¹ Terms of Use and User Privacy, under “ALTERAÇÕES DESTA POLÍTICA DE PRIVACIDADE”. Available at: <https://aiqfome.com/termos>

PedidosYa's "Privacy Policies" document states that users will be notified, but only in relation to "material changes". In the same provision, the company mentions that users will be informed by means of "electronic communications", in order for consent to be obtained.⁴⁷² No timeframe is offered, and there is no archive or changelog for the policies. The vagueness of "electronic communications" does not make clear if this happens via email, SMS, instant messaging, a message displayed on the site, or other means. The model here is basically the same as the one adopted by AliExpress: do the bare minimum necessary to stay in compliance with general data protection standards, but retain some discretionary power to change the policy without notifying users. **P2a.1** and **P2a.2** receive a *partial* score, and **P2a.3** and **P2a.4** *no disclosure found*.

Rappi Colombia's privacy policy⁴⁷³ frequently references Ley Estatutaria 1581 de 2012—Colombia's general data protection law—paraphrasing or directly quoting it in the principles sections of the policy. The principle of freedom (Artículo 4°, c, of the law), which states that data treatment "can only be carried out with the prior, explicit, and informed consent of the Data Subject", and that "[p]ersonal " data cannot be obtained or disclosed without prior authorization, or in the absence of legal basis or judicial order waiving consent", is practically transposed to Rappi's privacy policy, with a minor grammatical change that makes it more direct quotation than paraphrase.⁴⁷⁴

We call attention to this specific provision because it relates to consent, as does the definition of "privacy notice" contained under section II of the policy: "Verbal or written communication directed to the personal data holders whose data are being treated by the company, in which they are informed about the existence of personal data treatment policies that will be applied to them, how to access them, and the purposes for which their personal data will be used."⁴⁷⁵

The policy's section VII, "AUTHORIZATION AND CONSENT OF THE DATA SUBJECT" reinforces the impression that consent should be obtained previously to any treatment of data, and that it should be unequivocal, clear and specific. But it appears to operate under the assumption that

⁴⁷² PedidosYa Privacy Declaration: "12. CHANGES TO THIS DECLARATION OF PRIVACY. PedidosYa reserves the right to make any changes it deems appropriate to this Privacy Policy. If material changes are made to this Policy, we will inform you through electronic communication and require your express acceptance of the new text of this Policy. Please check this statement frequently in order to stay informed, on a permanent and up-to-date basis, about how PedidosYa protects the privacy of your information." Original text: "12. CAMBIOS EN ESTA DECLARACIÓN DE PRIVACIDAD. PedidosYa se reserva el derecho de realizar las modificaciones que estime oportunas en esta Política de Privacidad. Si se realizan cambios materiales en esta Política, se lo informaremos mediante una comunicación electrónica y requeriremos su aceptación expresa respecto del nuevo texto de esta Política. Consulte con frecuencia esta declaración para estar informado, en forma permanente y actualizada, de cómo PedidosYa protege la privacidad de su información".

⁴⁷³ Política de Tratamiento de Datos Personales (Política de Privacidad), Rappi Colombia. Available at: <https://legal.rappi.com.co/colombia/politica-de-proteccion-y-tratamiento-de-datos-personales-rappi-s-a-s/>

⁴⁷⁴ Original Spanish text for both: Ley Estatutaria 1581 de 2012: "Artículo 4°, c) Principio de libertad: El Tratamiento sólo puede ejercerse con el consentimiento, previo, expreso e informado del Titular. Los datos personales no podrán ser obtenidos o divulgados sin previa autorización, o en ausencia de mandato legal o judicial que releve el consentimiento"; Rappi privacy policy: "III. PRINCIPIOS RECTORES PARA EL TRATAMIENTO DE DATOS PERSONALES. Principio de libertad: El tratamiento de los datos personales sólo puede ejercerse con el consentimiento, previo, expreso e informado del Titular. Los datos personales no podrán ser obtenidos o divulgados sin previa autorización, o en ausencia de mandato legal o judicial que releve el consentimiento. [...]" (emphasis in the original).

⁴⁷⁵ Original Spanish text, under "II. DEFINITIONS": "Aviso de privacidad: Comunicación verbal o escrita dirigida a los Titulares de los datos personales que están siendo tratados por la empresa, en la cual se le informa acerca de la existencia de las políticas de tratamiento de datos personales que le serán aplicadas, la forma de acceder a las mismas, y las finalidades para las cuales serán usados sus datos personales."

no additional consent will have to be obtained in the future by Rappi, since it also states the following:

"All visitors to the following platforms: (i) Soy RappiShopper (com.rappi.shopper); (ii) Soy Rappi - Be a delivery person (com.rappi.storekeeper); (iii) RappiAliado (com.rappi.restaurants); (iv) Rappi: Super, Food and More (com.grability.rappi); and (v) Rappi Partners App (com.rappi.partners), must register and authorize the treatment of personal data in order to use the services offered. Therefore, in each of the systems, there is a box that says "Privacy Policy and Personal Data Processing," which must be read and accepted in order to continue using the services of RAPPI S.A.S."⁴⁷⁶

In other words, by clicking the box that indicates agreement with the privacy policy, Rappi considers its consent requirements fulfilled, and no additional data will be collected from users, nor will the data collected be used for any other purposes other than the ones listed in the policy. Theoretically speaking, this could be true, but also for a type of company that ultimately leverages data to its advantage, and is reliant on further technological developments that might require the collection and use of additional data.

The policy's only instance of the word notification, in the form of "notificaciones", comes in section VI. PURPOSES FOR THE TREATMENT OF PERSONAL DATA, and in paragraph containing a description of how Rappi will process user information to make PUSH notifications, in the context of marketing and providing news about promotions, news, and other types of content.

Section "XIII. EFFECTIVENESS", dedicated primarily with data retention, ends with the following statement: "If necessary, RAPPI S.A.S reserves the right to unilaterally change the present policy".

In other words, a clear **disclosure found** credit for **P2a.1**, **P2a.2**, and one that raises additional concerns. **No disclosure found** for **P2a.3** and **P2a.4** as well, since Rappi does not provide a timeframe, and the description about the confusing promotions calendar in section 5.3. above, also applies here.

As is the case for the terms of service, Rappi's privacy policies are different across the jurisdictions we contemplate in this report. Although we use Colombia as the jurisdiction of reference for our ranking, this is one of the instances where comparisons are interesting enough to be addressed

Rappi Ecuador's privacy policy⁴⁷⁷ includes information about policy changes in a clause related to data retention, specifying that

"RAPPI may modify this Policy and/or email sending practices. In the event that RAPPI modifies the Policy, it will notify the Data Subject by publishing an updated version of

⁴⁷⁶ Original Spanish text, under section VII of the Rappi privacy policy: "Todos los visitantes de las siguientes plataformas: (i) Soy RappiShopper (com.rappi.shopper); (ii) Soy Rappi – Sé un repartidor (com.rappi.storekeeper); (iii) RappiAliado (com.rappi.restaurants); (iv) Rappi: Super, Comida y Más (com.grability.rappi); y (v) Rappi Partners App (com.rappi.partners), deben registrarse y autorizar el tratamiento de los datos personales para poder hacer uso de los servicios ofrecidos. Por tanto, en cada uno de los sistemas se encuentra una casilla que dice "Política de privacidad y Tratamiento de Datos Personales" la cual debe ser leída y aceptada para poder continuar con el uso de los servicios de RAPPI S.A.S."

⁴⁷⁷

<https://legal.rappi.com.co/ecuador/politica-de-privacidad-de-rappi-y-tratamiento-de-datos-persolanes/>

the Policy in this section or by sending an email or informing them on the main page or other sections of the Application to keep the Data Subject updated on the changes made".⁴⁷⁸

The mention that "notification" happens either by the publishing of the new terms, "or by sending an email" would lead to a **no disclosure found** credit in element **P2a.1** and **P2a.2**.

The Ecuador declaration also seems to assume that the first-time users accept whatever version of privacy policy valid by the time of registration means a blanket authorization for the collection and use of personal data. There is, however, at least the recognition that consent will be obtained whenever Rappi with "third parties that are not service providers, affiliated companies, or companies related to Rappi".⁴⁷⁹

For the Brazilian privacy policy,⁴⁸⁰ the language used is entirely different, but the consequences are the same, perhaps even worse:

"As we are always striving to improve the Platform and our services, this Privacy Policy may undergo updates. Therefore, we recommend that you periodically visit this page to be aware of all the changes we will make. If significant changes are made, such as those related to the need to obtain your consent, we will publish the update and request your consent as needed in each case.

The provisions set forth in this Privacy Policy may be updated or modified at any time, and it is the USER's responsibility to check them each time they access the PLATFORM."⁴⁸¹

This is a "shoot first, ask questions later" approach, since the terms will be published first, and then consent will be obtained, if necessary. It might as well be the case that Rappi publishes the notice at the same time it asks for consent, and does not make use of user information in any way until that consent is obtained. The way the text reads, however, allows for an interpretation that would put Rappi in a position of non-compliance with Brazil's LGDP.

⁴⁷⁸ Clause 1.4, complete original text: " RAPPI conservará la Información Personal del Titular por un periodo de diez (10) años a fin de resolver disputas o reclamos, detectar problemas o incidencias y solucionarlos, y dar cumplimiento a lo dispuesto en los Términos y Condiciones, salvo que exista expresa declinación de la autorización por parte del Titular. RAPPI podrá modificar esta Política y/o las prácticas de envío de e-mails. En caso que RAPPI modifique la Política, éste notificará al Titular publicando una versión actualizada de la Política en esta sección o mediante el envío de un e-mail o informándolo en la página principal u otras secciones de la Aplicación para mantener actualizado al Titular de los cambios realizados. El Titular deberá decidir si aceptar o no las modificaciones a la Política. En el caso que el Titular no acepte los nuevos términos y condiciones de la Política, el vínculo entre éste y RAPPI quedará disuelto y la Información Personal de dicho Titular de los datos no será usada de otra forma que la que fue informada al momento de recabarse".

⁴⁷⁹ Clause 3.3. Original text: "El Titular reconoce y acepta que RAPPI podrá revelar o compartir Información Personal con terceros que son proveedores de servicios o empresas aliadas, afiliadas o relacionadas con RAPPI. En caso de que no sea así, requerirá el consentimiento del Titular de los datos para hacerlo."

⁴⁸⁰

<https://legal.rappi.com.co/brazil/aviso-de-privacidade-e-politicas-de-uso-das-informacao-utilizadas-pela-rappi/>

⁴⁸¹ Under "9. General dispositions". Original text: "Como estamos sempre buscando melhorar a Plataforma e os nossos serviços, essa Política de Privacidade pode passar por atualizações. Desta forma, recomendamos que você visite periodicamente esta página para que tenha conhecimento sobre todas as modificações que faremos. Caso sejam feitas alterações relevantes, como aquelas que se refiram à necessidade de se obter um consentimento seu, publicaremos essa atualização e solicitaremos o seu consentimento, conforme a necessidade de cada caso.

As disposições constantes desta Política de Privacidade poderão ser atualizadas ou modificadas a qualquer momento, cabendo ao USUÁRIO verificá-las sempre que efetuar o acesso à PLATAFORMA."

Luckily, the Brazil declaration also contains the stipulation that consent will be asked if data is shared with entities that are not "partner establishments" (item 5), and that consent will be asked for collection and use of data not explicitly included in the declaration.⁴⁸² Regardless, no changes in score for the Brazilian policy; the comparisons just highlight different ways in which Rappi fails to meet the criteria of the **P2a** elements.

DiDi Food Colombia's privacy policies for users, delivery workers and restaurants only commit to notifying users directly if the company understands that changes to the document will affect the exercise of users' rights (we will quote excerpts from the User Privacy Notice, which is representative of all three):⁴⁸³ "DiDi shall not modify the conditions for the exercise of Users' rights under this Privacy Notice without the express consent of the user" (item 10.2).

DiDi further clarifies that "In cases where adjustments are required to this Privacy Notice or to the purposes of the processing of Personal Information, the user will be informed of the adjustments prior to their implementation, and the User may decide to revoke the authorization granted to DiDi to handle Personal Information (item 10.3). This means that changes that are deemed to be insubstantial, or that DiDi feels do not compromise the exercise of users' rights, will not trigger any notifications. The general DiDi Group Privacy Policy that was in effect when this evaluation took place, and which is broadly applicable to DiDi services unless there is a service-specific privacy policy, also corroborates the understanding that users will not be notified unless DiDi considers that the modifications "significantly affect your rights". Credit for **P2a.1** is *partial*.

None of the **DiDi Food** privacy policies disclose how users will be notified of changes. The DiDi Group Privacy Policy mentions that users will be notified "via email and/or a prominent notice on the company's website" (item 11), but this document is only applicable if there is not a service-specific privacy policy, and this is not the case for DiDi Food, which means a **no disclosure found** score for **P2a.2**. A timeframe for notifications is not given, and there is no archive or changelog of privacy policies available; **no disclosure found** for both **P2a.3** and **P2a.4**.

6.4 Collection and inference of user information

Many of the next indicators make extensive use of concepts that are defined by RDR in very specific terms, as we have seen from our analysis of the G and P indicators, and as pointed out in the methodology section of this report.

⁴⁸² Under 7. USER rights: "In some cases, you will have the option not to provide certain Personal Data and/or not to allow certain types of treatment (by not giving your consent for a specific purpose, for example). In these cases, it is important to keep in mind that some Data and/or specific authorizations that depend on your consent may be a condition for you to enjoy some of our products, services, benefits, and facilities. Whenever this is the case and the treatment of your Data is a condition for a specific purpose, you will be informed before you can make a decision about it." Original text: "Em alguns casos, você terá a opção de não fornecer certos Dados Pessoais e/ou de não permitir certas formas de tratamento (ao não fornecer o seu consentimento para uma finalidade específica, por exemplo). Nesses casos, é importante ter em mente que alguns Dados e/ou algumas autorizações específicas que dependem do seu consentimento podem ser condição para que você possa usufruir de alguns de nossos produtos, serviços, benefícios e facilidades. Sempre que esse for o caso e o tratamento dos seus Dados for condição para determinada finalidade, você será informado antes que possa tomar uma decisão sobre isso".

⁴⁸³

It will be helpful, at this point, to highlight how "user information" and "data inference" are defined, and the consequences those definitions have in the interpretation and application of the next set of indicator elements.

6.4.1 Data collected by companies

Indicator P3a's goal is to evaluate whether companies clearly disclose what user information they collect, and how they collect said information. **Element P3a.1** is concerned with **types of user information collected** by companies, **P3a.2** with **methods used for collection of user information**, and **P3a.3** calls for explicit disclosure, by companies, that collection of user information will only be **limited only to what is directly relevant and necessary to accomplish the purpose of the provided services**.

Table 22 Collection of user information performance

P3a. Collection of user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DIDI Food (Colombia)
P3a.1: Does the company clearly disclose what types of user information it collects?	YES	YES	PARTIAL	PARTIAL	PARTIAL	PARTIAL	YES	PARTIAL
P3a.2: For each type of user information the company collects, does the company clearly disclose how it collects that user information?	YES	YES	PARTIAL	PARTIAL	PARTIAL	PARTIAL	YES	PARTIAL
P3a.3: Does the company clearly disclose that it limits collection of user information to what is directly relevant and necessary to accomplish the purpose of its service?	ND	ND	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	ND

Indicator **P3b** replicates this structure but is focused on **data inference**. We will report our results for elements **P3a.1** and **P3a.2** in this section, and for **P3b.1** and **P3b.2** in section 6.4.2. The discussion of both **P3a.3** and **P3b.3** will be transferred to section 6.4.3. This makes it easier to understand what the indicators are conveying, since there is a clear separation between collection and inference—a topic that deserves special consideration—followed by an analysis of how the companies approach the principles of **data minimization** and **use limitation**.

6.4.1.1 Definitions of personal data, user information, and related terms

The first test companies have to pass for a full credit in **P3a** and **P3b** relate to how they define—or do not define—personal data or information. As mentioned in the beginning of 6.4, one of the main units of analysis for many of the P indicators is "user information", sometimes with a qualifier attached to it, such as "type" of user information, as is the case with indicators **P3a** and **P3b**.

The definition adopted by RDR is broad, and if companies define user information/personal data/user data or any similar terms in such a way that the entirety of the policy can be interpreted to include only *some* of the user information required by the RDR definition, a full credit is automatically unattainable. How successful were the companies we ranked in passing this test?

Mercado Libre, **AliExpress** and **aiqfome** opted not to define personal data, user information, or any such terms. For the purposes of our evaluation, these companies automatically pass the first test, since they entirely sidestep the question.

For the companies that included definitions in their privacy policies, results were mixed, and in some cases offered interesting insights into company practices. We will start with the single unproblematic definition that we examined, and then move on to the other cases.

Shopee's definition is clearly worded, and passes the test, even though the issue of inference is not stated in explicit terms—a problem we found in all declarations except one. Inference, as a rule, is only brought up indirectly by the documents (e.g. when companies describe their use of data to perform studies or define profiles for targeted advertising):

"1.2 "Personal Data" or "personal data" means data, whether true or not, about an individual who can be identified from that data, or from that data and other information to which an organisation has or is likely to have access. Common examples of personal data could include name, identification number and contact information."

The definition does not include inference explicitly, but it does not exclude it either, and has the merit of bringing attention to the fact that the company may have acquired user information from sources other than users' themselves. Unfortunately, things get more complicated as we move on to the other companies.

PedidosYa Ecuador's definition:

"Personal data is information that we can relate to our users directly or indirectly, such as their full name, address, phone number, date of birth, location data, or email address, as well as any other information that you voluntarily provide to us."⁴⁸⁴

Unlike Shopee, PedidosYa does not highlight the fact that it may acquire user information from other sources, and ends the definition with language that hints, despite not categorically affirming, that personal data is only information that users themselves provide to the company. The definition, nonetheless, clearly restricts the concept of "personal data" to information that belongs to the platform's users, excluding user information that PedidosYa might have related to persons that are not directly using the service.

In fact, the declaration contains a clause excluding PedidosYa from any liability arising from the use of data from third parties that are provided to the company by users of the platform:

"In any of the cases mentioned above, please be aware that any information you provide to us as described earlier, PedidosYa considers it to be your personal information. Therefore, if you provide us with the personal information of another person, PedidosYa will not be responsible for obtaining the prior consent of that other person to process their personal data according to this Privacy Policy. The responsibility will be solely attributed to you for using and processing personal data of third parties, understanding at all times that, with respect to such data, you are the Data Controller."⁴⁸⁵

⁴⁸⁴ Política de Privacidad Ecuador, 3, a. Original text: "Los datos personales son información con la que podemos relacionar a nuestros usuarios directa o indirectamente, tales como su nombre y apellidos, dirección, número de teléfono, fecha de nacimiento, datos de localización o dirección de correo electrónico y todo otro dato que usted voluntariamente nos provea."

⁴⁸⁵ Política de Privacidad Ecuador, 3, a, final paragraph. Original text: "En cualquiera de los casos antes indicados, por favor tenga presente que toda información que usted nos provea según lo antes descrito, PedidosYa la considera información personal suya y por tanto si nos provee información personal de otra persona, PedidosYa no será responsable de obtener el consentimiento previo de esa otra persona para tratar dichos datos personales según estas Políticas de Privacidad, carga que le será imputable a usted de forma exclusiva por hacer uso y tratamiento de datos personales de terceros, entendiéndose en todo momento que, respecto de dichos datos, es usted es el Responsable del Tratamiento."

This clause exists because PedidosYa also connects users to pharmacies, and the purchase of prescription drugs requires a photograph of the prescription, including data that identifies the person for whom the medication was prescribed.⁴⁸⁶ If users need to buy medication for their relatives, for example, PedidosYa will fulfill the order, but exempt itself from liability. The policy states that third-party information will only be kept for the amount of time necessary for the request to be met, but this does not make the policy any better. The company fails to pass the first test, since its definition of personal data is narrower than RDR's definition of user information.

iFood defines "personal data" on its declaration for users as follows:

"Personal data is information related to an identified or identifiable human person. The data concerning you, as an iFood customer, **is personal data.**" (emphasis in original)⁴⁸⁷

The way the definition ends, stressing that "[t]he data concerning you, as iFood customer, **is personal data**", could raise the same issue we found in PedidosYa's definition. But nothing in the declaration endorses the interpretation that the definition only refers to data related iFood users, and the general formula "information related to an identified or identifiable human person" is used. But then we get to item 4.3 of the declaration, which curiously defines "non-personal data":

"We may also obtain non-personal information, that is, data that does not allow direct association with any specific individual. An example of non-personal data is the grouping of orders by region."⁴⁸⁸

This is an interesting definition, because to arrive at the grouping of orders per region, one can reasonably assume that iFood needs to collect information on individual orders tied to specific persons or restaurants. The big question here is whether this data can be disaggregated, and a data point tied to an identifier, which is tied to a person.

Regardless, since RDR's definition of user information encompasses data that may be connected to an individual "by combining datasets or utilizing data-mining techniques", by including a definition of "non-personal data" that indicates that iFood considers *any* aggregate data non-personal, without specifying how this data cannot be linked back to specific users, the privacy declaration fails the first test for element **P3a.1**.

The definition of personal data found in the declaration for delivery workers, furthermore, contains extra paragraphs following the basic definition found in the policy for users:

"We may also obtain information about the activities of delivery personnel on our platform. This material is used to help us understand what works best on the platform. Aggregated data is considered non-personal information for the purposes of this Statement.

⁴⁸⁶ Política de Privacidad Ecuador, under "10. INFORMACIÓN RELATIVA A LA VENTA DE MEDICAMENTOS CON RECETA MÉDICAS".

⁴⁸⁷ Declaração de Privacidade iFood para Clientes, item 2. Original text: "O dado pessoal é uma informação relacionada a uma pessoa humana identificada ou identificável. O dado relativo a você, cliente do iFood, **é um dado pessoal.**" (emphasis in the original)

⁴⁸⁸ Declaração de Privacidade iFood para Clientes, item 4.3. Original text: "Dados não-pessoais. Nós também podemos obter informações não-pessoais, ou seja, dados que não permitem a associação direta com qualquer pessoa especificamente. É um exemplo de dado não-pessoal o agrupamento de pedidos por região."

If we combine non-personal information with personal information, **the combined information will be considered and treated as personal as long as it remains combined.**⁴⁸⁹ (emphasis in original)

A post on iFood's tech blog further solidifies our concerns by claiming that the company receives "[...] a constant influx of data from all delivery workers connected on the 'iFood for Delivery Workers' app, with their positions and status of connectivity, battery level, and other information".⁴⁹⁰ A **constant influx of data** is immediately turned into aggregate data that is automatically considered to be non-personal? Is this referencing real-time aggregate data analytics, with no connection to specific user identifiers? What are the company practices that ensure that they are, in fact, non-personal? Is iFood referring to transient data—personal data that is ephemerally processed and then discarded—which, as argued by George et al. (2019), could be considered as a GDPR compliant practice, depending on the system adopted? We have no way of answering that question, and we should be able to.

DiDi Food's policy contains three definitions "personal data", "financial data", and "sensitive personal data", all of which are collectively placed under the umbrella of "**personal information**", which is the term used throughout the declaration:

"Personal Data" shall mean any information that identifies a natural person and that the natural person uses to identify him/herself (individually, or in conjunction with other information). For the purposes of this Privacy Notice it includes, among other information, name, cell phone number, photograph, address, location, access information, search content, device information, telecommunications operator and IP address.

"Financial Data" shall mean information on debit or credit cards or any other payment method, bank accounts, invoices, any payment support, and information fiscal and or tax identification that may be relevant to DiDi for the use by the User of DiDi Food - User and the provision of the Services.

"Sensitive Personal Data" shall be understood as information that affects the most private or intimate sphere of its owner, or whose improper use could give rise to discrimination and imply a serious risk to the owner. If required by applicable laws, DiDi may request the express consent of the owner of the Sensitive Personal Data."

Setting aside the issue of DiDi stating that it "may request" —as opposed to "will request"—the express consent of the owner of sensitive personal data in cases where that is "required by applicable law", the definition of "personal information", composed of the three definitions above, does not meet the requirements set by RDR's definition of user information, because it entirely excludes information that may be connected to an identifiable person indirectly or by technical means. The definition stresses **direct links between information and a natural**

⁴⁸⁹ Declaração de Privacidade iFood para Entregadores, "Outras informações que podemos obter são sobre as atividades de Entregadores e Entregadoras em nossa plataforma. Esse material é usado para nos ajudar a entender o que funciona melhor na Plataforma. Dados agregados são considerados informações não-pessoais para fins desta Declaração.

Se combinarmos informações não-pessoais com informações pessoais, a **informação combinada será considerada e tratada como pessoal enquanto permanecer combinada.**" (emphasis in the original)

⁴⁹⁰ See Capeleiro, Thiago. "Os bastidores do seu pedido no iFood". *iFood Tech* (Medium), February 21 2020. Available at: <https://medium.com/ifood-tech/os-bastidores-do-seu-pedido-no-ifood-e351c50ef841>

person, suggesting that information indirectly linked to a natural person is not contemplated by the declaration.

Finally, we get to **Rappi**, which also fails to pass the first test. The company has three privacy documents for Colombia: a general Policy for the Processing of Personal Data (Privacy Policy); a user-specific Authorization for the Processing of Personal Data for Users – Rappi S.A.S.; and a Cookie Policy.

The Privacy Policy is one of the most eccentric documents we examined, and it is convenient to break it down section by section. It contains, in order of presentation:

- an introduction, establishing the legal basis for Rappi's processing of data on Colombia's Ley Estatutaria 1581 of 2012, Decree 1074 of 2015, and other provisions that may alter them, ending with a strong emphasis of the right of *habeas data*, which relates to access and rectification of information, but has a much narrower scope than what is found in general data protection laws;
- definitions, mostly drawn from Colombian legislation, including "personal data", "sensitive data", "private data", "semi-private data", and "public data";
- principles for the processing of data, also drawn from Colombian legislation;
- a list of data subject rights, such as access, rectification, opposition, etc.;
- methods for data collection, according to different categories of data subjects: users/clients, employees/job candidates, delivery workers, "providers" (a category that is not defined, but seems to include business partners and service providers), and shareholders;
- purposes for the processing of data, following the same breakdown by categories of data subjects;
- a general consent clause, that stresses that although consent and authorization must be previous, express, and informed, all visitors of the Rappi platforms must register and click the boxes that indicate agreement with the Privacy Policy—an exception is made for data collected before Decree 1377 of 2013,⁴⁹¹ for which Rappi will seek to obtain consent through other means;
- sections on communication channels and legal procedures for consultations and complaints;
- sections on the processing of sensitive personal data, and data pertaining to children and or adolescents;
- stipulations on the international transfer of data; and
- a section on data retention, which ends with the statement that Rappi may unilaterally modify the terms of the policy, as described above in 6.2.

The definitions provided by the policy, although grounded on Colombian law, when interpreted as a whole, are not consistent with the broader definition established by RDR. If Rappi had limited itself to the definition of personal data, it would have passed the test: "Any information linked or that can be associated with one or several specific or identifiable natural persons". This is a succinct definition, but one that does not exclude the other requirements of the RDR definition.

⁴⁹¹ The first regulatory decree of Colombia's general data protection law: <https://www.funcionpublica.gov.co/eva/gestornormativo/norma.php?i=53646>

By choosing to incorporate the definitions of "public", "semi-private", and "private" data, drawn from Ley Estatutaria 1266 of 2008—which also offers a definition of personal data, but includes corporations alongside natural persons—the policy ultimately excludes data that would fall into the definition established by RDR. Particularly problematic is the definition of “semi-private” data:

"Article 3. Definitions. For the purposes of this law, the following shall be understood as: [...]

e) Personal data. Any piece of information linked to one or several specific or identifiable natural or legal persons. Impersonal data is not subject to the data protection regime of this law. When this law refers to data, it is presumed to be about personal use. Personal data may be public, semi-private or private.

f) Public data. The data qualified as such according to the mandates of the law or the Political Constitution and all those that are not semi-private or private, in accordance with this law. Public data includes, among others, the information contained in public documents, court judgments that are duly enforceable and not subject to confidentiality, and those relating to the civil status of individuals.

g) Semi-private data. It is considered to be semi-private the data that does not have an intimate, reserved or public nature, and whose knowledge or disclosure may be of interest not only to its owner but also to a certain sector or group of people or society in general, such as financial and credit data related to commercial or service activity referred to in Title IV of this law.

h) Private data. It is data that, due to its intimate or reserved nature, is only relevant to the owner. [...]"⁴⁹²

Ley Estatutaria 1266 of 2008 is dedicated to the subject of the constitutional remedy of *habeas data*, and the right to access to information focused solely on the financial sector (articles 15 and 20, respectively, of the Colombian constitution). Habeas data is curiously emphasized by the introduction of the privacy policy, and has a much narrower focus than what is established by contemporary general data protection laws—of which Ley Estatutaria 1581 of 2012, the general Colombian data protection law, is a clear example. The introductory section of the privacy policy ends with the following statement:

“The Processing Policy aims to protect the constitutional right to Habeas Data that all individuals have to know, update, and rectify the information that has been collected

⁴⁹² Ley Estatutaria 1266 of 2008. Original text: “‘‘Artículo 3°. Definiciones. Para los efectos de la presente ley, se entiende por: [...]

e) Dato personal. Es cualquier pieza de información vinculada a una o varias personas determinadas o determinables o que puedan asociarse con una persona natural o jurídica. Los datos impersonales no se sujetan al régimen de protección de datos de la presente ley. Cuando en la presente ley se haga referencia a un dato, se presume que se trata de uso personal. Los datos personales pueden ser públicos, semiprivados o privados;

f) Dato público. Es el dato calificado como tal según los mandatos de la ley o de la Constitución Política y todos aquellos que no sean semiprivados o privados, de conformidad con la presente ley. Son públicos, entre otros, los datos contenidos en documentos públicos, sentencias judiciales debidamente ejecutoriadas que no estén sometidos a reserva y los relativos al estado civil de las personas;

g) Dato semiprivado. Es semiprivado el dato que no tiene naturaleza íntima, reservada, ni pública y cuyo conocimiento o divulgación puede interesar no sólo a su titular sino a cierto sector o grupo de personas o a la sociedad en general, como el dato financiero y crediticio de actividad comercial o de servicios a que se refiere el Título IV de la presente ley.

h) Dato privado. Es el dato que por su naturaleza íntima o reservada sólo es relevante para el titular. [...]”. Available at: <https://www.bogotajuridica.gov.co/sisjur/normas/Norma1.jsp?i=34488>

and stored in the various databases of **RAPPI S.A.S.**, and in compliance with said right, the company only collects and processes Personal Data when previously authorized by its Owner, implementing clear measures regarding the confidentiality and privacy of Personal Data. Likewise, it details the general corporate guidelines that are taken into account in order to protect the Personal Data of the Owners, the purposes of the information processing, the area responsible for handling complaints and claims, and the procedures that must be followed to know, update, rectify and delete the information, as well as the respective channels through which these procedures can be exercised.” (emphasis in original).⁴⁹³

The first paragraph of article 15 of the Political Constitution of Colombia has two parts: a provision from which a general right to privacy can be derived, followed by the establishment of a right to *habeas data*.⁴⁹⁴ Rappi appears to frame its privacy policy in a way that stresses compliance with the right to *habeas data*, but conveniently de-emphasizes the first part of article 15, even though the declaration opens with a reference to Colombia’s general data protection law. Although Ley Estatutaria 1581 of 2012 opens with language that directly describes the right to *habeas data*, it also includes express mention to the other rights included in article 15 of the Political Constitution of Colombia, as well as the right to information contained in article 20. The emphasis on *habeas data* by Rappi’s policy seems inadequate.

Does the additional Authorization for the Processing of Personal Data for Users policy make the situation any better? It is not necessary to read the document for a negative answer, since it does not apply to delivery workers and stores—which in spite of being companies, can also raise personal data concerns, since there is always data pertaining to a human point of contact or orders system operator. But reading the Authorization actually makes the problem worse.

The Authorization does not define personal data or related terms, but contains language that can be interpreted in a way that restricts personal data to a small list of items:

“The processing that **RAPPI** will give to the collected personal data (names and surnames, cell phone number, address, email, ID number, date of birth, gender) will be limited to the collection, storage, use, and circulation through the use of servers that may be located outside of **RAPPI's** exclusive access, its parent company, other subsidiaries, or its providers, for the purposes described in this authorization, through

⁴⁹³ Original text, under “I. INTRODUCCIÓN”: “La Política de Tratamiento tiene como objeto proteger el derecho constitucional del Habeas Data que tienen todas las personas para conocer, actualizar, y rectificar la información que se haya recogido y almacenado en las distintas bases de datos de **RAPPI S.A.S.**, y en virtud del cumplimiento de dicho derecho sólo recolecta y da Tratamiento a Datos Personales, cuando así haya sido autorizado previamente por su Titular, implementando para tal efecto, medidas claras sobre confidencialidad y privacidad de los Datos Personales. Así mismo, detalla los lineamientos generales corporativos que se tienen en cuenta con el fin de proteger los Datos Personales de los Titulares, las finalidades de Tratamiento de la información, el área responsable de atender las quejas y reclamos, y los procedimientos que se deben agotar para conocer actualizar, rectificar y suprimir la información y los respectivos canales para que estos puedan ejercerlos.” (emphasis in original)

⁴⁹⁴ From the official English translation: “Article 15. All individuals have a right to personal and family privacy and to their good reputation. The State is obligated to respect them and to make others respect them. Similarly, individuals have the right to know, update, and rectify information collected about them in data banks and in the records of public and private entities [...]”. Original text: “ARTÍCULO 15. Todas las personas tienen derecho a su intimidad personal y familiar y a su buen nombre, y el Estado debe respetarlos y hacerlos respetar. De igual modo, tienen derecho a conocer, actualizar y rectificar las informaciones que se hayan recogido sobre ellas en bancos de datos y en archivos de entidades públicas y privadas [...]”. Available, respectively, at: <https://www.corteconstitucional.gov.co/english/Constitucion%CC%81n%20en%20Ingle%CC%81s.pdf> and <https://www.bogotajuridica.gov.co/sisjur/normas/Norma1.jsp?i=4125#15>.

mobile applications, websites, and other online products and services.” (boldface in original, underline ours)⁴⁹⁵

While the information included in parenthesis may be interpreted as an exemplification of what can be considered personal data, there is no clear indication of that being the case. Something as simple as using the terms “including”, “such as”, or “for example” would avoid the issue. As it stands, the paragraph creates the opportunity for a very restrictive interpretation of “personal data”, limited only to the information mentioned within parenthesis.

6.4.1.2 Types of user information collected

The second test companies have to pass for a full score in indicators **P3a** and **P3b**, affecting specifically elements **P3a.1** and **P3b.1**, relate to **how privacy policies report on the types of data** they collect.

The notion of a *type* of user information can be a complicating factor in evaluating these policies, because companies approach this issue in different ways. There is no universal typology or standard for *types of user information* to draw from, and while some types of information are clearly in a category of their own, such as geolocation data, others may escape clear categorization or could fit into multiple categories. If, for example, a privacy policy mentions “KYC (know your customer) data”, that may include biometric data as well as photos of government-issued ID documents, and other types of information. Our approach, while assessing these indicators, was first to determine whether there was an attempt at categorizing types of data, check if the categories were consistent and well defined by the policies.

If types of data were established by the policies, in broad or specific terms, we proceeded to assess the issue of exhaustive versus non-exhaustive lists. The use of expressions such as “for example”, “including”, “among others” and “for instance”, did not get in the way of a full credit, as long as they are used in the context of providing examples of a well-defined type of user information, with the purpose of illustrating and limiting the definition, as opposed to expanding it. If expressions like the aforementioned ones were used in a way that allowed for the inclusion of types of data other than the ones mentioned by the declaration, or if the type of data itself was too vague or defined in very open language, assessments had an immediate ceiling of *partial*.

Since we ended our discussion of definitions of “personal data” and related terms with Rappi, we will use the same company to start our analysis element P3a.1 (“Does the company clearly disclose what types of user information it collects?”).

Rappi’s approach to privacy policies is not limited to matters of definition; the company's privacy policies for Colombia have the distinct characteristic of not providing lists of types of user information collected by the company. A few examples may be found on occasion, but

⁴⁹⁵ Autorización de Tratamiento de datos personales Usuarios – Rappi S.A.S., third paragraph. Original text: “El tratamiento que le dará **RAPPI** a los datos personales recolectados (nombres y apellidos, número celular, dirección, correo electrónico, número de cédula, fecha de nacimiento, género) se limitará a la recolección, almacenamiento, uso, circulación mediante el uso de servidores que pueden estar ubicados en el exterior de acceso exclusivo de **RAPPI**, de su controlante, otras subordinadas o de sus proveedores, para las finalidades descritas en esta autorización, por medio de las aplicaciones móviles, sitios web y otros productos y servicios online.” (emphasis in original)

attached to provisions that do not have the primary purpose of disclosing what data the company collects from its users. Unlike other policies we have examined, there is no dedicated section in any of the three documents for Colombia listing types of user information collected by Rappi. Any disclosure found in the policies is ultimately incidental and vague.

Rappi's general Privacy Policy for Colombia, for instance, has a section dedicated to methods for the collection of user information, which includes an item on cookies offering some examples of user information collected by Rappi:

"Through the automatic storage of user data who access the **RAPPI S.A.S.** platform by the use of cookies. Some of the data that can be automatically stored include URLs, the browser used, IP address, among others." (emphasis in original)⁴⁹⁶

Not only is disclosure incidental, used to describe a method for data collection, it is also non-exhaustive. There are other examples of user information collected in section IX of the policy, but as requirements for the company's procedures for consultations and complaints related to access, rectification and cancellation rights. Complaints sent in by Rappi users via a legal representative, for example, require the submission of, among other information, copies of identification documents belonging to both representative and user.

The Authorization for the Processing of Personal Data for Users has a limited number of examples of information Rappi collects, as indicated above in 6.4.1.1, but nothing else to offer in terms of clearly disclosing what else is collected.

The Cookie Policy for Colombia continues the pattern of vague and incidental disclosure when it defines session and advertising cookies:

"**Session Cookies:** Those cookies that collect information related to the access and use of the Website while the User/Consumer navigates it and are only retained during the browsing time."

"**Advertising Cookies:** Those that gather information about the preferences and choices of the User/Consumer in order to offer them advertising on the Website related to their interests." (emphasis in original)⁴⁹⁷

These descriptions hint at what types of user information may be collected—browsing data, such as URLs visited, time spent on pages etc.—but do not explicitly indicate what is collected. For these reasons, Rappi receives a *partial* found credit for **P3a.1**.

The Rappi policies for Brazil and Ecuador were not taken into consideration for our ranking, as explained in the methodology section of this report. However, as was the case with notification of changes (section 6.3, above), it is interesting to highlight how contrasting the documents for different jurisdictions can be, when companies choose the route of not standardizing their

⁴⁹⁶ Rappi Privacy Policy for Colombia, "V. FORMA DE RECOLECTAR LOS DATOS", under the section pertaining to users/clients. Original text: "Mediante el almacenamiento automático de los datos de los usuarios que acceden a la plataforma de **RAPPI S.A.S.** por el uso de cookies. Algunos de los datos que se pueden almacenar automáticamente son las URL, el navegador utilizado, dirección IP entre otros." (emphasis in original)

⁴⁹⁷ Rappi Cookie Policy for Colombia, under "TIPOS DE COOKIES UTILIZADAS". Original text: "**Cookies de Sesión:** Aquellas cookies que recolectan información relativa al acceso y uso del Sitio Web mientras el Usuario/Consumidor navega en el mismo y se conservan únicamente durante el tiempo de navegación."; "**Cookies de Publicidad:** Aquellas que recopilan información sobre las preferencias y elecciones del Usuario/Consumidor con el fin de ofrecerle publicidad en el Sitio Web relacionada con sus intereses." (emphasis in original)

policies. And unlike what we found in examining the provisions on notification of changes, the differences here would lead to a partial score for one of the other countries, Brazil.

Rappi has two policies for Ecuador: the general Rappi Privacy Policy and Processing of Personal Data, and a specific Cookie Policy. The Cookie Policy for Ecuador is equally vague, but the degree of disclosure in the general privacy policy is slightly improved over its Colombian version. The Ecuador policy contains more examples of user information collected, and states that Rappi will cross-check that information—namely: nickname/pseudonym, first and last name, document or ID number, contact information—with data drawn from other sources, including "specialized companies" and "risk centers". No language suggests that the list is non-exhaustive, but it clearly is: the policy also mentions information related to users' interests, tastes, contacts, and other content hosted in users' personal account, in a way that is too broad to justify a partial credit. In short, Rappi offers its users in Ecuador a marginally improved privacy policy, as far as element P3a.1 is concerned, but not to the point that would authorize a higher score.

The Brazilian privacy policies, on the other hand, would certainly score higher, perhaps even achieve full credit for P3a.1. Like Ecuador, Rappi Brazil has two privacy policy documents: a general Privacy Notice and Policies on the Use of Information Utilized by Rappi (Privacy Policy), and a specific Cookie Policy. Both documents are tremendous improvements over their Colombian and Ecuadorian counterparts.

To begin with, the general privacy policy for Brazil contains a definition of "personal data" that is compatible with the RDR definition of "user information". Not only that, the policy provides a list of types of user information collected by the company, presented in a very convenient table format, with fields for source of data, type of data collected, and purposes for the collection of data—an approach that would significantly improve some of the other policies we examined.⁴⁹⁸ Three such tables are offered, according to the category of platform participant: users/clients, delivery workers, and representatives of the businesses offering products for delivery. The descriptions for types of data do not include language that would allow for the inclusion of types of data not described by the declaration, and a section on cookies alerts readers about their use, and links to the Cookie Policy.

In contrast to the cookie policies for Colombia and Ecuador, the document for Brazil features a detailed table, containing entries for several cookies, with information on domain/origin, duration, type/function, and use. The field describing how each cookie is used sometimes contains descriptions of types of user information, which are sometimes vague, but explain how Rappi intends to use the information they enable the company to collect.

How did the other companies fare in element **P3a.1**? Like **Rappi, PedidosYa, DiDi** and **iFood** define "personal data" in terms that are incompatible with the RDR definition. PedidosYa provides a definition that excludes personal information related to third parties which is eventually provided to the platform by its registered users; DiDi's policy excludes information that is not directly tied to a specific user; and iFood's policies include a nebulous definition of "non-personal information" that raises enough questions and red flags for it to fail the test.

Mercado Libre, AliExpress, and aifome, as pointed out earlier in 6.4.1.1, do not define "personal data", "user information", or any related terms, and consequently pass the definition

⁴⁹⁸ Rappi Privacy Policy and Processing of Personal Data for Brazil, item 4.

test by avoiding the matter entirely. Shopee's policy passed the test by including a definition that is compatible with the RDR definition. In summary, the only platforms that would be eligible for a full score in **P3a.1** would be **Mercado Libre, AliExpress, Shopee** and **aiqfome**. Not all of them, however, managed to achieve it.

The **Mercado Libre** Privacy Declaration clearly identifies the types of information the company collects and processes, grouped under three categories related to methods of collection, broadly defined: a) "Information you provide us directly when registering or using our services"; b) "Information we collect automatically, regardless of whether you are registered or not", and c) "Information we collect from other sources". Each of these methods contains a list of specific types of user information, often described in detail. For example:

"Biometric data, such as the analysis of facial biometric characteristics (head size, distance between eyes, nose width, among others), for the purpose of identity validation. The fingerprint, when used to unlock the app, is not collected by Mercado Libre, and is stored securely on your devices."

"Certain information about the activity of users and visitors on our website and apps. For example, the URL from which they come or the URLs they access next (whether or not on our site). Also, the visited pages, interactions with said pages, searches performed, publications, purchases or sales, ratings and responses, complaints made and received, messages in forums, among other information, may be stored and retained."

"Information collected for fraud prevention purposes and compliance with information regimes (PEP lists, OFAC, etc.)"⁴⁹⁹

The use of "such as" in the first two paragraphs quoted above is a good illustration of our criterion for evaluating the use of exemplifying expressions in privacy policies. They are not problematic when used in the context of a well-defined type of data, merely as a means to specify and clarify the definition, and do not allow for an expansion into types of data not included in the declaration.

The lists of types of data in **Mercado Libre's** privacy policy are presented as exhaustive. There is a case for arguing that the expression that introduces the lists—"Check below the types of data we may collect"—is open to the interpretation that other types of data may be collected, but this is not, in our judgment, enough of a detriment, especially considering the detailed descriptions contained in the document.

Mercado Libre does not have a dedicated cookie policy, which is unfortunate, and the Privacy Declaration's section on cookies and other technologies (number 14), does not offer a

⁴⁹⁹ Mercado Livre Declaration of Privacy and Confidentiality of Information, under "3. Quais informações coletamos e processamos?". Original text: "Dados biométricos, como a análise de características biométricas do rosto (tamanho da cabeça, distância entre os olhos, largura do nariz, entre outros), para fins de validação de identidade. A impressão digital, quando utilizada para desbloquear o aplicativo, não é coletada pelo Mercado Livre, sendo armazenada de forma segura em seus dispositivos."; "Certas informações sobre a atividade dos usuários e visitantes em nosso site e aplicativos. Como, por exemplo, o URL de onde vêm ou quais URLs acessam em seguida (estejam ou não em nosso site). Também poderão ser armazenadas e retidas as páginas visitadas, as interações com as referidas páginas, pesquisas realizadas, publicações, compras ou vendas, classificações e respostas, reclamações feitas e recebidas, mensagens nos fóruns, entre outras informações."; "Informações coletadas para fins de prevenção de fraudes e cumprimento dos regimes de informações (listas PEPs, OFAC etc.)"

description of the types of data that are collected by means of these techniques. The types of data included in the "Information we collect automatically" entry in item 3, however, are specific enough for this not to be a problem. Mercado Livre receives a *yes* score in element P3a.1.

AliExpress's Privacy Policy is similar to Mercado Libre's in how it structures disclosure of types of user information collected by the platform. Section A of the document, "COLLECTION OF INFORMATION", lists types of user information grouped under categories that specify whether data is provided by users themselves, collected automatically, or acquired from third parties. Unlike Mercado Livre, AliExpress has separate lists dedicated to sellers and buyers, but descriptions are equally well defined, and not open to the inclusion of additional types of user information. Section F, on cookies and other tracking technologies, contains detailed information on specific cookies, and additional disclosure of user information collected through Google Analytics. AliExpress also receives a *yes* score in element P3a.1

Item 3.1 of **Shopee**'s Privacy Policy offers a list of types of user information the company collects, such as "information about your network, including your contact list when you share permissions on your device, and the people and accounts you interact with", "government issued identification or other information required for our due diligence, know your customer, identity verification, and/or fraud prevention purposes", and "bank account and payment information". Unfortunately, the list is presented under the following statement: "The personal data that Shopee may collect **includes but is not limited to:**" (emphasis ours).

The list, therefore, is non-exhaustive, and also contains two instances of vaguely defined types of user information: "any other information about the User when the User signs up to use our Services or Platform, and when the User uses the Services or Platform, as well as information related to how the User uses our Services or Platform" and "aggregate data on content the User engages with".

Section 4 of the policy ("COLLECTION OF OTHER DATA") further emphasizes the non-exhaustive nature of Shopee's disclosure of types of user information collected: "4.1 As with most websites and mobile applications, your device sends information which may include data about you that gets logged by a web server when you browse our Platform. This typically **includes without limitation** [...]" (emphasis ours).

Despite passing the definition test, Shopee's privacy policy is explicitly non-exhaustive when it describes types of user information collected by the platform, warranting a partial score in element P3a.1.

aiqfome's Terms of Use and User Privacy has a section titled "WHAT DATA ARE COLLECTED BY AIQFOME", which indicates that the company collects different personal data, either provided by users themselves, or automatically. There is no mention of data acquired from third parties, but there is a specific mention of "social login information", if users choose to authenticate access to the platform via Google or Facebook accounts. This section of the document does not offer a consistent list of types of user information followed by examples; instead, it first establishes occasions which may trigger data collection, such as registration, purchases, browsing the platform, and using the aiqfome app, and under each of these events lists a mixture of specific data points (e.g., IP address, date and time of order, email address) and types of data (e.g. geolocation data, device information).

The next section of the terms, "HOW WE USE YOUR PERSONAL DATA" makes use of nomenclature that indicates types of user information, but only to specify purposes for the use of said information: "registration data", "geolocation", "camera and [device] storage", and "browsing data". The section on "COOKIES AND MONITORING TECHNOLOGIES" offers examples of data collected with the use of cookies, JavaScript pixels and analytics tools, such as "access and browsing patterns", "which platforms were visited prior [to aiqfome]", and "content impression data".

As a whole, the policy is messy, and there is lots of room for improvement. Nonetheless, it does not contain a definition of personal data or user information, avoiding the issue of compatibility with RDR's definition of user information, and it does not employ language suggesting that the platform collects any other user information beyond what the text includes. Despite having a privacy policy that is considerably worse, in technical terms, than those of Mercado Libre and AliExpress, aiqfome still scores a full credit for P3a.1.

Similar to other policies, the **iFood** privacy declarations— for buyers, delivery workers, and partners—list types of user information grouped under broad categories: information provided by users themselves, and information collected during the use of iFood's services. These categories are not conceptually consistent, like the ones used by Mercado Libre and AliExpress, all roughly indicating methods for data collection. The first iFood category represents a method—user input—and the other, a situation that triggers the collection of data.

The three declarations differ in two key points, as a consequence of the different roles played by each platform participant: 1) the declaration for delivery workers describes more types of information than the declarations for buyers and partners, since there is a lot of geolocation data collected, and background data on workers acquired from third parties; and 2) the declaration for partners emphasizes data collected from a specific figure, the "Legal Representative": the business' "partner, manager, director, representative, or any agent representing an Establishment" (item 1 of the declaration for partners, third paragraph); the names of "Partner collaborators who interact with the Partner Portal to insert operational information" are also classified as personal data (4.1, a, third paragraph). There is no general clause exempting iFood from liability for the misuse of user information belonging to buyers or delivery workers, but we do not have access to iFood's contracts with establishments, which could contain such a clause.

iFood, like aiqfome, does not include a separate category for data collected from third parties, and automatic collection of data is grouped under "Data generated during the use of services". The declaration for delivery workers is the only of the three documents to explicitly mention user information acquired from third parties, but places it under "Data generated during use of services". The same declaration lists data on delivery routes, obtained from workers' devices and other sources of geolocation data,⁵⁰⁰ under "Data that you provide to us". Since automation is involved in acquiring such data, as opposed to active input by delivery workers, this creates an inconsistency that, in spite of not affecting our assessment of element P3a.1, is

⁵⁰⁰ A post on iFood's work on machine learning describes, as necessary for a model for predicting delivery times for an order, for example, data pertaining to the average time it takes a restaurant to prepare an order, how overworked the restaurant kitchen is at the time of order, time of order and traffic data for the region, and whether it is raining or not. See Galinkin, Daniel. "Plataforma de aprendizaje de máquina". *iFood Tech* (Medium), January 2020. Available at: <https://medium.com/ifood-tech/plataforma-de-aprendizado-de-m%C3%A1quina-37d4c8b91f21>

nonetheless interesting. Are we dealing with a mere oversight, or a deliberate choice, by **iFood**, in how it presents itself and its data collection practices to delivery workers?

Categorization issues aside, the types of user in the declarations are defined in precise terms, with examples that illustrate the types of data, but do not expand them, and can even be more comprehensive than what we found in other declarations. Item 4.2, a, of the declaration for both users and delivery workers list 16 examples of information collected from personal devices, going beyond the more obvious items, such as IP address and ISP information, and including less mentioned data, like accessibility information, IDFA, clickstream data, and wi-fi networks.

Be that as may be, the problematic definition of "non-personal information", detailed above in section 6.4.1.1, does not allow us to assign a full score to **P3a.1**, and **iFood** receives *partial* credit for this element.

PedidosYa also receives *partial* score for element **P3a.1** for providing a narrower definition of personal data than what is required by RDR's definition of user information, and for including two open and broadly defined residual types of information in categories named "other data", in section 3 "INFORMATION THAT PEDIDOSYA COLLECTS AND USE OF THE INFORMATION", items "a" ("Personal data that we collect when you visit our Portal"). The first "other data" entry refers to data collected when users visit the portal and initiate a session,⁵⁰¹ and data collected when users visit the website, register, and place orders.⁵⁰² Both of these are broad enough to potentially include types of information not explicitly disclosed or well defined by the declaration, as they grant PedidosYa a blanket authorization to collect data from "other sources", "such as social networks and other public databases".

The **DiDi Food** privacy policies for Colombia list a number of specific types of user information collected by DiDi, all considered to be "personal information", defined in terms narrower than those of RDR's definition of user information, as described above in 6.4.1.1: (i) "user information (item 2.1.1), which includes name, phone number, email address, and other information that identifies a given user, (ii) "location", which includes user location through IP address, GPS and other sensor data, (iii) "order", referring to information related to users' orders, including destination location, route, duration, distance traveled, (iv) "call information", including records of calls and messages sent through the app, (v) "status of orders and transactions"; (vi) "evaluation information"; (vii) "financial data"; (viii) "customer service" information including recorded calls with the customer service team; and (ix) "data analysis" related information, which includes "search content, IP address, device information [...] and location". While these categories clearly describe types of data that will be processed by DiDi, there is also a disclaimer on item 2.1 stating that the aforementioned types of personal information are not exhaustive: "DiDi may process, **among others**, the following Personal Information". Credit for element **P3a.1** is therefore *partial*.

⁵⁰¹ PedidosYa Privacy Policies, Ecuador, 3, a: "Data or information that you voluntarily provide us while using the website, application, or other sources such as social networks or other public databases". Original text: Datos o información que Ud. nos provea voluntariamente mientras utiliza el sitio web, aplicación u otras fuentes como redes sociales u otras bases de datos públicas."

⁵⁰² Ibid.: "Information that the user voluntarily provides us while using the website or the application, and information from other sources such as social networks or applications that use our connection interface or other public databases". Original text: "Información que el usuario nos provea voluntariamente mientras utiliza el sitio web o la aplicación e información de otras fuentes tales como redes sociales o aplicaciones que utilicen nuestra interfaz de conexión u otras bases de datos públicas."

6.4.1.3 Methods for the collection of user information

Privacy policies, as described in the preceding section, often group types of user information collected by companies under categories that broadly represent methods for data collection. The clearest, most coherent examples of this categorization can be found in the **Mercado Libre** and **AliExpress** policies: a) data collected through direct user input; b) data collected automatically by the platform; and c) data collected from third parties. This way of presenting information is clear, and broad as the categories are, they can be specified when necessary, which is often the case with methods that demand more technical explanations, and allow for users opting out of data collection. Most privacy policies contain sections or paragraphs on tracking technologies and mobile device data, and as a byproduct of that, users can obtain more concrete descriptions on how automated data collection is carried out.

Unfortunately, not all declarations are consistent in how they approach the subject. iFood's privacy declaration lists types of user information collected under two headings, one representing a method for collection (user input) and the other an event that triggers the collection of data (use of the iFood platform). **PedidosYa** adopts a somewhat confusing approach, with a scheme structured around how users access the platform, and whether there is access but no registration or ordering; access, with registration and ordering; and access, and the initiation of a session, but merely to check on previous orders.

In any case, a partial credit in element **P3a.1** automatically leads to a partial or lower credit in **P3a.2**. **Mercado Libre**, **AliExpress** and **aiqfome** were the only companies to receive a *full* credit for **P3a.1**, and the same is true for **P3a.2**. All of the remaining companies received partial scores, for different reasons.

Section 2 of the **Shopee** Privacy Policy provide a list of events that indicating when Shopee may collect user information, such as when users "interact with us through our app" or "carry out transactions through our services" or "through cookies we may implant when you interact with our app or site" (all listed under item 2.1). Sections 4 and 5 further specify how data may be collected from mobile devices and through the use of cookies. Regardless, there is a proviso attached to item 2.1: "The stated above does not intend to be exhaustive and defines some common examples of when personal data about you may be collected".

Section V of **Rappi**'s privacy policy for Colombia includes five lists of means through which data is collected, but includes both actual methods for data collection and situations or circumstances under which user information may be collected. The lists are broken down by categories of individuals Rappi interacts with: users/clients, workers/job applicants, delivery workers, providers (service providers and business partners), and shareholders.

There is a noticeable lack of consistency between the lists provided for users/clients and delivery workers, and entries can range from adequately clear to varying degrees of vagueness. The list for users indicates that Rappi will collect data through the use of cookies, and when users "access the company's Web page", while the list for delivery workers interestingly omits the use of cookies and only includes the item on web access. Both lists mention that information is collected "[t]hrough accessing the application, by creating a username and password", but do not specify how exactly how that happens, and have the additional problem of emphasizing two specific data points, username and password, glossing over the fact that much more information is usually collected when users interact with an app.

Even considering these serious problems, there is some disclosure on how the company collects data, and credit for element **P3a.2** is *partial*, but barely so. Types of user information are not defined by any of the three privacy-related documents for Rappi Colombia, beyond a few scattered examples of specific information, such as IP address or cell phone number, not to mention the issue of definitions for personal data, making even a partial credit seem undeserved. Regardless, whenever some disclosure on methods was available, no matter how problematic, a partial score was assigned.

PedidosYa's disclosure of methods for data collection, as described above, is idiosyncratic, and not in a good way. If companies are not systematic, conceptually consistent, and direct in their strategies for structuring privacy policies, the end result is inevitably confusing, and disclosure never satisfactory. PedidosYa is yet another company with a policy that generally discloses that data is sometimes acquired when users directly provide information, or when they carry out certain actions while using the platform, but fails to deliver a clear overview of how the company actually collects data. The "other information" type of data, furthermore, references "social networks or applications that use our connection interface", without specifying how data is collected from these sources, adding to the overall nebulous tone of the document.

iFood's privacy declarations also suffer from consistency issues, since they adopt heterogeneous categories for grouping the types of user information collected by the platform. Nonetheless, they are much clearer than the PedidosYa privacy policy. The main complicating element here is that of the obscure definition of "non-personal data", which has serious implications precisely on the issue of methods for data collection, as pointed out in section 6.4.4.1, thus negating a full credit on what would otherwise be a less than perfect, but not entirely terrible document.

DiDi Food's privacy policies describe a few methods for the collection of user data, but there is no explicit breakdown matching types of user information collected with methods for collection. It is possible, for example, to conclude that some of the data are provided by users themselves when registering or placing orders, that some data are collected directly from users' devices or browsers, and that DiDi itself may record users' calls with customer service. Nonetheless, a clear disclosure on how DiDi collects data for each type of information it collects is nowhere to be found. On top of that, as pointed out in the comments for element **P3a.1**, the types of information mentioned in the policy documents do not cover all of the data that DiDi may potentially collect.

6.4.2 Data inferred by companies

Elements **P3b.1** and **P3b.2** mirror their **P3a** counterparts, and ask the same questions about inference of user information. **P3b.1** examines whether companies clearly disclose all types of user information they infer from the user information they collect, and **P3b.2** seeks to know whether companies disclose, for each type of user information they infer, how that information is inferred.

Table 23 User information collection and inference performance

P3. User information collection and inference P3(b). Inference of user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DIDI Food (Colombia)
P3b.1: Does the company clearly disclose all the types of user information it infers on the basis of collected user information?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	ND	PARTIAL	PARTIAL	ND
P3b.2: For each type of user information the company infers, does the company clearly disclose how it infers that user information?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	ND	PARTIAL	PARTIAL	ND
P3b.3: Does the company clearly disclose that it limits inference of user information to what is directly relevant and necessary to accomplish the purpose of its service?	ND	ND	PARTIAL	PARTIAL	ND	PARTIAL	PARTIAL	ND

None of the companies we assessed managed to achieve a full score in elements **P3b.1** and **P3b.2**. The word "inference" itself only appeared in one privacy policy, that of AliExpress.com. What little disclosure we could find on inference was mostly indirect. It is reasonable to assume that an average person may reach the conclusion that the amount of personal information collected and held by companies is limited to the more concrete examples included in privacy policies. Terms such as "processing" and "treatment" of data, due to their broad and inclusive nature, can make it easy for certain types of use to be emphasized, in detriment of a less obvious activity such as inference, usually mentioned incidentally and in general terms.

Since inference leads to the production of *new* user information, which did not exist prior to users interacting with an online platform, this can be particularly problematic. In the absence of a strong legal requirement for disclosure specifying what information companies infer,⁵⁰³ we are left with documents that completely avoid the issue, or address it only when necessary to explain other, mandatory disclosure requirements. This is why sections detailing *purposes* for processing user information can offer some insight into inference practices.

Companies often list purposes, activities or goals that may, and usually do involve, inference: conducting research, statistical analysis, improving the platform or services offered, carrying out fraud prevention analysis, customizing user experience, and so on. Sometimes, we can find explicit acknowledgment of activities that *necessarily* require inference, such as profiling and targeted advertising. Since **P3b.1** asks for clear disclosure of **all** "types of information inferred" from user information companies collect, a full score was unfeasible for all of the companies in this report, and even the *partial* scores were unsatisfying. A *partial* score in **P3b.1**, in turn, automatically leads to, at most, a *partial* score for **P3b.2**.

So, what did we consider while assessing these elements? For a *partial* credit in element **P3b.1**, companies should disclose at least one type of user information inferred on the basis of other user information collected; this can be a description as vague as "user interests", or "behavioral patterns", but it needs to be explicitly stated.

On the matter of *methods* for inference of user information, assessment is much more difficult. Some disclosure can be found when policies contain references to activities that entail user profiling, predictive analysis. Sections on cookies or other tracking/monitoring technologies, or a dedicated cookie policy, can also provide some insight. This is disclosure at a very basic level, and in two instances—**PedidosYa** and **iFood**—we were able to get relatively more detailed

⁵⁰³ The RDR definition of "data inference" directs readers to an article by Wachter and Mittelstadt (2019), which argues that users are not granted sufficient levels of control and oversight in relation to inferred data, and proposes a new right for "reasonable inferences". When it comes to inferences, the data subject rights included in the GDPR usually have to be balanced against controller interests—trade secrets and intellectual property being the foremost examples—and that severely limits users' capacity to exercise rights on inferred data. We can make the same observation with regard to legislation inspired by the GDPR, such as Brazil's LGPD.

descriptions on methods in each of those companies' tech blogs. These were not taken into consideration in our evaluation of element [P3a.2](#), as described in the methodology section: if one has to dig *too* deep to get some level of disclosure, beyond the efforts of what is expected of a regular user, it should count as **no disclosure found** credit. Additionally, policies merely stating that cookies and such technologies are used, without providing examples of inferred user information, or explaining why they are used, were not eligible for a partial score.

Mercado Libre mentions in section 4 of its privacy policy that the company collects user information in order to:

"Trace profiles analyzing several variables, such as behavior and interactions on the platform, analysis and prediction of economic capacity, preferences, interests, transaction history, behavior and location, among others, to better improve our commercial and promotional initiatives, display advertisements and offers, banners of interests and news on the Mercado Libre platforms, improve our offer of content and items, personalize content, presentations and services."

The same section also includes, as purposes for processing user information: "Develop internal studies about your interests and behavior, to offer you better services and products", and "Produce profiles for the purpose of credit analysis".

Section 8 of the declaration, "Automated decisions and profiling", discloses the use of AI, machine learning, and big data technologies for "diverse purposes, such as fraud prevention, analysis and prediction of economic capacity, personalization of services and advertising, automated mechanisms of cybernetic security, or identification validation through image recognition". Profiling is defined as the "[...] evaluation of some personal aspects, such as your interests, preferences, behaviors, or location, carried out through the automated processing of personal information with statistical procedures."

Section 14, on cookies and monitoring technologies, states that **Mercado Libre** uses these technologies "[...] to understand the interests and behavior of those who visit or use our site, and in this way, offer a better service or provide related information".

Taken together, these passages of the privacy policy indicate that a lot of inference takes place behind the scenes, and provide some disclosure on types of inferred user information and methods for inference, meeting the requirements for a *partial* credit in P3b.1 and P3b.2. The word inference is not used, but the issue is not entirely avoided, and while disclosure on methods is somewhat generic—e.g. "artificial intelligence", "machine learning", "big data", the analysis of "several variables"—the **Mercado Libre** privacy declaration is overall much more generous than most of the other documents we analyzed, especially with regard to element P3b.2.

AliExpress is the only company we ranked with a privacy policy that explicitly acknowledges the issue of inference. Under section A ("COLLECTION OF USER INFORMATION"), while addressing automated collection of data, the document states that the company "[...] also may derive or collect inferences about you based on your buying and browsing activity information and other information we have collected about you."⁵⁰⁴

⁵⁰⁴ There are two other explicit references to inference in the policy, related to: a) US visitors from California: "[...] depending on the services you use, this may include your identifiers (e.g., IP addresses and email addresses), commercial information (e.g. records of products purchased), internet or other electronic network activity

Section B of the policy, "USE OF PERSONAL DATA", offers a few examples of uses that certainly involve inference based on user information, including "[...] the use cookies and other similar technologies to provide you with marketing and advertising based upon your browsing activities and interests", as well as carrying out research and analytics. Section C, "DISCLOSURE OF PERSONAL INFORMATION", stresses that data may be shared with "third party partners and service providers and/or affiliates" for the purposes of marketing, specifying that these providers "may combine information they collect on our Platform with data on their platforms and data they collect from other websites or through other sources [...]". Providers carrying out credit risk assessment and risk control are also mentioned, and these activities may involve profiling and inference of user information.

Section F, on cookies, is fairly detailed, and contains a list of cookies used by AliExpress, with information on type (essential, analytics, personalization/advertising, marketing, social networking), cookie providers, and how to refuse the cookies. The policy indicates that the company derives data on users' interests and visiting patterns, and also describes the use of web beacons to "monitor the traffic patterns of users [...]". More information related to methods for inferring user information can be found in the Alibaba 2022 Annual Report, in passages concerning P4P (pay for performance) marketing⁵⁰⁵ and intellectual property rights enforcement.⁵⁰⁶ The Alibaba Group 2022 Annual Report on Intellectual Property Protection also contains an interesting paragraph on the processing of live-streamed content for the detection of potentially counterfeited items.⁵⁰⁷ **AliExpress** receives *partial* credit for elements **P3b.1** and

information (e.g. buying and browsing activities on the Platform), geolocation data (your country and address) and records of requests and interactions to our customer support service. This may also include inferences we draw from the other information we collect."; and b) visitors from Brazil: "We process the categories of personal information described in Section A of our Privacy Policy. Depending on the services you use, this may include your identifiers (e.g. IP addresses, date and time of access to the Platform, and email addresses), business and internet or other electronic network activity information. It may also include inferences we draw from other information we collect." AliExpress.com Privacy Policy, "K. VISITORS FROM THE UNITED STATES", under "Additional Information for California residents", and "L. VISITORS FROM BRAZIL".

⁵⁰⁵ "The ranking of P4P search results on our marketplaces is based upon proprietary algorithms that take into account the bid price of keywords, the popularity and quality of an item, service or merchant, as well as customer feedback rankings of the merchant or service provider. Our in-feed and display marketing services take these factors into consideration, along with other consumer insights generated across our ecosystem, to further deliver an engaging and relevant content discovery process and shopping experience to our consumers through livestreaming, short-form videos, interactive games and other formats. The relevance and comprehensiveness of insights based on commercial activity and user activity in our ecosystem as well as our AI capabilities provide a unique advantage for Alimama to deliver the most relevant information to users through highly engaging content and effective format, which in turn enables merchants to improve their efficiency" Alibaba Annual Report 2022, p. 50.

⁵⁰⁶ "We utilize our proprietary algorithms to proactively detect the presence of suspicious goods and remove them from our marketplaces without requiring the notice of a rights holder. Our continued optimization of proactive monitoring has recently included an increased focus optical content recognition ("OCR") in connection with text and photos. In addition to scenario-specific governance measures such as anti-counterfeiting and other trademark misuse prevention strategies, we have also expanded the scope and extent of measures to prevent image theft. Our detection technology continuously improves through machine learning, which means we continue to become faster and more efficient at removing problematic products." Ibid., p. 69.

⁵⁰⁷ "In 2022, Alibaba created a profile sample database of live streamers suspected of selling counterfeit products during live streaming based on intelligent algorithms. The system can accurately identify special features of broadcasts that are recorded in the database based on a similarity comparison algorithm. Alibaba also created a product knowledge base, which can quickly detect infringing products with brand information, commodity characteristics, and other factors. The dynamic frame capturing technology adopted in live streaming channels can help quickly identify and locate live streams that are suspected of selling counterfeit products". Alibaba Group 2022 Annual Report on Intellectual Property Protection, p. 19. <https://alibaba.oss-us-west-1.aliyuncs.com/uploads/2023/04/2022%E7%9F%A5%E4%BA%A7%E5%B9%B4%E6%8A%A5%E8%8B%B1%E6%96%87%E7%89%884%C2%B725%E6%99%9A.pdf>

P3b.2, and along with **Mercado Libre**, represent the more detailed level of disclosure we could find for this component of the study. Other companies receiving a partial credit for these indicator elements did enough to justify the score, but provided less information than Mercado Libre and AliExpress.

Shopee secured a **partial** score in elements **P3b.1** and **P3b.2**. Item 6.1 of the privacy policy lists several purposes for the processing of personal data, some of which are clearly indicative or broad enough to encompass inference. Examples include: "to protect personal safety and the rights, property or safety of others"; "to evaluate and make decisions relating to your credit and risk profile and eligibility for lending, pay-later or credit products, where applicable"; "to produce statistics and research for internal and statutory reporting and/or record-keeping requirements", and "for marketing and advertising".

One such purpose is particularly clear about inference, and explicitly includes profiling:

"to conduct research, analysis and development activities (including, but not limited to, data analytics, surveys, product and service development and/or profiling), to analyse how you use our Services, to recommend products and/or services relevant to your interests, to improve our Services or products and/or to enhance your customer experience"

Shopee also claims that it "[...] may share user information, including statistical and demographic information, about our Users and information about their use of the Services with advertising partners and third-party suppliers of advertisements, remarketing, and/or other programming" (item 8.2), activities that might involve inferences based on the information shared.

Lastly, the policy's section on cookies informs users that Shopee "[m]ay link cookie information to personal data", and that "[t]his information is used to keep track of your shopping cart, to deliver content specific to your interests, to enable our third-party advertising partners to serve advertisements on sites across the internet, and to conduct data analysis and to monitor usage of the Services" (item 5.1).

The **iFood** privacy declarations address inference in more indirect terms, but also contain enough disclosure to justify a **partial** credit in **P3b.1** and **P3b.2**.

Section 5 of the three iFood privacy declarations, specifying purposes for processing user information, lists a number of cases in which inference can be reasonably assumed to occur, including "data analysis and research to improve products and services", "generation of statistical data (this includes consumption trends)", "auditing", the catch-all "provide necessary internal operations" (5.1), as well as "[...] enhance our mechanisms of security and improve the iFood services and offers destined to you." (5.5), and "personalize publicity campaigns" (5.7). A more concrete example of how iFood uses inferred user information can be found in a blog post on the platform's restaurant ranking algorithm, which takes into account, among other information, customers' perceived preferences, derived from behavioral data collected and processed by the company.⁵⁰⁸

⁵⁰⁸"The algorithms understand, for example, what type of food is most ordered by the client, at what time the client makes more orders, what is the average amount of money spent in a single order, and the client's location." iFood's algorithm for restaurant display order also evaluates data contained in profiles of customers with similar behavior, giving more weight, for example to a restaurant classified as offering "healthy food" when displaying restaurants to a

Section 9 of the iFood declarations, on "cookies and other technologies" is slightly different in the case of delivery workers, emphasizing mobile devices. The section's introductory paragraph of the user/buyer and partner declarations mentions the use of "cookies, pixel tags, local storage and other identifiers", including but not limited to mobile devices, and defines pixel tags, mobile device identifiers, and cookies in item 9.1. The corresponding section of the declaration for delivery workers focuses on cache, mobile device session identifiers, and cookies, which are also defined.

Item 9.3 states that this information is used to "understand and analyze trends", "manage our services", "learn about user behavior", and "obtain demographic information about our user base in a general way". There is some additional relevant disclosure in item 9.2 of the declaration for buyers, stating that information may be used to "[c]lassify users within the iFood network and verify their preferences", "[i]dentify users on the basis of events carried out (such as first purchase or the download of our app [sic, missing parenthesis], and based on specific characteristics of your profile (such as users that order more of a specific category of food, or who carry out more than 4 orders per month)".⁵⁰⁹

For the purposes of assessing elements **P3b.1** and **P3b.2**, the most relevant information in **aiqfome's** privacy policy is contained in the "Cookies and Monitoring Technologies" section: "The information collected through these technologies is used to carry out app performance metrics, identify use problems, capture User behavior in a general fashion and collect data on content impression".

This section also specifies that aiqfome makes use of JS pixels, defined as "parts of JavaScript code installed in our applications, websites or in the body of an e-mail, with the goal of tracing and collecting information or user activities, allowing the identification of patterns of access, browsing, interests and product purchases".

There is indication that more inference might be carried out other than profiling based on information collected by cookies, but in a very broad sense, when aiqfome describes its

user whose preference is "Brazilian food", when there is a correlation between these preferences based on the data iFood has collected. The restaurant recommendation algorithm is triggered "at the moment the client opens the app", though specific categories of restaurants may be prioritized due to other factors. Newly listed restaurants may appear in a separate section, and greater weight may be given to restaurants with a high volume of sales, or restaurants classified as Super Restaurants by the platform. See "Quer aparecer no iFood? Entenda a visibilidade no app". iFood para Parceiros, February 2022. Available at: <https://blog-parceiros.ifood.com.br/aparecer-no-ifood/>

⁵⁰⁹ Some additional information on iFood's use of data and machine learning can be extracted from posts in the company's tech blog. See, for example: Capeleiro, Thiago. "Os bastidores do seu pedido no iFood". iFood Tech (Medium), February 2020. <https://medium.com/ifood-tech/os-bastidores-do-seu-pedido-no-ifood-e351c50ef841>; Frasson, Rosicléia. "Histórico de transações: das escolhas arquiteturas ao processo de construção". iFood Tech (Medium), March 2023. <https://medium.com/ifood-tech/hist%C3%B3rico-de-transa%C3%A7%C3%B5es-das-escolhas-arquitetura-is-ao-processo-de-constru%C3%A7%C3%A3o-71ebb0218d2a>; and Galinkin, Daniel. "Plataforma de aprendizado de máquina". iFood Tech (Medium), January 2020. <https://medium.com/ifood-tech/plataforma-de-aprendizado-de-m%C3%A1quina-37d4c8b91f21>

purposes for using registration data⁵¹⁰ and browsing activity data,⁵¹¹ and its purposes for sharing data with service providers.⁵¹² The most direct disclosure on data inferred on the basis of user information, however, is restricted to the section on cookies, which is enough for a *partial* credit in element **P3b.1**, even if it falls shorter than what other companies receiving the same score disclosed. The same can be said about element **P3b.2**, and this a good example of what we stated in the limitations item of the methodology section: not all *partial* scores are created equally.

PedidosYa does not offer much in the way of disclosure on the inference of user information. Similar to the other policies we analyzed, it is possible to find activities that usually involve inference when the company lists purposes for processing the information it collects from its users, but the descriptions provided are much thinner. Under item 3, b, "Use of users' personal data", PedidosYa claims that it will make use of personal data to "[...] offer, personalize, maintain and improve the services we provide to our users [...]", "[...] test, research, analyze and develop products [...]", and use data for advertising so that the company can select "[...] offers that best suit your interests and contact you if we believe the information may be of interest to you".

PedidosYa also discloses that it may share user information with a variety of third parties which may or may not carry out inferences on the basis of user information: "Marketing partners and marketing platform providers"; "Data analysis providers"; "Research providers, including those who implement studies or research projects in collaboration with PedidosYa or on their behalf"; "Providers that help PedidosYa improve the security of their apps"; and "Consultants and other professional service providers" (item 6, a).

The section on cookies describes how cookies work, but does not mention the use of other monitoring technologies. PedidosYa points out that it will make use of session cookies "[...] to keep track of you while you use the Portal", and persistent cookies "[...] to enable our website to recognize you when you visit our Portal", and that the use of cookies, generally speaking, "[...] enables the server to identify and track the web browser". Beyond that, there is also disclosure on PedidosYa's use of Google Analytics, noting that the service "[...] generates statistical and other types of information about website usage through cookies [...]" and that "[t]he information generated in relation to our website is used to create reports about the use of our site."

⁵¹⁰ "To develop new features and improvements, enhancing your experience with our available services. To carry out investigations and measures for the prevention and combat of illegal activities, fraud, financial crimes, and crimes of money laundering and/or financing of terrorism". aiqfome Terms of Use and User Privacy, under "COMO NÓS UTILIZAMOS OS SEUS DADOS PESSOAIS", "Dados cadastrais". Original text: Para desenvolver novas funcionalidades e melhorias, melhorando a sua experiência com nossos serviços disponíveis. Para realizar investigações e medidas de prevenção e combate a ilícitos, fraudes, crimes financeiros e crimes de lavagem de dinheiro e/ou de financiamento ao terrorismo.

⁵¹¹ "To assist in the diagnosis and resolution of technical issues.. To develop new features and improvements, enhancing your experience with our available services." Ibid, under "COMO NÓS UTILIZAMOS OS SEUS DADOS PESSOAIS", "Dados de Navegação". Original text: "Para auxiliar no diagnóstico e solução de problemas técnicos. Para desenvolver novas funcionalidades e melhorias, melhorando a sua experiência com nossos serviços disponíveis."

⁵¹² "These service providers primarily assist us in anti-fraud analysis, payment intermediation, marketing campaign management, database enrichment, and cloud storage.". Ibid, under "COM QUEM NÓS PODEMOS COMPARTILHAR OS DADOS PESSOAIS", "Prestadores de serviço". Original text: "Esses prestadores de serviço atuam principalmente para nos auxiliar nas análises antifraude, intermediação de pagamentos, gestão de campanhas de marketing, enriquecimento de base de dados e armazenamento em nuvem"

Unlike other declarations we examined earlier in this section, no additional contextual information is provided, such as more specific reasons for the use of cookies, like targeted advertisement, nor does the policy allude to types of data that may be derived from cookie-related information, even at the most basic level (e.g., "interests", "preferences", "patterns of behavior" etc.).

There is a stark contrast, in terms of data processing practices, between the image PedidosYa presents through its privacy policy, and the one that shows up on the company's corporate and tech blogs. An interview with Delivery Hero's CTO Christian Hardenberg, published on the PedidosYa LaTam blog, is highly illustrative of this contrast. When asked about the main trends in technology to follow in 2022, Hardenberg replied:

"There is a current trend to replace code with machine learning models, which requires us to treat data not only as something that is in a database, but as a product that must be consumed by our models."⁵¹³

PedidosYa's tech blog reinforces that perspective, with detailed posts on machine learning and other technical issues, much more aligned with what is expected of a data-intensive company than what is included in the very bare-bones privacy policy.⁵¹⁴ Due to the remarkable lack of disclosure on inferences based on user information collected by the company, PedidosYa receives a **no disclosure found** score in elements **P3b.1** and **P3b.2**.

Rappi's main privacy policy for Colombia contains a list of purposes for processing user information, some of which are very broad, and may or may not involve inference at some point, and others that are more suggestive of inference. Section VI of the privacy policy breaks down purposes for the processing of personal data according to category of user, following the same structure of presentation adopted for methods of data collection. An example of a very broad purpose, applicable to data collected from users, is "[t]o carry out processes within the company, for the purpose of operational development and/or systems administration"; that is to say, any conceivable type of processing Rappi that understands is necessary for its business to function.

⁵¹³ Mille, Catalina. "Un punto fuerte en PeYa Tech es la rapidez en la innovación". PedidosYa LaTam (Medium), March 2022.

<https://medium.com/pedidosyalatam/un-punto-fuerte-en-peya-tech-es-la-rapidez-en-la-innovaci%C3%B3n-33b7c67997b3>

⁵¹⁴ One of these posts, for example, describes the use of machine learning to improve search results, in a process that starts from queries, infers categories of products, determines if a specific brand is desired, eliminates potential ambiguities in search terms, then employs a number of natural language processing techniques, making use of searches carried out by other users, as well as other data, such as popularity of products, recent trends, and information obtained experts in local businesses. Does this complex process involve inference and a lot of data? Yes. Is the information generated through it user information? Perhaps, perhaps not, depending on if/how information is stored, if it can be traced back to the user, and other technical questions that are besides the main point: users should be given more clarity about how the company processes their information, including what new information is inferred. See Sanchez, Eduardo. "En busca de la mejor estrategia de Ranking: experimentación y confirmación dinámica"

<https://medium.com/peya-tech/en-busca-de-la-mejor-estrategia-de-ranking-experimentaci%C3%B3n-y-confirmaci%C3%B3n-din%C3%A1mica-6e26f91dd5bf>. Additionally: Moraes, Nicolás. "Ranking: conciliador entre los intereses del usuario y las necesidades de los comercios". PeYa Tech (Medium), June 2021. <https://medium.com/peya-tech/ranking-conciliador-entre-los-intereses-del-usuario-y-las-necesidades-de-los-comercios-30c5c4a479ca>.

When purposes are more concrete, however, there is clear indication that inferences based on user information are carried out. Two items from the user/client list of purposes are particularly relevant: "Keep a historical record of information, for the purpose of customer satisfaction by developing analysis on interests and needs; thereby providing a better service" and "Preparation of commercial prospects and market segmentation".

The Authorization for the Processing of Personal Data for Users includes even more specific instances of activities that usually call for inferences based on user information:

"(xix) Provide the company's services and perform tracking according to the particular needs of the user, in order to offer the appropriate services and products to meet their specific needs;"

"(xx) Maintain a historical record of the information, for the purpose of satisfying the user, by developing analyses of interests and needs; thus providing a better service;

"(xxi) Implement market strategies by studying the user's behavior in response to offers and thereby improving their content, personalizing presentation and service."⁵¹⁵

The Cookie Policy, despite not presenting the level of detail found in its Brazilian version, includes relevant disclosure on why cookies are used by Rappi, clearly indicating that profiling is carried out by the company based on information collected by means of cookies. The level of disclosure found in the three privacy documents warrants a *partial* score for Rappi in elements **P3b.1** and **P3b.2**.

Inference is not a topic explicitly covered by the **DiDi Food** privacy policies. Indirect references can be found, as exemplified by item 2.4, describing how user information may be processed "[t]o improve the DiDi Food - User Services and provide the User with more personalized and convenient Services [...]". The user information that will be used for analysis is partly disclosed, and mostly relates to device data, but there is no specification of exactly what will be inferred. Item 5.1, under the heading "Use of Personal Information", DiDi states that the company may "[...] analyze Personal Information in order to provide the User with a more personalized and convenient service", "[...] design, develop and promote new products and services available for the User's use, based on the statistics of the User's Personal Information", and "analyze the User's anonymized Personal Information and share such anonymized statistics with the public or a third party for the purpose of DiDi Food - User's operation". The policies do not contain a section on cookies and other monitoring technologies, nor clauses that would allow us to get a sense on methods for inference. Both **P3b.1** and **P3b.2** receive a *no disclosure found* score.

6.4.3 Data minimization and use limitation

We now turn to elements **P3a.3** and **P3b.3**, which round out indicators P3a and P3b, on collection and inference of user information, and ask: do companies clearly disclose that they

⁵¹⁵ Autorización de Tratamiento de datos personales Usuarios – Rappi S.A.S, under "Finalidades de Tratamiento". Original text: "(xix) Prestar los servicios de la empresa y realizar el seguimiento de acuerdo con las necesidades particulares del usuario, con el fin de brindar los servicios y productos adecuados para cubrir sus necesidades específicas"; "(xx) Llevar un registro histórico de la información, con fines de satisfacción al usuario, desarrollando análisis sobre los intereses y necesidades; brindando de esta manera un mejor servicio"; "(xxi) Realizar estrategias de mercado mediante el estudio del comportamiento del usuario frente a las ofertas y con ello mejorar en su contenido, personalizando presentación y servicio".

limit collection and inference of user information strictly to what is directly relevant and necessary to accomplish the purpose of their service?

Since it is closely related to **P3a.3** and **P3b.3**, we also include analysis of element **P5.5** in this section: "Does the company clearly disclose that it limits its use of user information to the purpose for which it was collected or inferred?"

Table 24 Purpose for collecting, inferring, and sharing user information performance

P5. Purpose for collecting, inferring, and sharing user information	Mercado Libre (Brazil)	AllExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	alqfome (Brazil)	DiDi Food (Colombia)
P5.1: For each type of user information the company collects, does the company clearly disclose its purpose for collection?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	YES	PARTIAL
P5.2: For each type of user information the company infers, does the company clearly disclose its purpose for the inference?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	ND	PARTIAL	PARTIAL	PARTIAL
P5.3: Does the company clearly disclose whether it combines user information from various company services and if so, why?	PARTIAL	ND	ND	PARTIAL	ND	ND	ND	PARTIAL
P5.4: For each type of user information the company shares, does the company clearly disclose its purpose for sharing?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL
P5.5: Does the company clearly disclose that it limits its use of user information to the purpose for which it was collected or inferred?	YES	ND	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL

According to the definitions established by RDR, elements **P3a.3** and b relate to the principle of **data minimization**, while **P5.5** refers to **use or purpose limitation**, with a clear distinction between collection/inference of data, and use (broadly speaking) of said data.

“Data minimization — According to the principle of data minimization, companies should limit the collection of users’ information to that which is relevant and necessary to accomplishing a clearly specified purpose.”

“Use/purpose limitation — According to the principle of use or purpose minimization, entities that handle user information should state their purpose for doing so and should limit the use of this information for any other purpose unless they receive consent from the use.”⁵¹⁶

In establishing these definitions, RDR is closer to the approach adopted by the US Fair Information Practice Principles (FIPPs), in their Department of Homeland Security version,⁵¹⁷ and the OECD Privacy Guidelines,⁵¹⁸ than to the system used by the GDPR and laws inspired by it, all of which gravitate around the concept of processing, a term that encompasses collection, use, inference, and all sorts of operations involving personal data, and is also based on principles that do not neatly correspond to a clear separation between collection and use, despite reaching equivalent levels of protection. The GDPR also defines the principles of data minimization and purpose limitation in terms that do not exactly match the definitions we are using here.⁵¹⁹ It is necessary to keep this in mind because this report relates to services in jurisdictions with laws that are inspired by the GDPR, or, in the case of Colombia, the Data Protection Directive, since Ley 1581 dates back to 2012, before the GDPR was concluded.

⁵¹⁶ Ranking Digital Rights. (2020). *2020 Indicators*. <https://rankingdigitalrights.org/2020-indicators/>

⁵¹⁷ US Department of Homeland Security. (2008). *Privacy Policy Guidance Memorandum*. US DHS Privacy Office. https://www.dhs.gov/xlibrary/assets/privacy/privacy_policyguide_2008-01.pdf

⁵¹⁸ OECD. (2013). *The OECD Privacy Framework*. https://www.oecd.org/sti/ieconomy/oecd_privacy_framework.pdf

⁵¹⁹ Article 5(1)(b): determines that data must be “collected for specified, explicit and legitimate purposes and not further processed in a manner that is incompatible with those purposes; further processing for archiving purposes in the public interest, scientific or historical research purposes or statistical purposes shall, in accordance with Article 89(1), not be considered to be incompatible with the initial purposes (‘purpose limitation’); and, according to Article 5(1)(c), “adequate, relevant and limited to what is necessary in relation to the purposes for which they are processed (‘data minimisation’)”

In general, we consider references to processing (tratamiento/treatment) linked to language that clearly expresses limitations related to a specified purpose, as satisfactory in assessing P3a.3, P3b.3 and P5.5. A clearly stated, explicit commitment to the principles, as defined by RDR, guarantees a full credit. Policies that do not explicitly make reference to the principles, or define data minimization/use limitation in different terms, but adhere to the requirements imposed by the elements, also receive full credit. In other words, this is less a matter of terminology, and more a matter of substance.

RDR guidance documentation for researchers states that a partial credit for these elements is unlikely, but may be granted if there is a clear commitment at the group or parent company level, but not in the privacy policy for the service itself. There were instances where this occurred in our evaluations, and partial scores were granted. We also found cases in which commitments were contradicted by other provisions in the policies, and we considered such cases as also deserving of *partial* credit.

Mercado Libre scored *no disclosure found* in elements **P3a.3** and **P3b.3**, but received a *full* credit for **P5.5**. In other words, we could not find a clear commitment to the principle of data minimization, but did find one relating to use limitation. This is interesting, particularly in light of Mercado Libre's broad commitment to privacy and data protection, and the carefully worded language used by the company when talking about privacy.

From Mercado Libre's 2021 Impact Report:

"We take care to explain the type of information we collect, what we do with user data and where we share it, including the use of data in connection with artificial intelligence and machine learning. The Privacy Statement clearly and explicitly states the uses made of the information for primary purposes related to the provision of the services offered by Mercado Libre. All users who register with our platforms are subject to this statement, which is available on the home page of each local website."⁵²⁰

While a commitment to the principle of use limitation is clearly stated, the report makes no reference to data minimization, and that matches what we find on the summarized version of the privacy policy, as well as the full policy itself.

The summary page lists five principles for data protection: "We are transparent"; "We create value"; "We work with quality"; "We protect your data"; "We process data for a limited time". There is no reference to data minimization or use limitation, though the latter receives explicit mention in the Privacy Declaration: "The use of your data for any other purpose that is not compatible with those described will be communicated before we proceed with the processing."⁵²¹ Nonetheless the document does not clearly disclose that Mercado Libre limits the collection or inference of user data strictly to what is relevant and necessary to fulfill the purposes of its services.

The third version of Mercado Libre's Code of Ethics establishes a slightly modified list of principles, which includes "We strive to operate with minimal and quality data" and "We limit the processing of data".⁵²² These additions would satisfy the requirements for a partial credit in

⁵²⁰ 2021 Impact Report, p. 29.

⁵²¹ Declaração de privacidade e confidencialidade da informação do Mercado Livre, section 4, penultimate paragraph.

⁵²² Mercado Libre's Code of Ethics, v3, p. 32.

element P3a.3, even with the absence of explicit confirmation within the policy itself that the company imposes limits its data collection practice, If we consider that "processing" includes inference. Since the third Code of Ethics was published after the cutoff date for our assessments, both elements receive a *no disclosure found* credit. P5.5 receives full credit, due to the explicit use limitation clause included in the privacy policy.

Alibaba's 2022 ESG Report Report claims that the group upholds "[...] three principles to safeguard user privacy and security – minimal data collection, maximum user awareness and choice, and the strongest user data protection in our products and services".⁵²³ "Minimal data collection" is further specified in three statements: "Make users aware of the scope of data collection and its intended uses through clear prompts, pop-ups, and forms."; "Once data is collected, strictly protect users' basic rights in areas such as access, inquiry, withdrawal, modification, or deletion."; "Develop a range of privacy services and improve privacy management functions, including a privacy-policy inquiry portal, privacy over one's friends, and data consent management and withdrawal."⁵²⁴ Only the first of these items relates to data minimization, and does not constitute a full commitment. The ideas of "minimal" and "scope" hint at data minimization, but do not quite arrive at a convincing pledge to only collect data when strictly necessary to the company's specified purposes for collection.

AliExpress' Privacy Policy does not contain any language suggesting data minimization, and the general section on data collection lacks a clear statement reflecting the substance of the principle. The specific sections dedicated to users from EU/UK, US, and Brazil are equally devoid of any references, direct or indirect, to data minimization. Despite being the only privacy declaration that explicitly acknowledges inference, it should not come as a surprise that AliExpress' privacy policy also contains no commitment to minimal inference of user information, limited to specified purposes.

The situation is the same with the principle of use limitation. Purposes are specified in section B of the policy, but no clear disclosure on use limitation is to be found. AliExpress does inform users that the company "[...] may also use your personal information for other purposes that are compatible with the purposes we have disclosed to you if and where this is permitted by applicable data protection laws", which goes to show that the priority is expansion—whenever allowed by applicable laws! —and not limitation.

Since the commitment to data minimization at the group level is insufficient, and **AliExpress'** privacy policy lacks a clearly articulated commitment to the principle, **AliExpress** receives a *no disclosure found* credit in elements **P3a.3** and **P3b.3**. Commitments to use limitation are absent at both the group and service levels, also leading to a *no disclosure found* credit in element **P5.5**.

Sea Limited commits to both data minimization and use limitation, but **Shopee's** privacy policy does not match that commitment.

The Sea Sustainability Report for 2021 includes a section on the group's "Data Protection Policy and Guidelines", which establish the following principles: Data for Social Good, Access Control,

⁵²³ Alibaba Group. (2022). *Environmental, Social, and Governance Report 2022*. <https://data.alibabagroup.com/ecms-files/1452422558/5feb0e46-f04b-4d9c-9568-e4a5912db37e.pdf>, p. 23-24.

⁵²⁴ Ibid, p. 101-102.

Data Responsibility, and User Awareness. The explanation for Access Control explicitly acknowledges data minimization, and includes use limitation as part of that principle:

"We strive to control access to and disclosure of personal information and acknowledge the principle of data minimization, which means that data should only be collected and used for the purposes specified and reasonably necessary to the company's legitimate legal and business needs."⁵²⁵

The privacy policy itself, however, contains no language explicitly referencing data minimization or use limitation. With regard to data minimization, Shopee makes it clear that the types of data presented under item 2.1 do not constitute an exhaustive list, and the policy does not mention that collection will be limited, adequate, and relevant to the purposes specified for processing. Section 6 of the policy, which contains purposes for data processing, also lacks explicit acknowledgment that use of data will be limited.

Shopee receives *partial* credit for elements **P3a.3**, **P3b.3** and **P5.5**, due to the clearly articulated commitment to both principles at the group level. Unlike Alibaba's commitment, data minimization is properly defined, and use limitation is included as part of that concept.

iFood's privacy declaration for buyers contains a short preamble that includes, in one of its five bullet points, the following: "We limit the processing of data to its due purposes and in conformity with the law." Processing is a term that is broad enough to include collection, inference, and use of data, which would justify a full score for all three elements. Nonetheless, this statement is not included in the privacy declaration for partners, and the declaration for delivery workers contains a weaker preambular statement, restricted to the use of data: "Your data is only used for the purposes we inform you and in conformity with the law". Due to the inconsistencies found between the three declarations, with only the declaration for buyers containing clear disclosure on data minimization and use limitation, iFood receives a *partial* score in elements **P3a.3**, **P3b.3** and **P5.5**.

PedidosYa's owner Delivery Hero commits to limited data collection in its 2021 annual report, and claims that privacy policies in all countries where the group operates are continuously being updated, based on the GDPR and local standards. An explicit commitment to use limitation is absent from this general statement.⁵²⁶

The privacy policy for Ecuador and Bolivia, nonetheless, both contain statements reflecting the principles of data minimization and use limitation. There are minor differences in phrasing between two declarations, but the commitments are essentially the same, and would be solid examples of a full credit in **P3a.3**, **P3b.3**, and **P5.5**, if only they did not conclude with an unfortunate remark:

"We only collect your personal data, with your prior authorization, when it is strictly necessary for the fulfillment of contractual obligations and for a purpose that is lawful

⁵²⁵ Sea Limited. (2022). *Sea Sustainability Report 2021* <https://cdn.sea.com/webmain/static/resource/seagroup/Sustainability/Social%20Impact%20reports/61m2ELuLpRBg1oEkjkb/Sea%20Sustainability%20Report%202021.pdf>, p. 25.

⁵²⁶ "While customer data must be protected against any illegal abuse, a limited amount of data collection on the part of Delivery Hero is needed to run our business smoothly and to satisfy our customers' expectation in terms of a fully functioning and dedicated service. Based on the GDPR standard and local requirements, we inform our customers and other stakeholders about the data collected on most of our websites and explain how this data is used. We are continuously working on updating our privacy policies in all countries." *Delivery Hero 2021 Annual Report*, p. 58.

and previously defined. PedidosYa collects and uses your personal information for the purposes specified in this Policy **or in the relevant sections of our Portal.**" (emphasis ours)⁵²⁷

What is meant by "or in the relevant sections of our Portal"? This odd addition to what would otherwise be a perfectly adequate commitment to data minimization and use limitation raises an uncomfortable question: is the privacy policy a standalone document, or does it need to be complemented, on occasion, by information provided to users on other pages of the PedidosYa site? Due to this issue, elements **P3a.3**, **P3b.3**, and **P5.5** receive *partial* credit. It is worth mentioning that this is a partial credit that deviates from our standard rationale of the mismatch between commitments at the group and company levels, and is representative of a case that is entirely anomalous, restricted to PedidosYa's privacy declarations.

Rappi's privacy policy for Colombia includes a general statement limiting the processing of data to the purposes specified in the document, and to additional, yet unspecified purposes, for which the company will previously obtain user consent:

"The Personal Data collected by RAPPI S.A.S. is included in a Database to which only authorized personnel of RAPPI S.A.S. have access in the performance of their duties, noting that under no circumstances is the Processing of information for purposes other than those here described, and for those communicated to the Subject directly at a later moment, at the time of collection, authorized"⁵²⁸

The Authorization for the Processing of Personal Data for Users, additionally, states that the processing of personal data is limited to the purposes specified in the document, and carried out under the provisions of the general privacy policy.⁵²⁹

The privacy policy, however, in its section related to sensitive data, states that Rappi "[...] will not collect, store, or process sensitive data unless it is strictly necessary". "Strictly necessary" to what? A complement is to be expected here, linking collection and use of personal data to a set of specified purposes.

To complicate matters, the statement is followed by a list of exceptions directly drawn from article 6 of Colombia's Ley Estatutaria 1581, which was clearly inspired by article 8(2) of EU's Data Protection Directive. Not all of these exceptions are applicable to a data controller such as Rappi, or it is difficult to imagine a concrete situation in which they would be. The policy, nonetheless, presents them as if they constituted blanket authorizations for the processing of sensitive data.

Take, for instance, the following exception, inspired by article 6(c) of Ley 1581 and article 8(2)(d) of Data Protection Directive:

"When processing is carried out in the course of legitimate activities and with due safeguards by a foundation, NGO, association, or any other non-profit entity, whose purpose is political, philosophical, religious or trade union, provided they refer exclusively to its members or to people who maintain regular contacts because of their

⁵²⁷ *Política de Privacidad Ecuador*, section 3, b.

⁵²⁸ *Política de Tratamiento de Datos Personales (Política de Privacidad)*, VI. FINALIDADES DEL TRATAMIENTO DE LOS DATOS PERSONALES, first paragraph.

⁵²⁹ *Autorización de Tratamiento de datos personales Usuarios – Rappi S.A.S*, third paragraph.

purpose. In these cases, the data cannot be provided to third parties without the authorization of the Owner."⁵³⁰

Rappi is clearly not a non-profit entity, so why does the company replicate this provision in its privacy policy as an exception to the general rule that Rappi “will not collect, store, or process sensitive data unless it is strictly necessary”?

One can question whether this clause of the policy is null and void, and whether it was included with malicious intent or not, but the fact is that the regime for sensitive data, as established by the policy, is weaker than the one established for non-sensitive personal data, contradicting the general statement in section VI of the policy. For this reason, **Rappi** receives a *partial* credit in elements **P3a.3**, **P3b.3**, and **P5.5**.

The Magazine Luiza Group, owner of **aiqfome**, has a company-wide Policy for the Management of the Privacy of Personal Data, applicable to all of its subsidiaries, with a list of principles that provides as clearly articulated a commitment on data minimization and use limitation we could find among the companies we reviewed:

“Purpose: The processing of personal data must serve legitimate, specific, explicit business purposes, respecting applicable laws, without the possibility of subsequent processing in a manner incompatible with these purposes.”

“Limitation and Proportionality: The personal data used in processing activities must be proportional, adequate, and not excessive to that processing process and the purpose achieved in any initiative.”

“Data minimization: Every data processing activity should use the smallest set of personal data necessary for the intended purpose, also limiting the number of individual records involved, and respecting the other principles and guidelines defined in this Policy and associated procedures.” (emphases in original)⁵³¹

Unfortunately, aiqfome's privacy policy merely lists the purposes for which data will be collected and used, with no reference to data minimization and use limitation, direct or indirect. This is exactly the same situation we observed with Shopee, and likewise, **aiqfome** receives a *partial* score in elements **P3a.1**, **P3a.2** and **P5.5**.

The **DiDi** Privacy Center landing page references four principles for the processing of data, one of which expresses a basic commitment to use limitation: "We only ever use your information for the original reason we collected it." Users are met with no assurance, however, that data collection will be in any way limited, and this is perfectly compatible with the ethos of a company that lists "data accumulation" as one of its core values (see item 4.1.1, above).

Item 2.1 of the DiDi Food Colombia privacy policy for users, which we will use as reference, states that "DiDi may process, among others, the following Personal Information", making it clear that the company is not exhaustive when it provides examples of the personal data it collects. Listed under item 2.1, we then find a series of items specifying categories of personal data, such user information (item 2.1.1) and call information (2.1.5), which include purposes

⁵³⁰ *Política de Tratamiento de Datos Personales (Política de Privacidad)*,, under X. TRATAMIENTO DE DATOS PERSONALES SENSIBLES.

⁵³¹ Magazine Luiza. (2022). *Política de Gestão da Privacidade de Dados Pessoais*. <https://ri.magazineluiza.com.br/Download.aspx?Arquivo=MjdGy70AgGvbPrrRDS/cqw==>, item 4.2.

for processing related to each of these categories of user information. No provision in the policy clearly states that data collection is limited to the purposes included in each of the entries under item 2.1, and the fact that the policy is not exhaustive is an additional complicating issue. Elements **P3a.3** and **P3b.3** receive a *no disclosure found* credit.

Element **P5.5** receives *partial* credit, in spite of the commitment found on the landing page of the Privacy Center. Item 5.1 of the policy states that "...Personal Information may be used in cases that are directly or reasonably related to the purposes set forth in the section 'Processing of Personal Information'", and provides a list of purposes that are applicable to any type of user information, as opposed to the purposes listed under 2.1, which are all tied to specific categories of personal data. DiDi claims in item 5.2 that consent will be obtained for information "[...] beyond the scope that is directly or reasonably related to the purposes set forth in this Privacy Notice [...]". The use of "reasonably related" is cause for concern, since it is entirely up to DiDi to decide what that means.

6.5 Sharing of user information

Scores for indicator **P4** reveal considerable homogeneity of disclosure practices across the companies we assessed, so much so that a single profile can be drawn for most of them.

They all disclose that they share user information with third parties, but do not do so for every type of data they collect. Policies usually specify that certain types of data will be shared with specific business partners or service providers, and while a categorization for third-parties is always provided, and sometimes examples of what will be shared are included, there is never a thorough breakdown associating each type of data collected with each type of third party defined. This resulted in partial scores for elements **P4.1** and **P4.2** across the board.

Table 25 Sharing of information user performance

P4. Sharing of user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P4.1: For each type of user information the company collects, does the company clearly disclose whether it shares that user information?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL
P4.2: For each type of user information the company shares, does the company clearly disclose the types of third parties with which it shares that user information?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL
P4.3: Does the company clearly disclose that it may share user information with government(s) or legal authorities?	YES	YES	YES	YES	YES	YES	YES	YES
P4.4: For each type of user information the company shares, does the company clearly disclose the names of all third parties with which it shares user information?	PARTIAL	PARTIAL	ND	PARTIAL	ND	ND	ND	ND

Companies are also very clear in stating that user information may be shared with government and legal authorities, and all of them secured a yes mark in element **P4.3**. Disclosure on how government requests are handled, however, are not as easy to find (see section 6.9, below).

Only **Mercado Libre**, **AliExpress** and **iFood** disclose names of third parties with which information is shared—with **Mercado Libre** providing much more information than the other two companies. Nonetheless, they all fail to associate these third parties with each type of user information shared, and they do not disclose the names for all third parties with which information may be shared.

6.6 Purposes for collecting, inferring, and sharing user information

While there is less homogeneity in relation to indicator **P5** than what we observe with indicator **P4**, the overall picture is one that is dominated by partial disclosure.

Table 26 Purpose for collecting, inferring, and sharing user information performance

P5. Purpose for collecting, inferring, and sharing user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P5.1: For each type of user information the company collects, does the company clearly disclose its purpose for collection?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	YES	PARTIAL
P5.2: For each type of user information the company infers, does the company clearly disclose its purpose for the inference?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	ND	PARTIAL	PARTIAL	PARTIAL
P5.3: Does the company clearly disclose whether it combines user information from various company services and if so, why?	PARTIAL	ND	ND	PARTIAL	ND	ND	ND	PARTIAL
P5.4: For each type of user information the company shares, does the company clearly disclose its purpose for sharing?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PRTIAL	PARTIAL
P5.5: Does the company clearly disclose that it limits its use of user information to the purpose for which it was collected or inferred?	YES	ND	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL

Much like we observe in the previous set of indicators, companies disclose, as they are required by the GDPR and other privacy laws, purposes for data collection and use. However, purposes tend to be stated generically, and potentially apply to all types of data. The outlier in our group of companies is **aiqfome**, which makes a clear breakdown by purpose for each type of data collected, and thus obtained the only **yes** credit in element **P5.1**. For inferred data, which was predictably a problematic issue across all policies (see 6.4.2, above), **partial** scores were assigned to all companies except **PedidosYa**, for which we could not find any disclosure on the subject.

The issue of whether or not companies disclose if they combine user information from various company services and for what purposes, which is particularly important given the integration or expansion of services we described in the above sections. Only three companies obtained a partial score in element **P5.3: Mercado Libre, iFood, and Didi**.

Given that the "MELI Ecosystem" is a big part of Mercado Libre's identity, one can safely assume that data collected from each of the services of the ecosystem may be combined with data obtained from the others, but the reasons for doing so are not fully disclosed. Item 5, iii of the Privacy Declaration states that data is shared between companies of the Mercado Libre Group to "fulfill internal policies, avoid fraud, manage risk, and facilitate the management of Mercado Livre's services and products". This statement is broad enough to make a full score unsustainable here.

iFood came close to achieving a full score in element **P5.3**, but did not succeed. Item 8.5 of the privacy declarations for users and restaurants/markets discloses that data may be shared with other companies of the iFood Group, and then proceeds to list the following purposes: "development of new products, functionalities and services", "offering new products and services", "generating statistical and aggregate data", "marketing, prospection, market research" "investigations and prevention measures for combating illegal behavior and fraud". The declaration for delivery workers, however, does not contain such language, and it is reasonable to expect that data obtained from delivery workers is equally important for the purposes listed above.

DiDi discloses that it shares user information with "other companies related to DiDi" (item 6, i), and that it "may share the User's Personal Information for the fulfillment of its administrative purposes and for the internal reporting of DiDi's affiliated and subsidiary companies" (item 6, ii), but no other purpose is stated. Item 5.1 of the declarations, specify that "DiDi may design, develop and promote new products and services available for the User's use, based on the statistics of the User's Personal Information". Given the laconic nature of the disclosure, one can assume that data from various company services may be combined for the improvement of existing services or the creation of new ones, but this is not explicitly stated, warranting a **partial** credit in element **P5.3**.

In relation to purposes for sharing user information, covered by element **P5.4**, the same reasoning behind the **partial** scores in elements **P4.1**, **P4.2**, **P5.1**, and **P5.2**.

6.7 Data retention policies

Data retention requirements for internet services vary significantly across jurisdictions. They may or may not exist, establish different regimes for different categories of data, or be applicable only to specific types of business.

Table 27 Retention of information user performance

P6. Retention of user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P6.1: For each type of user information the company collects, does the company clearly disclose how long it retains that user information?	ND	ND	ND	ND	ND	ND	ND	ND
P6.2: Does the company clearly disclose what de-identified user information it retains?	ND	ND	ND	ND	PARTIAL	ND	ND	ND
P6.3: Does the company clearly disclose the process for de-identifying user information?	ND	ND	ND	ND	ND	ND	ND	ND
P6.4: Does the company clearly disclose that it deletes all user information after users terminate their account?	NO	NO	NO	ND	PARTIAL	ND	NO	NO
P6.5: Does the company clearly disclose the time frame in which it will delete user information after users terminate their account?	ND	ND	ND	ND	PARTIAL	ND	ND	ND

This lack of uniformity makes it convenient, especially for companies operating across several countries, to rely on the "local laws and regulations" formula when drafting clauses on data retention for their privacy policies. This allows companies to standardize the text, and provide as little information as they can about how long they will store user information, by stating that it will be kept as long as necessary to fulfill the purposes for collection, and beyond that, if local law imposes a mandatory data retention period, or if the company has a legitimate interest in the processing of users' information.

Shopee's data retention clause serves as a representative example of what we found in other privacy policies:

"7.2 We will retain personal data in accordance with the Privacy Laws and/or other applicable laws. That is, we will destroy or anonymize your personal data when we have reasonably determined that (i) the purpose for which that personal data was collected is no longer being served by the retention of such personal data; (ii) retention is no longer necessary for any legal or business purposes; and (iii) no other legitimate interests warrant further retention of such personal data. If you cease using the Platform, or your permission to use the Platform and/or the Services is terminated or

withdrawn, we may continue storing, using and/or disclosing your personal data in accordance with this Privacy Policy and our obligations under the Privacy Laws. Subject to applicable law, we may securely dispose of your personal data without prior notice to you.”

The companies we assessed received no disclosure found marks for all elements that compose indicator **P6**, with the exception of PedidosYa.

Item 7 of PedidosYa's privacy policy initially states that the company will eliminate all user information and only maintains order-related data, for the user for statistical analysis and for the prevention of fraud, but soon after contradicts itself by suggesting that more data may be retained, in anonymized form:

"7. YOUR RIGHTS

[...]

PedidosYa retains user information and profile for as long as you maintain your account with PedidosYa.

You have the right to access, update, and delete your personal data, as well as to object to its processing.

[...]

Once the removal of your personal data has been requested, "PedidosYa" will proceed with said request or will inform the reasons why it believes the data should be retained in an anonymous form, and in the absence of any stipulation on the matter, within a period of 10 business days.

Once the process of deleting your personal data is completed, "PedidosYa" will have no record of your personal data in its databases, leaving only the records of orders made by you solely for the purposes of fraud prevention analysis and platform statistics, without being associated with any account or individual."

The possibility that more than strictly order-related information may be retained in anonymized format resulted in a **no disclosure found** credit in element **P6.1**, but the rest section 7 justifies **partial** scores in elements **P6.2**, **P6.4**, and **P6.5**.

6.8 Control and access

6.8.1 Users' control over their own information

Users of all platforms have little to no control over their information, as evaluated by indicator **P7**, which includes control on collection, inference, and deletion of user information, targeted advertising, and the use of user information for the development of algorithmic systems. Companies performed terribly, but with a high degree of homogeneity in how they scored, as can be seen in the table below.

Table 28 User's control over their own user information performance

P7. Users' control over their own user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P7.1: For each type of user information the company collects, does the company clearly disclose whether users can control the company's collection of this user information?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	ND
P7.2: For each type of user information the company collects, does the company clearly disclose whether users can delete this user information?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	ND
P7.3: For each type of user information the company infers on the basis of collected information, does the company clearly disclose whether users can control if the company can attempt to infer this user information?	ND	ND	ND	ND	ND	ND	ND	ND
P7.4: For each type of user information the company infers on the basis of collected information, does the company clearly disclose whether users can delete this user information?	ND	ND	ND	ND	ND	ND	ND	NO
P7.5: Does the company clearly disclose that it provides users with options to control how their user information is used for targeted advertising?	YES	PARTIAL	PARTIAL	PARTIAL	ND	PARTIAL	PARTIAL	ND
P7.6: Does the company clearly disclose that targeted advertising is off by default?	ND	ND	ND	ND	ND	ND	ND	ND
P7.7: Does the company clearly disclose that it provides users with options to control how their user information is used for the development of algorithmic systems?	ND	ND	ND	ND	ND	ND	ND	ND
P7.8: Does the company clearly disclose whether it uses user information to develop algorithmic systems by default, or not?	YES	ND	ND	ND	ND	ND	ND	ND

Mercado Libre's P7 scored higher than the other companies due to **yes** credits in elements **P7.5** and **P7.8**, but the company still received 4 **no disclosure found** and 2 **partial** credits for the remaining elements. On the bottom of the list is **DiDi**, with a score of 0, due to a general lack of clear disclosure.

The **partial** credits in element **P7.1** are due to companies (**Mercado Libre, AliExpress, Shopee, iFood, PedidosYa, Rappi** and **aiqfome**) offering some orientation to users on how to disable cookies, blocking the sharing of geolocation data on mobile devices, delinking social media accounts, not interacting with click-through URLs in emails, etc. All of these examples represent a very limited subset of the data these platforms collect. Users deciding to revoke consent for the collection of specific types of data will likely be asked to terminate their accounts.

P7.2, likewise, led to **partial** credits for all companies with the exception of **DiDi**. Users are always told that they can delete *some* information, but as described in section 6.8, above, data retention policies adopted by the companies allow for user information to be retained over indeterminate periods of time, and users asking for other information to be deleted may also be met with the request that they delete their accounts.

Inference, being the black box that it is, resulted in **no disclosure found** credits for all companies in elements **P7.3** and **P7.4**.

Most of the **partial** credits granted for **P7.5** are due to companies providing reasonably direct information on how users can disable or delete third-party cookies. When this information was not provided (**iFood, DiDi**), or users were only directed to check their browser's configuration options, with not even an external link with more detailed information provided (PedidosYa), and companies did not offer clear disclosure of other means of control, a **no disclosure found** mark was assigned.

iFood and **PedidosYa** claim in their privacy policies that users are able to control the use of their information for targeted advertising, but we could not find the option on PedidosYa's website after registering an account, and an analysis of iFood's app did not meet our criteria for clear disclosure.⁵³²

Mercado Libre, the only company to score a **full** credit in element **P7.5**, allows users to opt out of targeted advertising on and off-site, as well as reject cookies related to targeted advertising.⁵³³ Mercado Libre was also the only company to explicitly disclose that user information is used in the development of algorithmic systems by default, meeting the requirements for full credit in element **P7.8**, despite not offering any disclosure on whether users have any option to control that use.

6.8.2 Users' access to their own information

Out of all the companies we assessed, only three explicitly disclosed that users were able to obtain a copy of their information, and thus received a full credit in **P8.1: Mercado Libre, iFood, and DiDi Food**. The remaining companies received a **partial** credit because they highlight users' right to access their information, but do not disclose if access includes the possibility of acquiring a copy of whatever data is accessible to them.

DiDi Food's process for requesting information involves using the app to request a copy of the past 3 months of user information, but does not specify what information is included, nor in what format it will be available. Requesting data for periods beyond the past 3 months involves filling out a form on the DiDi Privacy Center site. **Mercado Libre** and **iFood** also allow data to be downloadable upon request via mobile application, but do not specify a period; likewise, both platforms do not provide disclosure on what information is actually available, nor the format in which it is presented.

Table 29 User's access to their own information performance

P8. Users' access to their own user information	Mercado Libre (Brazil)	AllExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	alqfome (Brazil)	DiDi Food (Colombia)
P8.1: Does the company clearly disclose that users can obtain a copy of their user information?	YES	PARTIAL	PARTIAL	YES	PARTIAL	PARTIAL	PARTIAL	YES
P8.2: Does the company clearly disclose what user information users can obtain?	ND	ND	ND	ND	ND	ND	ND	ND
P8.3: Does the company clearly disclose that users can obtain their user information in a structured data format?	ND	ND	ND	ND	ND	ND	ND	ND
P8.4: Does the company clearly disclose that users can obtain all public-facing and private user information a company holds about them?	ND	ND	ND	ND	ND	ND	ND	ND
P8.5: Does the company clearly disclose that users can access the list of advertising audience categories to which the company has assigned them?	ND	ND	ND	ND	ND	ND	ND	ND
P8.6: Does the company clearly disclose that users can obtain all the information that a company has inferred about them?	ND	ND	ND	ND	ND	ND	ND	ND

⁵³² While iFood's privacy policy claims that buyers have the option to turn off advertising notifications (item 5.7), the app has the following toggle options: "notifications", "email", "WhatsApp" and "SMS". It is unclear if "notifications" also includes targeted advertising served on the web or through social networks (a possibility contemplated by item 5.7, but not explicitly included in the app). The declarations for delivery workers and restaurants/markets do not contain language equivalent to item 5.7 of the declaration for buyers.

⁵³³ <https://www.mercadolivre.com.br/privacy-preferences/cookies>
<https://www.mercadolivre.com.br/privacy-preferences/privacy-permissions>

One of the researchers carrying out this study requested his data from **Mercado Libre** and **iFood** in order to verify what these companies

While the option to submit a request for a data report is available on the Mercado Libre website, the process demands photographs of government issued documentation, and would not accept the files supplied by the researcher after attempts were made on different days. In all of these occasions, the site stressed that data was also available via the Mercado Libre app. After downloading the app, the researcher had to supply photos of government-issued documentation as part of the onboarding process, before access to any of the app's functionalities was granted. On top of that, a capture for facial recognition was also taken, as well as information on purchasing power, a consequence of the unification of accounts for all of the "MELI Ecosystem" services. The additional data captured by the app is directly tied to the KYC/AML requirements for the provision of financial services, which the researcher did not have to submit earlier due to only accessing Mercado Libre through a computer.

The app allows users to select information encompassing the Mercado Libre marketplace, Mercado Pago, and Mercado Shops, and the option to include any or all of the following categories in the report: user data (personal data, addresses, credit cards, bank accounts), subscriptions and recurring payments, account security (sessions opened), authorizations of the use of data (accepted versions of the privacy policy), user interests (listings visited, search history, favorites), purchases, sales profile (concluded sales, product listings, list of collaborators, invited collaborators); financial data (active credits, payment history, account balance, money transfers). A time frame of up to 15 days was announced for availability, but the report was ready within 24 hours. Unfortunately, it was also severely incomplete.

Data was available in two formats: a .json file, containing structured information that can be easily processed through technical means, and an .html file that is easy for any person to read. But the contents had a cutoff data that was surprisingly recent, for an account that is several years old and certainly produced massive amounts of data. Navigation history information, for example, contained terms searched in the period of August 2022-April 2023. The "visited listings" file only covered September 2022-March 2023. Purchase history included a limited amount of items, without a corresponding date of purchase. Payment history included slightly more information concerning purchases, and with a wider range - August 2021-January 2023 - but far from covering the entire period of the account's existence. The file containing information on which privacy declarations were accepted by the user contained exactly one entry, referring to the latest privacy declaration, but not the previous one.

Interestingly, the purchase history available directly on the site dates back to May 2019, including more entries than what the report offered, but still not a complete purchase history for the account.

Mercado Libre, like **DiDi Food**, allows users to request more information by sending an email, but the experience with the automated system was revealing enough of company practices. Going through the process for requesting the data report resulted in Mercado Libre acquiring more data on the researcher than it previously had, including facial recognition data, required the installation of an app due to a malfunctioning website, and offered minimal information in return for that effort. Additionally, login on the Mercado Libre marketplace on the web is now tied to authentication via the app, a process that was not necessary before for this particular user.

For **iFood**, data goes all the way back to the first purchase, is offered in .csv files, but is strictly limited to the most obvious and basic data points. It includes what an average user would assume iFood collects for the provision of services, and includes orders, prices, restaurant names, date of purchases, addresses, all tied to a user identifier.

The lack of anything related to inferences based on user information, as well as advertising audience categories to which users are assigned, neither company provides all information they possess about users in the downloadable files. Both systems for data request are presented in such a way that an average user could easily be misled into thinking that is all of the information **Mercado Libre** and **iFood** hold about them.

6.8.3 Data collected from third parties

Companies do not operate solely on the basis of the data they directly collect and process. They frequently deploy technologies on user devices, allowing them to obtain user information from third-party websites or services. Cookies and web beacons are just two examples of such technologies, which allow companies to collect information related to user behavior outside of their platforms. Information can also be obtained when users choose to access a company's service via social login, using services provided by Google, Meta, and Apple.

Tracking users and crossing the obtained data with the user information the company itself collects can be done for multiple purposes, from analytics and research, to targeted advertising, or “to provide users with additional functionalities” a general formula that is often found in privacy policies, and which is vague enough not to reveal anything meaningful, while appearing friendly at a surface level.

Companies may also contract with database service providers for a variety of reasons, such as risk and fraud analysis, or to obtain consumer purchasing information that they would otherwise be unable to collect.

Regulatory requirements may also impose obligations that entail data collection from outside sources. As we pointed out in section 3, above, if there is *one* additional feature that any company seeking to build a “platform ecosystem” or “superapp” incorporates to their core business, it is that of financial services. Even though legislation varies across countries, AML (anti-money laundering) and KYC (know your customers) obligations are usually applicable to any enterprise that provides such services, and they require the collection of information directly from users—including copies of government-issued IDs and biometric data—as well as from outside sources (e.g., lists of politically exposed persons and economic sanctions).

Table 30 Collection of user information from third-parties performance

P9. Collection of user information from third parties	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P9.1: (For digital platforms) Does the company clearly disclose what user information it collects from third-party websites through technical means?	YES	YES	YES	YES	ND	YES	YES	PARTIAL
P9.2: (For digital platforms) Does the company clearly explain how it collects user information from third parties through technical means?	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL	PARTIAL
P9.3: (For digital platforms) Does the company clearly disclose its purpose for collecting user information from third parties through technical means?	YES	YES	YES	YES	PARTIAL	YES	YES	PARTIAL
P9.4: (For digital platforms) Does the company clearly disclose how long it retains the user information it collects from third parties through technical means?	ND	ND	ND	ND	ND	ND	ND	ND
P9.5: (For digital platforms) Does the company clearly disclose that it respects user-generated signals to opt out of data collection?	ND	NO	ND	ND	ND	ND	ND	ND
P9.6: Does the company clearly disclose what user information it collects from third parties through non-technical means?	PARTIAL	PARTIAL	ND	PARTIAL	ND	PARTIAL	ND	ND
P9.7: Does the company clearly disclose how it collects user information from third parties through non-technical means?	PARTIAL	PARTIAL	ND	PARTIAL	ND	PARTIAL	ND	ND
P9.8: Does the company clearly disclose its purpose for collecting user information from third parties through non-technical means?	PARTIAL	PARTIAL	ND	PARTIAL	ND	PARTIAL	ND	ND
P9.9: Does the company clearly disclose how long it retains the user information it collects from third parties through non-technical means?	ND	ND	ND	ND	ND	ND	ND	ND

The indicator elements we address in this section ask whether companies clearly disclose what user information they obtain from third-party sources, how said collection is carried out, and why. These three questions compose two subsets of elements within the P9 indicator, separating the data that is obtained through technical means (i.e., with the use of tracking technologies) from that which acquired via non-technical means (i.e. on the basis of contractual relationships with third parties for the acquisition or sharing of user information, or by pulling information from open databases maintained by third parties, such as governments).

Although the technical versus non-technical distinction may suggest an automated versus non-automated criterion for differentiation, the indicator elements are differentiated mainly by the deployment of technology by the company to gather data from third-parties (elements [P9.1](#), [P9.2](#), and [P9.3](#)), and the direct acquisition of data from a third party, which usually also involves automation and integration with systems provided by outside companies, such as credit rating agency databases (elements [P9.6](#), [P9.7](#), and [P9.8](#))

Please note that indicator P9 includes elements that are analyzed in other sections of this report, and relate to opt-out signals (6.4.5, below) and data retention (6.7).

6.8.3.1 Through technical means

The companies we evaluated offer at least *some* disclosure on data collected from third parties through technical means, but tend to focus on cookies; the other tools that are commonly part of the toolkit of online services are mentioned incidentally, usually under a catch-all expression, such as "other tracking technologies". Examples of such technologies are sometimes, but not always, provided, and sections on cookies in privacy declarations vary in how much information they provide to the user (Rappi was the only company to maintain a separate Cookie Policy). In order to get the full picture, one has to read the policies closely, in their entirety, and check if additional disclosure can be found elsewhere; sections on data collection and sharing usually contain relevant information.

In a study on the use of the GDPR's legitimate interest basis for the processing of personal data, Kyi et. al (2023) call attention to issues of *deceptive design* in privacy notices, involving not only user interface elements—suggested immediately by the word "design"—but also strategies related to language: *linguistic deceptive design*, such as the use of tautological, poor or missing explanations, and *positive framing*, when companies depict certain types of data processing as particularly relevant to the interests of the user, or crucial to the proper provision of services, while avoiding explicit reference to aspects of this type of processing that could potentially alarm users. This is expected, to a degree, but deceptive nonetheless, and particularly true in the privacy policies we examined, with regard to tracking technologies.

Policies describe cookies in ways that make them sound harmless and inconsequential, or provide a technical infodump of content that will be immediately skipped by the average user. While cookies may be crucial for some of the operational needs of platforms, such as session management, they are also a fundamental part of the architecture for online advertisement, making up "[...] the backbone and main vehicle of a vast market infrastructure, based on its ability to transform behavioral information into data assets, and to attach these assets to advertising products." (Mellet & Beauvisage, 2020).

That being said, there is ongoing debate on whether or not cookies will maintain a dominant position as user tracking tools, and if so, for how long,⁵³⁴ but they are still an obvious cause for concern, a very visible aspect of user tracking, and that is the reason why companies give them at least some attention. Unfortunately, as a result of the cookie hegemony in the web space, less obvious candidates for disclosure, such as web beacons, tracking parameters for URLs, and browser/device fingerprinting are given less attention by privacy policies, if they are brought up at all.

A study carried out by Amos et al. (2021), based on a dataset of over a million privacy policies, indicates that web beacons and fingerprinting seem to be underreported, and that although reporting of third parties providing user tracking services has substantially increased over time, "[...] many privacy policies may not be disclosing all present third parties". This is in line with the policies we have analyzed in this report.

Based on the same Amos et. al. dataset, a study carried out by Lovato et. al. (2023) provides an analysis of topics related to the subject of personally identifiable information, drawn from legislative texts, and examines how they fluctuate in frequency between 1997-2019, and concludes that cookies "[...] dominate the topic landscape throughout the entire time frame", followed by manually entered information such as "address, name, and age", and "[b]ehavioral data like preferences and movement [...]".

All of the companies we reviewed maintain both websites and mobile apps, and even though users may interact mainly with one or the other, depending on the service, they might use both. Tracking carried out by apps does not involve cookies, unless a web browser is involved (and embedded into the company app): device-based identifiers, tailored specifically for advertising tracking, are one of the main available tools, and companies sometimes list them as

⁵³⁴ Google's controversial FLoC—now Topics—is the alternative that has received most press attention, but a number of other relevant candidates exist, including The Trade Desk's Unified ID 2.0, LiveRamp's RampID, and the Secure Web Addressability Network (SWAN). For a critical assessment, see (Sivan-Sevilla & Parham, 2022). For FLoC and issues with its design, see Berke & Calacci (2022)

examples of data that is *collected* from users' devices, but do not necessarily associate them with the tracking of user behavior.

Mobile tracking and advertising is a complex topic,⁵³⁵ involving a largely opaque network of third-party services (Razaghpanah et al., 2018), and device identifiers like Apple's IDFA or Google's AID may be less important than structural factors such as platform scale, and the cross-device tracking of multiple user devices (Mellet & Beauvisage, 2020).⁵³⁶ By crossing data from desktop computers, phones, and tablets, companies can build complex user profiles, but unless we are talking about major players such as Google and Meta, this process is usually enhanced with the help of third-party service providers. The processing, by these external agents, of information that is potentially traceable back to users, is a problem generally undisclosed by privacy policies (Brookman et al., 2017).⁵³⁷

A further push against the currently dominant device identifiers may come as a consequence of policies such as Apple's App Tracking Transparency (ATT), which allows users to opt out of sharing identifiers. As alternatives, companies may resort to device fingerprinting or cohort-based tracking.⁵³⁸ In fact, a study carried out by Kollnig et. al. (2022) has shown that Alibaba may be engaged in device fingerprinting through a subsidiary, Umeng.⁵³⁹ Device

⁵³⁵ For a general overview on tracking, including web, mobile and the Internet of things, see Binns (2022).

⁵³⁶ According to Mellet & Beauvisage (2020), the "[...] mobile identifier for advertising that copies the cookie is not the center of gravity of the mobile advertising value chain. Mobile advertising amplifies a trend already observed in desktop environments: the rise of "logged" or walled-garden environments, i.e. autonomous milieus built around identifiers specific to an actor, obtained from the connection (log in) to its platform. This strategy is all the more effective if the platform is able to attract a large number of connected users, and to bridge mobile and desktop environments, which is the case of big online services companies such as Google or Facebook. For example, it has been gradually implemented by Facebook under the label "people-based marketing," based on the individual Facebook identifier, active once the user is connected. Facebook is able to track its audience on both its desktop and mobile platforms—where users are permanently logged in. Facebook does not give up using cookies, which serve to track its users outside the platform, via sharing buttons, and also to trace users who are not logged in. But cookies are rather a complementary tracking technology for Facebook. In addition, the Facebook advertising platform does not function as an ad exchange that would allow buyers to connect and bid based on information collected from cookies collected from third parties such as data providers. With the exception of the first-party data provided by advertizers (under the "custom audience" label), only Facebook data are operational in the Facebook universe. These data are harvested, gathered and made available to advertizers in the form of targeting tools directly implementable in Facebook's advertising purchase console."

⁵³⁷ Brookman and colleagues carried out a study that monitored data collection and transmission in 100 major websites, across different virtual devices, alongside an analysis of these companies privacy policies, and concluded that "[...] websites share extensive data with third party services that could allow those third parties to track user behavior across multiple devices, and consumers lack the necessary information to determine precisely whether and when this information is used for cross-device tracking." (Brookman et al., 2017).

⁵³⁸ Device fingerprinting and cohort tracking emerge as a potential workaround if device identifiers turn out to be irrelevant. As concluded by Kollnig et. al (2022): "We find that Apple's new policies, as promised, prevent the collection of the Identifier for Advertisers (IDFA), an identifier for cross-app tracking. Smaller data brokers that engage in invasive data practices will now face higher challenges in tracking users – a positive development for privacy. However, the number of tracking libraries has – on average – roughly stayed the same in the studied apps. Many apps still collect device information that can be used to track users at a group level (cohort tracking) or identify individuals probabilistically (fingerprinting). We find real-world evidence of apps computing and agreeing on a fingerprinting-derived identifier through the use of server-side code, thereby violating Apple's policies. We find that Apple itself engages in some forms of tracking and exempts invasive data practices like first-party tracking and credit scoring from its new tracking rules." On the specifics of web-based device fingerprinting, see (Laperdrix et. al (2020).

⁵³⁹ "In our analysis, we found 9 apps that were able to generate a mutual user identifier that can be used for cross-app tracking, through the use of server-side code. These 9 apps used an "AAID" (potentially leaning on the term Android Advertising Identifier) implemented and generated by Umeng, a subsidiary of the Chinese tech company Alibaba [...] The sharing of device information for purposes of fingerprinting would be in violation of the

fingerprinting, it is worth mentioning, can be created out of a variety of data extracted from devices, including geolocation and sensor information (Das et al., 2018).

The companies in this study invariably failed to provide a complete picture of what data they collect, as well as how they collect it, with regard to indicator elements P9.1 and P9.2. On the matter of purposes for this type of data collection—element P9.3—full scores were awarded in some cases, even if disclosure could be clearer and more direct, as long as it could actually be found in the document, and somehow linked to the section where tracking is discussed. Some of the declarations, however, stated purposes clearly connected to the type of data collection we examine in indicator P9 as *general* purposes for data collection, or in sections dedicated to the sharing of user information, while relying on vague, broadly defined purposes in provisions dedicated to tracking technologies. This is an example, as mentioned above, of what Kyi et. al. (2023) call *linguistic deceptive design*, and credit for P9.3 was partial whenever it was not clear whether purposes stated as general, or for the sharing of data with third parties, related to data collected from third parties by automated means.

Mercado Libre provides a good example of the cookie-centric privacy policy, including a section dedicated to cookies that, despite being readable and informative, still avoids the issue of explicitly mentioning other methods for user tracking, opting instead to use the all-inclusive "other technologies". Cookies and other monitoring technologies, the declaration states, are used to "[...] know and understand the interests and behavior of those who visit or use our site and, in that way, offer a better service or provide related information." A fairly detailed list of reasons for using cookies is also provided, though it is written in confusing language, and includes the expression "other concepts of commercial contracts", the meaning of which is unclear.⁵⁴⁰

Section 3 of the Privacy Declaration, on data that Mercado Libre collects automatically, specifies that the company may collect "[c]ertain information about activity of users and visitors in our website and apps, such as, for example, the URL from which they came or which URLs they access afterwards (whether they are from our site or not).", and that it may also [...] store and retain the pages in these URLs, the interactions with said pages, searches carried out,

Apple's policies [sic], which do not allow developers to 'derive data from a device for the purpose of uniquely identifying it'" Ibid.

⁵⁴⁰ "We also use the information obtained through cookies to analyze the pages browsed by the visitor or user, the searches performed, improve our commercial and promotional initiatives, display advertising or promotions, banners of interest, news about Mercado Libre, improve our offer of content and articles, presentations and services, as well as promote and enforce the site's rules and security; we also use them so that the user does not have to type their password so frequently during a browsing session, as well as to account for and corroborate the records, the user's activity and other concepts of commercial contracts, always aiming at the installation of cookies, the benefit of the user who receives it, and that they will not be used for other purposes not related to Mercado Libre. Similarly, we store cookies to offer a more interactive experience on the site, based on the user's actions." *Declaração de privacidade e confidencialidade da informação do Mercado Livre*, section 14, "Cookies and Other Technologies" The original Portuguese version is equally confusing: "Também utilizamos as informações obtidas por meio de cookies para analisar as páginas navegadas pelo visitante ou usuário, as pesquisas realizadas, aprimorar nossas iniciativas comerciais e promocionais, exibir publicidade ou promoções, banners de interesse, notícias sobre o Mercado Livre, aperfeiçoar nossa oferta de conteúdo e artigos, apresentações e serviços, bem como promover e fazer cumprir as regras e a segurança do site; também as utilizamos para que o usuário não precise digitar sua senha com tanta frequência durante uma sessão de navegação, como também para contabilizar e corroborar os registros, a atividade do usuário e outros conceitos de contratos comerciais, sempre visando a instalação de cookies, o benefício do usuário que o recebe, e que não serão utilizadas para outros fins não relacionados ao Mercado Livre. Da mesma forma, armazenamos cookies para oferecer uma experiência mais interativa no site, com base nas ações do usuário."

publications, purchases or sales, classifications and responses, complaints made and received, messages at forums, among other information". The same section of the declaration also states that the company collects "[i]nformation from the devices or computers from which you access the Mercado Livre platform and other data captured automatically (such as the type or version of the browser or the operating system, settings, and parameters)."

P9.1 receives a *full* credit, even if disclosure is exemplificative, because it gives a good enough sense of what is collected. Element **P9.2** receives a *partial* score, since the declaration is entirely focused on cookies, in spite of recognizing that "other technologies" may be used. **P9.3**, on the other hand, receives *full* credit. Even though the list of purposes provided is clearly attached exclusively to the use of cookies, and is phrased in somewhat confusing terms, it allows for a full credit when read alongside the general section on purposes for data collection.

Similar to Mercado Libre, the **AliExpress** Privacy Policy is also cookie-centric. A substantial section of the policy (F. COOKIES) is dedicated to the subject, with the state goal of explaining "[...]" what these technologies are and why we use them, as well as your rights to control them." Most of the section, nonetheless, is entirely focused on cookies, aside from an entry explaining AliExpress' use of web beacons, which stresses that this is just one additional example of a number of tracking technology that may be used "from time to time".⁵⁴¹

The section includes a table listing types of cookies, with fields identifying the parties serving the cookies, and how to refuse them. The listed types include "Essential Cookies", "Analytics Cookies", "Personalization/Advertising Cookies", "Marketing Cookies", "Social Networking Cookies", along with a description for each entry. Marketing cookies, for example, are used to "[...] provide you with more targeted and relevant marketing [...]" and "[...] evaluate the effectiveness of our marketing communications by monitoring open rate and conversions." The cookie providers listed are Aliexpress.com, Google, Facebook, Twitter, VK, OK, Pinterest, and Instagram. Section C of the policy, on the sharing of personal information, refers to these third-party providers in an entry dedicated to "marketing and advertising partners", but mentions entities that are not included in the table for cookies.⁵⁴²

Section A, on data that is collected by AliExpress, also contains useful information. Under "Information That We Collect Automatically", and "Details of Platform buying and browsing activities", the policy states that "[s]ome of this information may be collected using cookies and

⁵⁴¹ "Cookies are not the only way to recognize or track visitors to our Platform. We may use other, similar technologies from time to time, like web beacons (sometimes called "tracking pixels" or "clear gifs"). These are tiny graphics files that contain a unique identifier that enable us to recognize when someone has visited our Platform or opened an e-mail that we have sent them. This allows us, for example, to monitor the traffic patterns of users from one page within our Platform to another, to deliver or communicate with cookies, to understand whether you have come to our Platform from an online advertisement displayed on a third-party website, to improve site performance, and to measure the success of e-mail marketing campaigns. In many instances, these technologies are reliant on cookies to function properly, and so declining cookies will impair their functioning." AliExpress.com Privacy Policy, under F. COOKIES.

⁵⁴² "marketing and advertising partners, such as Google, Twitter, Facebook, Instagram, and VKontakte, and providers of analytics services relating to users' behavior such as Appsflyer, Criteo, so that they may tailor the content you see when visiting our Platform for analytics and/or advertising purposes. These partners may combine information they collect on our Platform with data on their platforms and data they collect from other websites or through other sources in order to conduct targeted advertising. The processing activities of these third parties marketing platforms are governed by their own privacy policies, not this Privacy Policy (please refer to section F "COOKIES" below)" Ibid, under C. DISCLOSURE OR SHARING OF PERSONAL INFORMATION.

similar tracking technology, as explained further under section F “COOKIES” below.”. “This information” includes what one would expect, such as IP address, device identification numbers, geolocation and browsing patterns, but is not exhaustive.⁵⁴³

AliExpress’ receives the same scores assigned to Mercado Libre in elements **P9.1-P9.3**, for much the same reasons. The **full** credit in **P.9.3** is awarded because the purposes are clearly stated both in the F. COOKIES section, and section B. USE OF PERSONAL DATA, and the policy makes reference to section F in section B.

Shopee, as pointed out in section 6.4.1.2, has a privacy policy that lists types of user information collected in non-exhaustive fashion. This alone would set it for, at most, a **partial** credit in **P9.1**, and this is confirmed by the declaration itself, which describes some of the data that might be collected through automated means, but also leaves room for collection of data that is not explicitly included in the document. The section on cookies contains a technical inaccuracy, stating that cookies are placed both in browsers and apps in mobile devices; as mentioned above, cookies are more relevant for information related to browsers, not apps, even though they are still important, since cross-device tracking can be expected, and, to a lesser degree, companies may choose to embed a browser within their apps.

Instead of the standard “other tracking technologies” or “other technologies”, Shopee opts to use the expression “other features”, framing these technologies in an excessively positive way, to the point of being misleading. We know that other technologies may be deployed by the company, since the policy states in item 2.1 that Shopee may collect data “[...] when you use our electronic services, or interact with us via our application or use services on our Platform. This includes, **without limitation**, through cookies which we may deploy when you interact with our application or website” (emphasis ours), and to call them a “feature” makes them appear equivalent to new or improved site or platform services.

On the positive side, the company is at least straightforward in stating that it “[...] may link cookie information to personal data” (item 5.1), and the purposes for collection of third-party information are clearly stated in sections 4. COLLECTION OF OTHER DATA, 5. COOKIES, and 6. HOW DO WE USE THE INFORMATION YOU PROVIDE US?. Elements P9.1 and P9.2 receive partial credit, and P9.3 receives full credit.

Item 4.2 of all three **iFood** privacy declarations states that the company may “automatically, collect information about the devices through which the iFood platform is accessed, such as: “IP address, type of browser and language, ISP, landing and exit pages, operating system, information about date and time, information about click sequence, device manufacturer, model, app and device version, operating system version, identifier for advertisers (IDFA), device accessibility information and Wi-Fi networks.” Section 9, on cookies and other monitoring technologies claims that “technologies such as cookies, pixel tags, local storage and other identifiers from mobile and non-mobile devices, and/or similar technologies” are used for “a variety of functions”. This section of the declaration further details the use of cookies

⁵⁴³ “[...] this collected information may include IP addresses, date and time of access to the Platform, device type, unique device identification numbers, browser type, broad geographic location (e.g. country or city-level location), browsing patterns and details of how you have interacted with our Platform and the goods and services available on it. In addition, we gather information about the Platform and visitors to the Platform including browser software, operating system, software and hardware attributes, pages viewed, number of sessions and unique visitors.” *ibid*, under A. COLLECTION OF INFORMATION, and “Information That We Collect Automatically”.

and click-through links, and also includes an item on information collected from outside companies, "such as Facebook, Google Analytics and Double Click" (item 9.4 — third parties are not named in the declaration for delivery workers). The declarations are not exhaustive in detailing what user information is collected from third parties, or in specifying all the technologies and outside companies used for collection, as shown by the use of expressions like "such as" or "similar technologies". Therefore, *full* credit is for [P9.1](#) and *partial* [P9.2](#). Indicator element [P9.3](#), also receives a *full* credit.

PedidosYa's privacy policy contains a section on the use of cookies worthy of being dissected in its entirety. It is remarkably problematic, and we will parse it in sequential order, beginning with its technical preamble:

"8. INFORMATION ABOUT COOKIES

A cookie consists of an information file sent by a web server to a web browser, and stored by the browser. The information is then sent back to the web server each time the browser requests a page from the server. This enables the server to identify and track the web browser. We will use both session cookies and persistent cookies only on our website.

We will use session cookies to keep track of you while you use the Portal.

On the other hand, we use persistent cookies to enable our website to recognize you when you visit our Portal. Session cookies will be deleted from your computer when you close the web browser. Persistent cookies will remain stored on your computer until they are deleted, or until they reach a specified expiration date."

A distinctive characteristic of the policy is that it only mentions the use of cookies, completely bypassing the subject of other tracking technologies—not even a catch-all expression is used. If we are to interpret the document literally, PedidosYa does not make use of any other such technology; an unlikely scenario, considering the type of platform the company operates, as well as the issue of mobile tracking. Users are given a general overview of what cookies are, and section 9 then jumps straight into definitions of session and persistent cookies that are exceptionally impressive, taking into account how little information they convey, and how they expertly manage to avoid addressing thorny, yet obvious, issues.

Session cookies, we are told, are used to "keep track of you while you use the Portal", but that can also be true, however, of persistent cookies. Interestingly, the policy completely circumvents the use of persistent cookies for tracking user behavior. Instead, it opts to highlight a more benign and convenient function: "to enable our website to recognize you when you visit our Portal."

Tracking is only mentioned in the first paragraph, almost incidentally—"This enables the server to identify and track the web browser"—right before users are introduced to a potentially misleading distinction between session and permanent cookies. The issue of tracking is never picked up again, and the sentence in the first paragraph has an additional problem: it stresses that it is the browser, not the user, that will be tracked. While technically correct, the choice of words is deliberate, and diverts the reader's attention to a piece of software, leaving aside the fact that user behavior is what is actually being tracked.

Following these paragraphs, users are given information on PedidosYa's use of Google Analytics:

"We use Google Analytics to analyze the use of this website. Google Analytics generates statistical and other information about website usage by means of cookies, which are stored on users' computers. The information generated relating to our website is used to create reports about the use of our website. Google will store this information.

Google's privacy policies are available at: <https://www.google.com/privacypolicy.html>"

This is the only disclosure the policy has to offer on third-party cookies, a topic that should have been addressed earlier. On top of that, users are left with the burden of reading Google's privacy policy, and the passage appears to imply that PedidosYa would not be responsible for anything related to Google's service, a matter that is up to debate, depending on jurisdiction.

The section ends with the usual disclaimer that users can opt out of cookies by tweaking browser settings, followed by the caveat that it might be prudent to just accept them, since otherwise site functionality might be impaired:

"Most web browsers allow you to refuse to accept cookies. This is achieved through the settings of each particular browser. However, this will have a negative impact on the usability of various websites, including this one."

It is not unusual for declarations to include statements on the use of Google Analytics and inform users that they are able to—at a cost!—disable cookies. What is interesting about PedidosYa's policy is how both content and structure of section 9 are remarkably efficient in obfuscating a proper understanding of the function of cookies.

Other sections of the policy include purposes and types of data that may involve the use of tracking technologies, but no reference is made to these technologies or to section 9. When listing the types of user information that PedidosYa may collect, for instance, the policy includes general categories such as "other data", defined as "'Data or information that you voluntarily provide us while using the website, application, or other sources such as social networks or other public databases'", and "other information", defined as "[i]nformation that the user voluntarily provides us while using the website or application, and information from other sources such as social networks or applications that use our connection interface, or other public databases".⁵⁴⁴

These broad categories of user information arguably include data collected from third parties through automated means, but this is not explicitly stated. Likewise, when listing purposes for the processing of data, the policy includes purposes that encompass the category of user information we are assessing, but does not connect them to the notion tracking or with section 9 of the document. Here, again, broad and generic language is employed: "Improve your browsing experience by personalizing the Portal"; "Enable features to customize your account"; "We may use the information we collect to test, research, analyze, and develop products." All of these statements potentially encompass data extracted from third parties through the use of automated means, but users are not explicitly made aware of this possibility. Similarly, the

⁵⁴⁴ *Política de Privacidad Ecuador*, 3(a).

items on the processing of data for advertising and marketing are devoid of any such reference.⁵⁴⁵

The section on the sharing of personal data, likewise, contains a list of service providers that are highly associated with the processing of the type of user information assessed by indicator P9. The list is explicitly non-exhaustive, and includes: “Marketing partners and marketing platform providers”; “Data analysis providers”; “Research providers, including those who implement studies or research projects in collaboration with PedidosYa or on their behalf”.⁵⁴⁶

PedidosYa receives a **no disclosure found** credit in element **P9.1**, since the general descriptions mentioned above—“other data” and “other information”—do not actually disclose anything meaningful, and no references to tracking technologies are offered alongside them. **P9.2** receives a **partial** credit, due to disclosure of the use of cookies. It bears repeating, nonetheless, that the section on cookies does not mention the potential use of other tracking technologies, and that other companies receiving the same credit do make that disclosure. **P9.3**, finally, receives a **partial** credit for similar reasons: purposes that are associated with tracking technologies are stated, but not associated with the type of user information assessed by indicator P9.

Rappi is the only company in this study to provide a cookie policy as a separate document. That, in and of itself, is not indicative of how transparent a company is with regard to practices that have an impact on privacy. The cookie, as discussed previously in this section, is just one of a variety of tracking technologies a company may deploy, and it relates to the tracking of users through web browsers, while the companies we are evaluating all have mobile apps as important components of their platforms. Having a separate document, additionally, does not imply that other companies lacking a dedicated cookie policy offer less disclosure; AliExpress’s Privacy Policy, for example, has a section on cookies that could be presented as a standalone document, and one that would be an improvement over Rappi’s cookie policy for Colombia.

The company has a cookie policy for all of the countries in which it operates, with the exception of Chile. The policies for Argentina, Ecuador, Mexico, and Costa Rica are identical; Brazil and Peru use a different, more complete version of the text, with the inclusion of a table listing 31 cookies, with fields for cookie identifier, domain/provider, duration, type, and use. The field for use contains descriptions of the cookie’s function, with varying degrees of detail, but the information is useful in most of the entries. The inclusion of this table provides a much higher level of disclosure for the Brazilian and Peruvian versions of the text, when compared to the simpler version applicable to the other jurisdictions.

The cookie policy for Colombia, however, is in a class of its own. It represents an entirely different version of the text, omitting relevant information present in the other policies, while using language that is potentially misleading. This makes Rappi’s cookie policy for the company’s home jurisdiction much worse than the policies it makes available elsewhere, just like the general privacy policy for Colombia suffers when compared to versions of that text available in other countries.

A comparison between the definitions for cookies provided in the Colombian policy versus the other versions of the document represents one of the major issues we found. The Rappi cookie

⁵⁴⁵ Ibid, 3(b).

⁵⁴⁶ Ibid, 6(a).

policies in all of the countries it operates, except for Colombia—and Chile, for which no cookie policy could be found—offer the following definition:

"Cookies are small files that websites send to the browser and are stored in the user's terminal, which can be a personal computer, a mobile phone, a tablet, or any other device. They are tools that play an essential role in providing personalized service. They allow a web page to store and retrieve information about a user's browsing habits or their equipment and, depending on the information obtained, they can be used to recognize the user and improve the service offered."⁵⁴⁷

The definition in the Colombian cookie policy diverges in two fundamental aspects:

"Cookies: Files that collect information about a User/Consumer's browsing habits and consumption preferences on the RAPPI S.A.S. website, and could potentially form a database. The Cookies are retrieved and stored by RAPPI S.A.S., for the consultation of activities and preferences of the Users/Consumers. Through the information retrieved, RAPPI S.A.S. will be able to identify how to improve the service offered."⁵⁴⁸

The first noticeable difference is that Colombian policy's definition is completely devoid of any reference to third-party cookies, an absence that extends to the entire text of the document. The second difference, directly related to the first, is that the text gives the impression that user behavior will be tracked *exclusively* on the Rappi website, and not on the web at large. This is an issue also present in PedidosYa's Privacy Policy for Ecuador. The other Rappi cookie policies, however, state right in their opening paragraph that Rappi makes use of third-party cookies, and emphasize that these cookies "[...] may continue to monitor you only activities (including after you leave our site) [...]."⁵⁴⁹

All versions of the policy disclose that Rappi will make use of web beacons, and provide a definition, along with the types of data that may be collected through their use, but are otherwise entirely dedicated to cookies. The Colombian text does not contain the usual "and other technologies" formula, whereas the other versions of the cookie policy include it in a paragraph preceding the list of purposes for the use of cookies and tracking technologies.

An interesting parallel can be found if we look at the main privacy policies for Colombia and Brazil. The Brazilian policy includes a paragraph on cookies, but also references "similar technologies", while the Colombian privacy policy refrains from referencing "other tracking

⁵⁴⁷ *Política de Cookies – Ecuador*, under "¿Qué son las Cookies?". This definition is better than the one included in the Colombian cookie policy; still, it states that tracking by cookies also takes place in mobile devices, without specifying that they apply to browser apps only, and not the company app itself. This is the same problem we detected in the Shopee Privacy Policy definition for cookies, and the same concerns we had with that document apply here: while not technically inaccurate, such a statement may induce readers to conclude that behavior tracking is mostly an issue related to the use of cookies, when in fact, that is far from being the case, much more so in mobile devices.

⁵⁴⁸ *Política de Cookies – Colombia*, under "DEFINICIONES", "Cookies".

⁵⁴⁹ *Política de Cookies – Ecuador*, under "¿Qué tipos de cookies utiliza nuestro sitio web?", (3). In spite of warning users that their behavior will be tracked outside of the Rappi website, this clause of the policy is problematic, since it also states that Rappi is not liable for its use of third party cookies. It also recommends that users regularly delete their browsing histories, but not the cookies themselves. All in all, the clause achieves the remarkable accomplishment of, in a short paragraph: 1. recognizing that the tracking of user behavior is broad, not confined to the Rappi website, and therefore undesirable; 2. exempting Rappi of any liability derived from the use of the third-party cookies, even though Rappi will deploy these cookies anyway; and 3. providing users with bad technical advice, by equating "browsing history" with "cookies".

technologies”, an expression used that, nonetheless, appears on the cookie policy. The policy for Ecuador has nothing to say on the subject, but is supplemented by a cookie policy containing that information.

Another relevant difference between, on one side, the Colombian cookie policy, and, on the other, the remaining cookie policies provided by Rappi elsewhere, is that the text for Colombia states that changes to the policy are effective immediately, with no mention of prior notification. The other policies, by contrast, state that users will be notified in case the changes demand new user consent.⁵⁵⁰ Other than that, there are a few inconsistencies between the policies that appear to be a consequence of sloppiness, and not deliberate design. Some of the documents are dated, some are not;⁵⁵¹ and the contact information for questions related to Ecuador’s cookie policy is a placeholder, and not an email address: "You can contact us at: xxxxxxxxxxxx and we will respond!".

Rappi’s scores for indicator elements **P9.1** receives **full** credit. There is some disclosure on what user information is collected, conveyed by the use of generic categories like “browsing habits” and “consumption preferences” categories,⁵⁵² and other more concrete data points, such as “URLs”, “browser used”, and “IP address”.⁵⁵³ As was the case with Mercado Libre and AliExpress, disclosure could have been more detailed, but what is there is enough to justify the credit. There is also some disclosure on methods, however faulty and misleading, but strictly related to the use of cookies and web beacons and “similar technologies”, so credit for **P9.2** is **partial**. Element **P9.3** receives **full** credit, since the cookie policy specifies purposes.

The **aiqfome** privacy policy contains a section on “COOKIES AND MONITORING TECHNOLOGIES”, which opens with a paragraph stating that the company will collect user information through these technologies in order to “[...] to carry out performance metrics of the application, identify issues in usage, capture the behavior of Users in general, and collect data on content impressions.” The policy then offers definitions for “cookies”,⁵⁵⁴ “pixels”,⁵⁵⁵ and

⁵⁵⁰ *Política de Cookies – Colombia*, under “CAMBIO A LA POLÍTICA DE COOKIES”; *Política de Cookies – Brasil*, under “Alterações na política cookies”; *Política de Cookies – Ecuador*, under “Cambios a la Política de Cookies”.

⁵⁵¹ The cookie policy for Argentina has a date of 01 June 2020; the one for Uruguay is dated 15 June 2020. Ecuador’s skips day and month, and only indicates 2021. Cookie policies for Colombia, Costa Rica Brazil, Mexico, and Peru provide no date.

⁵⁵² *Política de Cookies – Colombia*, under “DEFINICIONES”, “Cookies”.

⁵⁵³ *Política de Tratamiento de Datos Personales (Política de Privacidad)*, V. FORMA DE RECOLECTAR LOS DATOS, under “Forma de recolección de los datos personales de los Usuarios/Clientes”.

⁵⁵⁴ “**Cookies**: a cookie is a small file added to the User’s device to provide a personalized experience when accessing the platform. Cookies help analyze internet traffic and allow us to know when the User has visited a specific website. A cookie does not provide access to a computer or reveal information beyond the data that the user chooses to share with us.” (emphasis in original). Terms of Use and User Privacy, under “COOKIES AND MONITORING TECHNOLOGIES”. This definition does not take into account potential security risks, making it sound that they never represent any source of danger to users, and the idea that they only reveal information that the users chooses to share with the company is misleading. Users may have the option to disable cookies, or to select only the cookies that are essential to the provision of services, on a platform by platform basis. The extent to which users know what they are sharing, however, is an open question, and hardly authorize the use of language that suggests that the information involved is strictly what “the user chooses to share with us”. Consent for the use of cookies is, of course, obtained, in ways that may or may not be valid. But to jump to the conclusion that users have more agency and knowledge than they may in fact have is something to be avoided.

⁵⁵⁵ “**Pixels**: pixels are parts of the JavaScript code installed and added to our applications, websites or in the body of an email, with the purpose of tracking and collecting information about user activities. They allow the identification of their access patterns, browsing, interest and product purchases, and are used to optimize content targeting.” (emphasis in original). Ibid. “Pixels”, in this context, are synonymous with “web beacons” or “pixel tags”.

“analytics tools”,⁵⁵⁶ stating that these are “[...] **some** of the technologies that might be present in the AIQFOME platform” (emphasis ours).

The definitions are not without faults, but are not terrible, especially when compared to others we examined; an essential point is at least clearly explained: user behavior will be tracked outside the aiqfome site. Beyond defining the technologies, purposes for their use are also included, adding to the purposes listed in the opening paragraph of the section. A glaring omission is that of targeted advertising; the definition for “pixels” is the closest we get to that, through the euphemistic expression “content targeting”. Another missed opportunity for full disclosure on targeted advertising can be found in the section on the sharing of user information, which indicates that data may be shared with “service providers” for the purpose of “marketing campaign management”.⁵⁵⁷ The policy, however, contains a relatively direct reference to it in the section dedicated to purposes for processing user information, in the entries for “geolocation” and “browsing data”.

The entry for geolocation, after listing the purposes for the processing of such information, mentions that “[i]t is important to clarify that AIQFOME uses the geolocation technology of partners, which allows the capture of location data, without you being directly identified, for the purposes mentioned above.” It is unclear if the data the text refers to would pass the RDR definition for user information, but most significantly, the entry raises the question of whether or not this would involve the processing of the type of data assessed by indicator P9. An educated guess is that it probably would, since two of the listed purposes are “To display personalized ads.” and “For sending contextualized messages via push notification.”⁵⁵⁸

Similarly, the entry on purposes for the use of browsing data is perfectly inclusive of types of processing that could potentially harness data collected from third parties by automated means, since it includes: “To assist in the diagnosis and resolution of technical problems.” and “To develop new features and improvements, enhancing your experience with our available services.”⁵⁵⁹

The disjointed nature of these entries with the section on cookies and tracking technologies is not an isolated finding, as the analyses for the preceding companies illustrate. The way it occurs here, nonetheless, is not severely problematic. Considering the above, aiqfome receives

⁵⁵⁶ **Analytics Tools:** these tools can collect information about how Users visit our platform, which pages they open, and when they visit such pages, as well as other platforms that have been visited beforehand, among others.” (emphasis in original)

⁵⁵⁷ Complete text: ““So that we can offer our products and provide our services with quality, we rely on the collaboration of various service providers, who handle the personal data collected on our behalf and according to our instructions. These service providers primarily assist us in anti-fraud analyses, payment intermediation, marketing campaign management, database enrichment, and cloud storage.” Ibid, under “COM QUEM NÓS PODEMOS COMPARTILHAR OS DADOS PESSOAIS”, and “Prestadores de serviço”.

⁵⁵⁸ Complete text: “To identify the physical stores closest to you. To display personalized ads. For sending contextualized messages via push notification. To assist in analyses that may be used to protect your account and increase the level of security of your registered data or, moreover, prevent possible fraud. It is important to clarify that AIQFOME uses the geolocation technology of partners, which allows the capture of location data, without you being directly identified, for the purposes mentioned above.” Ibid, under “COMO NÓS UTILIZAMOS OS SEUS DADOS PESSOAIS”, “Geolocalização”.

⁵⁵⁹ Complete text: “So that we can offer our products and provide our services with quality, we rely on the collaboration of various service providers, who handle the personal data collected on our behalf and according to our instructions. These service providers primarily assist us in anti-fraud analyses, payment intermediation, marketing campaign management, database enrichment, and cloud storage.” Ibid, under “COMO NÓS UTILIZAMOS OS SEUS DADOS PESSOAIS”, “Prestadores de serviços”.

full credit in P9.1 and and P9.3. P9.2 receives a partial score, on account of not being exhaustive with regard to the technologies used.

DiDi Food's privacy policies do not include the usual section on cookies and other technologies. Instead, users are met with indirect references to tracking in a clause dedicated to data analysis:

“2.1 DiDi may process, among others, the following personal information: [...]”

2.4 Data Analysis

To improve the DiDi Food - User Services and provide the User with more personalized and convenient Services, DiDi will collect the User's access information, including search content, IP address, device information (including model, identification code, operating system and telecommunications operator), and location. DiDi will use a browser storage and caching mechanism to process information on the User's device. DiDi may obtain the User's consent to process this information when DiDi is required to do in accordance with applicable regulations. In the event that DiDi requests the User's consent to process this information, the User may withdraw consent by contacting DiDi at any time.” (emphasis in original)⁵⁶⁰

The text heavily suggests exactly the type of data assessed by the **P9** indicator, but never explicitly acknowledges the use of technologies, including cookies—which, as we have seen, are included in all of the other privacy policies we read. This is a remarkable feat, considering that the preceding policies we analyzed already do a terrible job when addressing the issue of data acquired from third parties through automated means. Does this count as disclosure? We are of the opinion that it does not. While one may argue that, technically, there is reason for a partial credit, the clause is just too vague to justify the score.

It does not help that the clause immediately following 2.4, a confusing word salad on third party services, does not make it clear what exactly these services constitute, and leaves room for an interpretation that sneakily includes services that are provided to DiDi Food, and not the user, contradicting what an initial reading of the clause seems to express:

“2.5 Third Party Services

When the User accesses “Third Party Services”, DiDi will process the necessary Personal Information of the User (including information provided by the User and information recorded by the system) and share it with the third party providing Third Party Services, including DiDi's service providers or business partners performing DiDi's business operations, so that they can provide the User with the Third Party Services. If the User refuses to have such information processed, it may not be possible to use Third Party Services through DiDi Food - User, but such refusal shall not affect the User's use of the main functions of DiDi Food - User. The party providing Third Party Services will only use the User's information for the purposes of providing such services. Some Third Party services may include collection and payment activities, among others.

⁵⁶⁰ DiDi Food Privacy Notice - User. We are using the policy for users as reference. The policies for delivery workers and stores contain similar provisions, but are numbered differently, and

Device Permissions

DiDi Food - User may ask the User for certain permissions on their device. Users shall be deemed to grant DiDi access to their device when they use or access DiDi Food - User, and have given their prior express authorization. [sic]

The User may cancel all or some of the permission on the device to prevent DiDi from collecting the corresponding Personal Information. On different devices, the way to grant and cancel permissions may differ. For detailed information about the device and the respective operating system, we suggest contacting its developer.” (emphasis in original)

The clearest example provided by the clause is that of financial services, but the text is broad enough to accommodate a wide range of third-party services, and despite the mention that these services will be provided *to the user*, there is also reference to “business partners performing DiDi’s business operations”. What does that mean, exactly?

To complicate matters, the addendum on device permissions evokes the notion of disabling cookies or blocking apps from accessing mobile device identification. This is something that would fit the standard section on cookies and other tracking technologies, but seems out of place in a clause that is apparently about additional services provided on top of the DiDi Food platform. The policy is just too confusing, and resists attempts at evaluation through what looks like, at best, poor drafting skills, and, at worst, deliberate obfuscation.

The section on the use of personal information mentions activities that are consistent with the use of data acquired from third parties through automated means, but it never makes any reference to information collected in such a way.⁵⁶¹ As a consequence, DiDi Food scores *partial* in elements [P9.1](#), [P9.2](#), and [P9.3](#).

6.8.3.2 Through non-technical means

While indicator elements [P9.1-P9.3](#) refer essentially to tracking of user behavior, indicators [P9.6-P9.8](#) address represent ways of acquiring user information that entail directly obtaining user information from a third-party, usually by means of a contractual agreement. The term “technical means” can be confusing, since third-party companies offer services that may have technical or automated elements, which will be integrated with, or used by, the platform. On the other hand, unless you are Google or Meta, effective tracking of user behavior also requires companies to enter into agreements with third-party providers. The main distinctive element here is the tracking of user behavior, on one hand (P9.1-P9.3), and the direct acquisition of user information from an outside source, which is usually, but not always, a service provider.

⁵⁶¹ Ibid. “5.1 The User acknowledges and agrees that its Personal Information may be used in cases that are directly or reasonably related to the purposes set forth in the section ‘Processing of Personal Information’. In particular, the User acknowledges and agrees: [...]” that Didi may: “[...] analyze Personal Information in order to provide the User with a more personalized and convenient service.”; “[...] design, develop and promote new products and services available for the User’s use, based on the statistics of the User’s Personal Information.”; “[...] send the User information and notices by different means, which may include, among others, the verification code, necessary notifications related to the use of products and services, news about DiDi Food - User services, as well as marketing activities and special promotional information, and promotional information from a third party in cooperation with DiDi Food - User or other content that may interest the user if previously authorized by the User, in accordance with the information that has been provided by the User.

If a country or organization, for instance, maintains a public database of PEPs (politically exposed persons), and the company merely extracts and uses that information, this would count for **P9.9-P9.8** upon disclosure, as would resorting to a service that aggregates such lists and provides other financial information, such as Refinitiv. Credit reporting agencies (e.g., Experian, TransUnion, Equifax) are also good examples of third parties offering companies access to databases containing user information. Finally, there might be cases where agreements are reached between parties for the sharing of data, for commercial or non-commercial purposes (e.g., research institutions, NGOs, commercial partners), and those also assessed by indicator elements **P9.6-P9.8**.

Section 3 of the **Mercado Libre** Privacy Declaration contains an item listing "Information we collect from other sources", which includes "Information collected for the purpose of preventing fraud and fulfillment of information regimes (lists of politically exposed persons, OFAC, etc.)", "Information on credit, positive or negative, obtained through databases of credit risk and/or publicly accessible sources, in accordance with applicable legislation", and "Data used for the validation and authentication of identification, or to complete or correct information, obtained through secure and reliable sources, such as public entities, service providers, or business partners with whom we work". This constitutes direct disclosure of the type of user information we are examining with indicator elements P9.6-P9.8, along with the purposes for collection.

Mercado Libre, however, maintains cooperation agreements with other entities, public and private, and it is unclear if these agreements involve unilateral or bilateral sharing of user data, through technical or non-technical means. Based on the language used, and the summarized descriptions found in the lists of cooperation agreements for Brazil,⁵⁶² Mexico,⁵⁶³ and Argentina⁵⁶⁴—the only such lists we were able to locate—the partnerships are mainly about takedowns of product listings, initiated by a variety of public and private entities, based on their domain of expertise.

In Brazil, for example, the Public Prosecution Service of São Paulo "[...] may request, under its sole responsibility, the termination of advertisements that violate the current legislation regarding the marketing of electronic cigarettes, tobaccos, and related products.", and the Wildlife Conservation Society (WCS Brasil) "[...] collaborates with Mercado Livre by sharing information and technical knowledge, with the aim of promoting biodiversity conservation and preventing protected species from being sold by the platform's users, violating national and international environmental protection regulations." It is unclear, nonetheless, the extent to which there might be additional clauses in these agreements that would fall under what is evaluated by P9.6-P9.8, especially in relation to partnerships struck with law enforcement entities. The agreements themselves, unfortunately, are not made public, and disclosure is incomplete. In a similar vein, agreements within the Brand Protection Program⁵⁶⁵ are also mainly about takedowns, but it is not at all unlikely that Mercado Libre may receive additional user information from the participating companies' own efforts in maintaining databases of

⁵⁶² *Acordos com entidades* (Brazil). https://www.mercadolivre.com.br/ajuda/Convenio-de-rgulacao_3273

⁵⁶³ *Convenios de regulación* (Argentina). https://www.mercadolibre.com.ar/ayuda/convenios-con-entidades_3186

⁵⁶⁴ *Convenios de regulación* (México). https://www.mercadolibre.com.mx/ayuda/Convenios-con-entidades-regula_3184

⁵⁶⁵ <https://www.mercadolivre.com.br/brandprotection/enforcement>

infringing users, in order to substantiate takedown notices or to answer counterclaims. Scores for Mercado Libre are *partial* for P9.6, P9.7, and P9.8.

The **AliExpress** Privacy Policy includes an item in section A ("COLLECTION OF INFORMATION") titled "Information That We Receive From Third Parties". The choice of words "information we may receive", which is used in the text, is somewhat misleading, since there is active interest from the company in obtaining this data. Disclosure is not detailed, non-exhaustive, and limited to "Social media platforms if you choose to register for a Platform account via a social media account", a type of user information that is also more relevant to first three P9 indicator elements—and "Third parties that are engaged by us to provide verification services [...]", referring mainly, but not exclusively, to entities providing AliExpress with KYC services. That is the extent of disclosure we can find in the policy.

Indicator elements P9.6-P9.8 all receive *partial* scores. The examples provided for the information collected are merely illustrative, the means of collection are clear with regard to social login information, but not explicitly detailed when it comes to third-party database providers, and purposes are clearly stated only in relation to KYC services. Section B of the policy, detailing Alibaba's use of personal data, lists purposes for the processing of user information, but does not direct readers to the item on section B related to information received from third parties, in opposition to the section's approach regarding cookies, acknowledging section F of the document, wherein AliExpress addresses the matter of tracking technologies. The same observations we made with regard to Mercado Libre's Brand Protection Program, furthermore, are also applicable to Alibaba's IP Protection Platform.⁵⁶⁶

While there is a clause on data collected from third parties in the English and Spanish versions of **Shopee's** Privacy Policy,⁵⁶⁷ the Brazilian text omits it, for reasons that are unclear. Since the policies are basically the same, the exclusion of clause 2.2 may have happened due to an oversight, since it is an odd decision to be taken deliberately. Indicator elements P9.6-P9.8, as a consequence, receive a *no disclosure found* credit. In any case, the clause is merely a generic assertion that Shopee may collect data from third parties, with few examples provided. As with other Shopee lists, the information provided is non-exhaustive. Finally, as was the case with Mercado Libre and AliExpress, Shopee's brand protection program may involve the acquisition of user information from third parties as a consequence of the takedown process, and there is no disclosure explicitly addressing that possibility.⁵⁶⁸

aiqfome receives a *no disclosure found* credit found for the three indicators elements assessed in this section. The privacy policy hints at data acquired from third parties through non-technical means when it discloses the sharing of data with service providers, since anti-fraud analysis is mentioned, and this type of service entails contracting access to databases containing user information. Disclosure, however, is not explicit, failing to meet the requirements for a *partial* credit in indicator elements P9.6-P9.8.⁵⁶⁹

⁵⁶⁶ https://ipp.alibabagroup.com/index.htm?language=en_US#/ippHome

⁵⁶⁷ "We may collect personal data about you from you, our affiliates, third parties, and from other sources, including without limitation business partners (such as logistics or payment service providers), credit bureaus or scoring agencies, marketing service providers or partners, referral or loyalty programs, other users of our Services or publicly available or governmental sources of data." *Shopee Privacy Policy*, 2.2.

⁵⁶⁸ <https://brandprotection.shopee.com/>

⁵⁶⁹ Terms of Use and User Privacy, under "COM QUEM NÓS PODEMOS COMPARTILHAR OS DADOS PESSOAIS", "Prestadores de serviço:".

6.8.4 Opt-out signals

Element **P9.5** evaluates whether companies clearly disclose that they respect user-generated signals to opt out of data collection, the foremost example of which is the DNT (do not track) standard.

Unsurprisingly, all companies scored *no disclosure found* for this element, since there is no legislative incentive for implementation of such mechanisms. The general rule is for companies to not even touch the subject, unless they are required to do so. **AliExpress** had to disclose that DNT signals are not respected due to a provision in the California Business and Professions Code, leading to a *no* credit in **P9.5**—since the company does not respect opt-out signals in California, we can safely presume it adopts a different policy elsewhere. The remaining companies received a *no disclosure found* credit. Both credits have a value of *zero*, but this difference is significant because at least AliExpress was forced to make explicit in their privacy declaration that they do not respect DNT signals.

The disclosure is included in section K of the document, which pertains exclusively to users in the United States, but still counts as disclosure for the purposes of this assessment:

“Do Not Track. California Business and Professions Code Section 22575(b) (as amended effective January 1, 2014) permits our customers who are California residents to be informed as to how we respond to Web browser "Do Not Track" settings. As 'Do Not Track' is a standard that is currently being developed, we do not take actions to respond to 'Do Not Track' settings, and instead we adhere to the standards set out in this Privacy Policy. If you would like to find out more about Do Not Track you may find the following link useful: <http://www.allaboutdnt.com/>.” (emphasis in original)⁵⁷⁰

The provision referenced by AliExpress requires operators of commercial websites or online services collecting personally identifiable information through the Internet of consumers residing in California to ensure that a privacy policy available for consultation, imposing a series of requirements for the policy, including “(5) Disclose how the operator responds to Web browser "do not track" signals or other mechanisms that provide consumers the ability to exercise choice regarding the collection of personally identifiable information [...]”.⁵⁷¹

6.9 Government demands and private requests for user information

Only three partial marks were granted in the **P10a** set of indicator elements, revealing an absolute lack of interest, on part of the companies we evaluated, in informing users about how government requests are handled.

⁵⁷⁰ AliExpress.com Privacy Policy, under “K. VISITORS FROM THE UNITED STATES”.

⁵⁷¹ California Business and Professions Code Section 22575(b), (5): <https://casetext.com/statute/california-codes/california-business-and-professions-code/division-8-special-business-regulations/chapter-22-internet-privacy-requirements/section-22575-privacy-policy>

Table 31 Process for responding to demands for user information performance

P10. Process for responding to demands for user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P10a. Process for responding to government demands for user information								
P10a.1: Does the company clearly disclose its process for responding to non-judicial government demands?	ND	ND	ND	ND	ND	ND	ND	ND
P10a.2: Does the company clearly disclose its process for responding to court orders?	ND	ND	ND	ND	ND	ND	ND	ND
P10a.3: Does the company clearly disclose its process for responding to government demands from foreign jurisdictions?	ND	PARTIAL	ND	ND	ND	ND	ND	ND
P10a.4: Do the company's explanations clearly disclose the legal basis under which it may comply with government demands?	ND	ND	ND	ND	ND	ND	ND	ND
P10a.5: Does the company clearly disclose that it carries out due diligence on government demands before deciding how to respond?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
P10a.6: Does the company commit to push back on inappropriate or overbroad government demands?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
P10a.7: Does the company provide clear guidance or examples of implementation of its process for government demands?	ND	ND	ND	ND	ND	ND	ND	ND

Mercado Libre scored a *partial* credit in **P10a5** and **P10a6**. The company's transparency reports for 2021 mention that Mercado Libre will "analyze and answer any valid order in a timely manner, to collaborate with those authorities who seek to protect the digital ecosystem's legality and security". Since there is reference made to "any valid order", some due diligence must be carried out, resulting in a *partial* credit in element **P10a5**. The reports also state that Mercado Libre gets involved and contributes "[...] to judicial and administrative investigations ensuring to protect citizens' rights", making for a weak commitment to push back on overbroad government demands—particularly in light of the lack of transparency in Mercado Libre's agreements with public authorities—but enough to justify a *partial* credit in **P10a6**.

AliExpress scored a *partial* credit in **P10a3** because some disclosure is offered via the "Alibaba Group – E-commerce Platforms International Law Enforcement User Information Request Guide" and the "Emergency Law Enforcement User Information Disclosure Request Form". Much more is needed for a full credit, but at least *some* information is available, something that cannot be said about the other companies.

With the exception of **Mercado Libre**, all companies received *no disclosure found* marks in indicator **P11a**, since they do not publish transparency reports, or make the information we are looking for available in any other way, such as a dedicated website where users can interact with a database and run queries on government demands and related subjects.

Table 32 Data about demands for user information performance

P11. Data about demands for user information P11a. Data about government demands for user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	Pedidosya (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P11a.1: Does the company list the number of government demands it receives by country?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
P11a.2: Does the company list the number of government demands it receives for stored user information and for real-time communications access?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
P11a.3: Does the company list the number of accounts affected?	ND	ND	ND	ND	ND	ND	ND	ND
P11a.4: Does the company list whether a demand sought communications content or non-content or both?	ND	ND	ND	ND	ND	ND	ND	ND
P11a.5: Does the company identify the specific legal authority or type of legal process through which law enforcement and national security demands are made?	ND	ND	ND	ND	ND	ND	ND	ND
P11a.6: Does the company include government demands that come from court orders?	ND	ND	ND	ND	ND	ND	ND	ND
P11a.7: Does the company list the number of government demands it complied with, broken down by category of demand?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
P11a.8: Does the company list what types of government demands it is prohibited by law from disclosing?	ND	ND	ND	ND	ND	ND	ND	ND
P11a.9: Does the company report this data at least once per year?	PARTIAL	ND	ND	ND	ND	ND	ND	ND
P11a.10: Can the data reported by the company be exported as a structured data file?	ND	ND	ND	ND	ND	ND	ND	ND

Mercado Libre's transparency reports, as we make clear in section 5.5.2, above, are far from ideal, and what could have led to a considerable advantage over the other companies in terms of scoring only resulted in 4 partial marks in a set of 10 indicator elements.

The Mercado Livre transparency reports offer aggregate numbers for government "data disclosure requests", how many of those were met, and how many were "not answered because we didn't have that information or such requests were improper", with no breakdown per country, making for a *partial* credit in [P11a.1](#).

The language in the reports implies that the company is only referring to stored information, and not real-time communications, but there is no way to confirm that, but even if they did, that would still lead to a *partial* credit in [P11a.2](#). There is also no categorization of government demands, justifying a *partial* mark in [P11a.7](#).

Even though data is published twice a year, it is vague and incomplete to a point that one can reasonably argue that it barely counts as disclosure. The reports only provide an aggregate, poorly defined number, labeled as "data disclosure requests", which makes it difficult to argue for a full credit in element [P11a.9](#).

With regard to *private requests* for user information, all of the companies received *no disclosure found* credits in all of the [P11b](#) indicators. There is simply information on the subject available to the general public.

Table 33 Data about demands for user information performance

P11. Data about demands for user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P11b. Data about private requests for user information								
P11b.1: Does the company list the number of requests it receives for user information that come through private processes?	ND	ND	ND	ND	ND	ND	ND	ND
P11b.2: Does the company list the number of requests for user information that come through private processes with which it complied?	ND	ND	ND	ND	ND	ND	ND	ND
P11b.3: Does the company report this data at least once per year?	ND	ND	ND	ND	ND	ND	ND	ND
P11b.4: Can the data reported by the company be exported as a structured data file?	ND	ND	ND	ND	ND	ND	ND	ND

Unsurprisingly, we also did not find any disclosure on notification processes related to third-party requests for user information, be they public or private in origin.

Table 34 User notification about third-party requests for user information performance

P12. User notification about third-party requests for user information	Mercado Libre (Brazil)	AliExpress	Shopee (Brazil)	iFood (Brazil)	PedidosYa (Ecuador)	Rappi (Colombia)	aiqfome (Brazil)	DiDi Food (Colombia)
P12.1: Does the company clearly disclose that it notifies users when government entities (including courts or other judicial bodies) demand their user information?	ND	ND	ND	ND	ND	ND	ND	ND
P12.2: Does the company clearly disclose that it notifies users when they receive requests for their user information through private processes?	ND	ND	ND	ND	ND	ND	ND	ND
P12.3: Does the company clearly disclose situations when it might not notify users, including a description of the types of government demands it is prohibited by law from disclosing	ND	ND	ND	ND	ND	ND	ND	ND

7. Conclusions and recommendations

7.1 Conclusions

Having concluded this report has taught us some lessons worth to share now. One of the most relevant ones has to do with the empower nature of transparency. It is indeed an instrumental right that allows to extend scrutiny on how are being protected, respected and remedied other fundamental rights such as freedom of expression and privacy.

Transparency needs to be understood not only as the mere disclosing of policies, but as an active compromise towards users and society in general in adopting, for example, clearer ways to present or to publish information. As we saw, in some cases there were policies being publicly disclosed but buried so deep down into companies' websites or commonly using such an entangled jargon that it ended up affecting a potential good score if simplicity and clearness would have been adopted in the first place.

Thanks to this extensive study we learned that there is still too much to improve in the future in two of the most relevant services digital users are laying on today on a daily basis: marketplaces and delivery food apps. Their extended presence and continued growth in our region should, as has been the case with social media platforms and other internet platforms and services, call the attention about their role on actual discussions on privacy and the freedom of expression online. The discussion about delivery food apps has been mostly imbued on delivery gig workers' rights, this too should be part of the conversation.

It's true, the performance showed by the companies included in this report is as diverse and homogeneous as in some cases remarkable. Those are the cases of Mercado Libre and aiqfome

that that in some indicators may seem to lead to path to the rest of companies adopting policies that worth them a seemingly good scoring. It's also notorious that the delivery food app companies that we assessed showed in general a poorer performance that was expected. This certainly should call the attention about what is the state of their operations' regulation and how active are the authorities in charge to oversight their compliance with the local law.

About each business model, we concluded that in the marketplace sector **Mercado Libre** and **aiqfome** lead the group of companies assessed with a relatively good performance in the Governance indicators in comparison with the rest, but are still behind on the Freedom of Expression and Privacy indicators. We would like to highlight at this point how relevant was for score that Mercado Libre had published in the past several transparency reports about its operations including not all but most of the criteria that we assessed. And for aiqfome, how good an impact had its acquisition by a big corporate conglomerate such as Magazine Luiza that strengthen its internal governance reflecting really good results in the G indicators.

In the delivery food platforms, the performance of all companies was unremarkable. **Delivery Hero** got a good performance on the Governance indicators, on Freedom of Expression, **DiDi Chuxing** was one of the best of its group but with such a low score that its leading place is not worth of celebration. And on the Privacy indicators, **Rappi** was closely followed by **Delivery Hero**, both companies got the best performance but still so low that, once again, it's more a reason for concern than for applause.

As a result of our examination of more than a hundred policies, we have seen good and questionable policies at place. Good policies that we think should be look good at as relevant examples to follow and improve are the thorough transparency reports of **Mercado Libre**; the openness and publicly disclose of policies made by **aiqfome**; and the privacy policy of **iFood Brazil** that was one of the companies that obtained consistently a partially good score on mostly all of the subindicators assessed.

It's also worth of mention that above all companies, only **Mercado Libre** disclosed whether it uses user information to develop algorithmic systems by default, as well as if users can obtain a copy of their user information. Its, along with **AliExpress**, one of two companies of both groups that clearly disclose that it carries out due diligence on government demands before deciding how to respond, and commits to push back on inappropriate or overbroad government demands of its user's information. Commitments of this kind are instrumental for the realization of the duties to protect and respect their user's rights.

But there are reasons to worry too. None of the companies assessed in both groups got any points on the subindicators that asked if companies list the number of requests it receives for user information that come through private processes, as well as none of the companies got any points on the subindicators that focused on whether or not there are policies about user notification about third-party requests for user information. These are sensitive issues that companies are not paying attention in their policies even when those issues play a key role on the users' rights to control their data.

We are eager to see how performance evolves in the future, a process for which users, companies, States and civil society play an essential role on monitoring, incentivizing and

guiding on improvements that should be made in order to guarantee that digital services not matter their kind are in syntony with the international human rights framework.

7.1 Recommendations

To companies

We believe that transparency in disclosing policies and business practices regarding corporate governance, freedom of expression, and privacy is crucial, as well as the compatibility of their content with human rights standards.

It is relevant for companies to disclose their efforts to protect, respect, and address potential infringements on users' rights resulting from their business operations; but also, to inform fully about their internal procedures to attend those events. Specifically, we suggest that marketplaces and delivery food platforms:

- Internally adopt the international human rights framework, especially the United Nations Guiding Principles on Business and Human Rights and harmonize their overall policies with the general duties to protect, respect and remedy their users in the provision of their services indistinctively of where are they operating, based or what service are their providing.
- To be more actively transparent about their internal processes for attending requests of removal, suspension or takedown of their users content and accounts, this is especially relevant too for delivery food apps which certainly have not entered yet to the content moderation conversation where is discussed the relevance of having appeal procedures, transparent and publicly processes as explanatory instances in which users can know the reasons why their content or accounts may be or not suspended or revoked.
- To actively provide more detailed information on how their internal governance practices align with human rights, and what positions or roles are involved in oversight and internal compliance on their own policies. Also, to provide protection for employees who denounce practices against the internal policies.
- Offer better reporting on the process of handling content removal requests from States and provide more comprehensive information on the quantity and types of users' behaviors that have violated their internal policies.
- Be actively transparent with their users about the process involved in the treatment of their user's data, adopting policies that reflect not also the obligations set by current laws but also good businesses practices that may raise the bar of protection and respect of their user's rights.
- Be transparent about sharing their users' personal data with third parties (States and other companies) and better inform their users about how they can access and control their data held by the company, including their inferred data.

To states

We are aware that regulatory and enforcement capacities vary from country to country. However, we believe that policymakers and regulatory authorities in each country could:

- Actively scrutinize the data protection practices of the evaluated companies and their compliance with the law. Ideally, the scrutiny of marketplace and delivery food companies' practices could ideally be coordinated among various authorities, including those in the banking, consumer, and data protection sectors, among others.
- To create incentives so marketplaces and delivery food apps may adopt better policies regarding practices that certainly are key to improve data protection, such as transparency measures about inferred data, transparency about the use of algorithmic systems to automate the processes of policies application, or transparency about the technical means throughout user's information is being collected.
- To demand from companies to strengthen their policies transparency, included transparency in their internal operations and processes.
- In countries like Bolivia, the findings of this report highlight the urgency of adopting a data protection framework that guarantees individuals' rights, to which marketplace and delivery food platforms should adhere to in their conduct.
- Proactively inform, when possible, the types and number of requests addressed to companies that look to obtain the personal data of marketplaces and delivery food platforms users, including requests of taken down of content too. Transparency is not only a duty imposed to companies but on states too.

To civil society

We believe that civil society, as well as users of marketplace and delivery food services, can join efforts in order to demand from those platforms' compliance with human rights frameworks. In order to do so, we believe they can:

- Use the findings contained in the narrative report to inform their advocacy and scrutiny actions regarding the conduct of these platforms.
- Collaborate collectively to exchange information, conduct research, and scrutinize the companies' performance concerning human rights matters.
- Complete and enrich through local research the full picture of platforms' performance in human rights in the region. We believe the adaptation of RDR's methodology would be a good starting point for researchers who wish to carefully assess companies' policies and their alignment with human rights standards. Derechos Digitales welcomes those efforts and is open to providing feedback based on the experience gained while conducting this research.

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