



September 10, 2024

Via Email: foia@trade.gov

International Trade Administration
Freedom of Information Officer
Room 40003
14th and Constitution Avenue, NW
Washington, D.C. 20230

Freedom of Information Act Request: Brazilian Censorship of X

Dear FOIA Officer:

America First Legal Foundation is a national, nonprofit organization working to promote the rule of law in the United States, prevent executive overreach, and ensure due process and equal protection for all Americans, all to promote public knowledge and understanding of the law and individual rights guaranteed under the Constitution and laws of the United States. To that end, we file Freedom of Information Act (FOIA) requests on issues of pressing public concern, then disseminate the information we obtain, making documents broadly available to the public, scholars, and the media. Using our editorial skills to turn raw materials into distinct work, we distribute that work to a national audience through traditional and social media platforms. AFL has over 269,000 followers on X, and our Founder and President has over 723,000 followers on X.

I. Background

In June 2021, the Biden-Harris White House released a first-of-its-kind National Strategy for Countering Domestic Terrorism,¹ which endorsed “a global, multi-stakeholder setting in which we can collaborate on addressing terrorist content online with partner governments ... as well as with technology companies and civil society organizations.”² It highlighted the “domestic terrorism threat landscape ... on

¹ *National Strategy for Countering Domestic Terrorism*, NAT'L SEC. COUNCIL (June 2021), <https://perma.cc/VAH2-KZ5E>.

² *Id.* at 22.

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Internet-based communications platforms such as social media, file-upload sites, and end-to-end encrypted platforms,” where “conspiracy theories and other forms of disinformation and misinformation” could cause “mobilization to violence.”³ It “demand[ed] accelerating work to contend with [the] information environment” and “[e]nhanc[e] faith in American democracy.”⁴ As evidence, it alleged that “narratives of fraud in the recent [2020] general election” led to “the violent breach of the U.S. Capitol.”⁵ By June 2021, the “Department of State and United States Agency for International Development” were “already pursuing efforts” based on “public health-focused violence prevention” to “advance the prevention of domestic terrorism” “globally.”⁶

In July 2021, leading up to the 2022 Brazilian election and, apparently, to support its allied candidate, the leftist, pro-Iran former President Luiz Inacio Lula da Silva, Biden-Harris CIA Director William Burns delivered a “message carried from the White House” to Jair Bolsonaro, then Brazil’s democratically elected incumbent president.⁷ Burns reportedly warned Bolsonaro to stop questioning the electronic voting system and talking about voter fraud.⁸ Using the language and tactics outlined in the Biden-Harris National Strategy for Countering Domestic Terrorism to control constitutionally protected political dissent by shutting down legitimate questions regarding irregularities or fraud related to the 2020 election in the United States,⁹ Burns told Bolsonaro to stop spreading “misinformation.”

Ten days before Brazil’s 2022 election, Alexandre de Moraes, Brazil’s election chief and justice on Brazil’s Supreme Court, obtained the power to unilaterally order social media companies to remove any online post that the electoral court had deemed to be misleading. The New York Times, often a reliable Biden-Harris propaganda outlet, remarkably headlined its report on this profoundly anti-democratic measure, “*To Fight Lies, Brazil Gives One Man Power Over Online Speech.*”¹⁰ Unsurprisingly, Moraes ordered the deletion of key Bolsonaro social media posts.¹¹

³ *Id.* at 9.

⁴ *Id.* at 29.

⁵ *Id.* at 10.

⁶ *Id.* at 20 (emphasis added).

⁷ Ryan Cooper, *How Joe Biden and Bernie Sanders Helped Lula Win*, AM. PROSPECT (Nov. 1, 2022), <https://perma.cc/ZQJ2-YD2T>.

⁸ Gabriel Stargardter & Matt Spetalnick, *Exclusive: CIA Chief Told Bolsonaro Government Not to Mess with Brazil Election, Sources Say*, REUTERS (May 5, 2022), <https://perma.cc/W7DT-CQPL>.

⁹ See *BOMBSHELL DOCUMENTS – America First Legal Lawsuit Reveals CISA Knew About Mail-in Voting Risks in 2020 While Censoring Related Narratives as ‘Disinformation,’* AM. FIRST LEGAL (Jan. 22, 2024), <https://perma.cc/FW5B-6WNL>.

¹⁰ Jack Nicas, *To Fight Lies, Brazil Gives One Man Power Over Online Speech*, N.Y. TIMES (Oct. 21, 2022), <https://perma.cc/BFY9-MYUP>.

¹¹ See generally John-Michael Dumais, *‘The Blob’: Government, Media and Big Tech Censorship Alliance Suppressing Dissent on Wide Range of Issues*, THE DEFENDER (Mar. 14, 2024), <https://perma.cc/F83J-JC3S>.

Reportedly, the U.S. pressure on key Brazilian officials “was likely decisive in guaranteeing the eventual outcome” in favor of the Biden-Harris ally Lula da Silva.¹² An investigation by the House Judiciary Committee and Select Committee on the Weaponization of Government found that:

[S]ince at least 2022, the Supreme Federal Court in Brazil, on which Moraes serves as a justice, and the Superior Electoral Court in Brazil, led by Moraes, have ordered X Corp. to suspend or remove nearly 150 accounts on the popular social media platform. These censorship demands were targeted specifically at critics of the Brazilian government: conservative members of the federal legislature, journalists, members of the judiciary, and even a gospel singer and a pop radio station—in other words, anyone with a platform to criticize the ruling leftist government.¹³

On August 30, 2024, Justice Moraes issued an order blocking American social media platform X across Brazil and fining Brazilians caught accessing the platform \$8,900 per day—more than what the average Brazilian makes a year.¹⁴ The order purportedly concerned misinformation that “represents an extremely serious risk to the municipal elections in October” in Brazil.¹⁵ Democrat mega-donor Elizabeth F. Bagley began serving as the Biden-Harris Administration’s ambassador to Brazil in 2023. Bagley has donated more than \$1.6 million to left-wing candidates since 1986¹⁶ and is a veteran of the Carter, Clinton, and Obama Departments of State.¹⁷ To date, she has had nothing to say about Lula’s assault on X and on Elon Musk’s other companies.¹⁸

The evidence of an ongoing multinational assault on free speech by ideologically aligned leftist and putatively democratic Western nations, led by the Biden-Harris Administration, is highly suggestive. For example:

¹² Oliver Stuenkel, *How U.S. Pressure Helped Save Brazil’s Democracy*, FOREIGN POL’Y (Feb. 20, 2024), <https://perma.cc/J2A9-7DCC>.

¹³ STAFF OF H. COMM. ON THE JUD. & SELECT SUBCOMM. ON THE WEAPONIZATION OF THE FED. GOV’T, 118TH CONG., THE ATTACK ON FREE SPEECH ABROAD AND THE BIDEN ADMINISTRATION’S SILENCE: THE CASE OF BRAZIL at 4 (2024), <https://perma.cc/Q494-2JFQ>.

¹⁴ Oliver Wiseman, *The Front Page: The Global War Against Free Speech*, FREE PRESS (Sept. 3, 2024), <https://perma.cc/7ZDD-4ED8>; Jack Nicas & Kate Conger, *How Brazil’s Experiment Fighting Fake News Led to a Ban on X*, N.Y. TIMES (Aug. 31, 2024), <https://perma.cc/PJ4Y-7M2L>.

¹⁵ Jack Nicas & Kate Conger, *How Brazil’s Experiment Fighting Fake News Led to a Ban on X*, N.Y. TIMES (Aug. 31, 2024), <https://perma.cc/PJ4Y-7M2L>.

¹⁶ *Individual Contributions: “Elizabeth F. Bagley”*, FED. ELECTION COMM’N, <https://perma.cc/9XSS-DAEQ>.

¹⁷ *Elizabeth Frawley Bagley, U.S. Ambassador to Brazil*, U.S. EMBASSY & CONSULATES IN BRAZ., <https://perma.cc/52FV-6S7Z>.

¹⁸ See Lora Kolodny, *Elon Musk’s Starlink Says It Will Block X in Brazil To Keep Satellite Internet Active*, CNBC (Sep. 3, 2024), <https://perma.cc/M7SJ-BRK8> (“The supreme court orders had frozen Starlink’s financial assets in the country to ensure X would pay its penalties...”).

- In Brazil, the Biden-Harris Administration endorsed “addressing” “content online with partner governments,”¹⁹ funded “an entire sprawling swarm arm of censorship policy activists,”²⁰ and adopted a partner civil society organization’s suggestion that government action against Tesla would coerce Elon Musk to censor speech on X, in support of the leftist Lula.²¹
- In Canada, the Biden-Harris Administration’s leftist Liberal Party allies, led by Justin Trudeau, have frozen the bank accounts of anti-COVID mandate protestors to crush dissent and now have introduced a bill giving the government broad and unreviewable power to control social media companies and criminalize online “hate speech.”²²
- In the United Kingdom, the Biden-Harris Administration’s leftist Labor Party allies, led by Keir Starmer, have targeted social media companies for potential abuse,²³ used the “Crown Prosecutor” to warn British subjects that they must “think before they post” on social media, and even threatened to extradite American citizens for violating British “hate speech” laws.²⁴
- In France, the Biden-Harris Administration’s “Renaissance” Party allies, led by Emmanuel Macron, arrested Telegram CEO Pavel Durov.²⁵

Here at home, AFL has exposed the Biden-Harris Administration’s censorship program, which has used the Centers for Disease Control, the National Security Council, the Department of Homeland Security, and the FBI to operationalize the Biden-Harris National Strategy for Countering Domestic Terrorism to control what the American people may say and think. AFL also has demonstrated the Biden-Harris Administration’s long-standing and persistent misuse of Department of State

¹⁹ *National Strategy for Countering Domestic Terrorism*, *supra* note 1, at 22.

²⁰ Mike Benz (@MikeBenzCyber), X (Aug. 29, 2023, 5:02 PM), <https://perma.cc/D4ME-86GJ>; *see also National Strategy for Countering Domestic Terrorism*, *supra* note 1, at 6.

²¹ *See* Mike Benz (@MikeBenzCyber), X (Dec. 4, 2023, 12:53 PM), <https://perma.cc/N42U-WWSS>; *see also* America First Legal (@America1stLegal), X (May 2, 2023, 12:11 PM), <https://perma.cc/EK3E-MUXY> (AFL has sued Alex Stamos and the Stanford Internet Observatory for colluding with the Biden-Harris Administration to censor the speech of American citizens online).

²² Katherine Fung, *Banks Have Begun Freezing Accounts Linked to Trucker Protest*, NEWSWEEK (Feb. 18, 2022), <https://perma.cc/48QP-DXCW>.

²³ Gill Whitehead, *Open Letter to UK Online Service Providers*, OFCOM (Aug. 7, 2024), <https://perma.cc/L8BT-GE67>

²⁴ Alexander Hall, *UK Police Commissioner Threatens to Extradite, Jail US Citizens Over Online Posts*, FOX NEWS (Aug. 9, 2024), <https://perma.cc/ZR63-CL75>; Flora Thompson, *Repost Hateful Messages About Disorder Online and You Could End Up in Court*, THE INDEP., (Aug. 7, 2024), <https://perma.cc/3HCA-VMYM>.

²⁵ *America First Legal Launches Investigations Into the Biden-Harris State Department Regarding the Arrest of Telegram CEO, Pavel Durov*, AM. FIRST LEGAL (Aug. 29, 2024), <https://perma.cc/296S-DCVA>.

and USAID assets to push its global censorship program.²⁶ Accordingly, there is strong reason to believe that the U.S. government is working with authoritarian South American leftists to censor political speech²⁷ on a social media platform owned by an American citizen who has publicly supported the Biden-Harris Administration's political rival, former President Donald J. Trump.²⁸

II. Requested Records

"Communications" include, but are not limited to, emails, diplomatic cables, demarches, and internal instant message logs, such as logs from Microsoft Teams.

III. Requested Records

- A. All communications that mention or relate to Alexandre de Moraes.
- B. All communications and records containing the terms " X " or " X." (including the spaces and punctuation in the search).
- C. All records responsive to a Boolean search for: "Elon" OR "Musk" OR "Twitter" OR "Starlink," AND "ban" OR "block" OR "censor."
- D. Any records or communications that mention "Diego de Lima Gualda" or "Diego Lima Gualda."
- E. All records or communications that mention "Rachel de Oliveira Vila Nova Conceição."
- F. All records responsive to a Boolean search for: "election" OR "electoral system" OR "voting machine" OR "sanctions" AND "Bolsonaro."
- G. All records or communications that mention or relate to the visit of CIA Director William Burns to Brazil in July 2021.
- H. All records or communications that mention, relate, report, or discuss the subject matter of the conversations or discussions between CIA Director William Burns and Brazilian President Jair Bolsonaro, Augusto Heleno, Alexandre Ramagem, or Luiz Eduardo Ramos.

²⁶ *Government Documents Confirm the Biden Administration's Mobilization of U.S. Counterterrorism Assets To Support Imran Ahmed's Global Censorship Campaign*, AM. FIRST LEGAL (Mar. 20, 2024), <https://perma.cc/YA8G-V6CM>; *America First Legal's Litigation Against the Biden State Department Unearths Orwellian, Internal USAID "Disinformation Primer"*, AM. FIRST LEGAL (Mar. 14, 2024), <https://perma.cc/7FGT-VVE3>.

²⁷ Mike Benz (@MikeBenzCyber), X (Aug. 30, 2024, 12:06 PM), <https://perma.cc/CUZ2-F5ZM>; *see also* Mike Benz (@MikeBenzCyber), X (Sept. 6, 2024, 12:12 AM), <https://perma.cc/N9RM-WPCE>.

²⁸ Elon Musk (@elonmusk), X (July 13, 2024, 6:45 PM), <https://perma.cc/DB36-6AVX>.

- I. All records or communications that mention, relate, report, or discuss an article posted on the O Globo website by Scott Hamilton, the U.S. consul in Rio de Janeiro from 2018 to 2021, published on or about April 30, 2022, and titled “Defendendo a democracia,” <https://blogs.oglobo.globo.com/opiniao/post/defendendo-democracia.html>.

“Communications” include, but are not limited to, emails, diplomatic cables, demarches, and internal instant message logs, such as logs from Microsoft Teams.

The relevant time for items A–E is January 1, 2024, to the date that this request is processed. The relevant time for items G and H is June 1, 2021, through September 1, 2021. The relevant time for item I is March 1, 2021, through June 30, 2021.

IV. Custodians

- A. U.S. Commercial Service personnel at:
 - a. Consulate General, Rio
 - b. Consulate General, Sao Paulo

V. Fee Waiver Request

Per 5 U.S.C. § 552(4)(A)(iii), AFL requests a waiver of all search and duplication fees associated with this request. Furthermore, AFL has a demonstrated ability and intention to effectively convey the information broadly to the public. AFL’s status as a representative of the news media has been recognized by other agencies for granting fee waivers by the Departments of Defense, Education, Energy, Health and Human Services, Justice, Interior, and Homeland Security. Finally, as a non-profit organization, AFL has no commercial interest, and the request is made entirely to serve the public interest. We are, of course, available to provide additional information in writing or offline in support of this request. If AFL’s request for a fee waiver is not granted in full, please contact us immediately upon making that determination.

VI. Request for Expedited Processing

AFL hereby requests expedited processing pursuant to 15 C.F.R. § 4.6(f)(iii), (iv). Expedited processing is appropriate because this is a “matter of widespread and exceptional media interest involving questions about the Government’s integrity which affect public confidence.” Additionally, AFL is a qualifying news media

distributor, and there is an urgency to inform the public about alleged Federal Government activity. More than half a billion X users deserve to know what role, if any, the United States government played in the banning of X in Brazil. Department of Commerce regulations provide that “[t]he existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be an ‘urgency to inform’ the public on the topic.” 15 C.F.R. § 4.6(f)(3). The press has published extensively on this event,²⁹ and experts have alleged the U.S. government’s involvement.

VII. Processing and Production

Processing should occur in strict compliance with the processing guidance in the Attorney General’s Memorandum on Freedom of Information Act Guidelines.³⁰ If you have any questions about our request or believe further discussions regarding search and processing would facilitate more efficient production of records of interest to AFL, then please contact me at FOIA@aflegal.org.

Thank you in advance for your cooperation.

Sincerely,

/s/ Reed Rubinstein

America First Legal Foundation

²⁹ E.g., Hannah Murphy & Bryan Harris, *Elon Musk’s X Braced for Ban in Brazil Amid Fight with Judge*, FIN. TIMES (Aug. 29, 2024), <https://perma.cc/6AUD-KSB8>; Robert Greenall & João da Silva, *X Braced for Brazil Ban as Judge’s Deadline Passes*, BBC (Aug. 29, 2024), <https://perma.cc/P28R-U2Y9>; Meghan Bobrowsky, *Starlink Caught in Crosshairs of Elon Musk’s Battle With Brazil*, WALL ST. J. (Aug. 29, 2024), <https://perma.cc/QX7E-PEYZ>; Gabriela Sá Pessoa et al., *How One Brazilian Judge Could Suspend Elon Musk’s X in the Coming Hours*, AP NEWS (Aug. 30, 2024), <https://perma.cc/EUF4-H5ME>; *How Brazil’s Experiment Fighting Fake News Led to a Ban on X*, N.Y. TIMES (Aug. 31, 2024), <https://perma.cc/PJ4Y-7M2L>.

³⁰ U.S. DEPT OF JUST. (Mar. 15, 2022), <https://perma.cc/K3EL-AANM>.