

tumblr.

**Government
Transparency Report**

Jan — June 2016

Introduction

Welcome to our January–June 2016 government transparency report.

On Tumblr, we encourage bold self-expression among our users, and we understand that a sustainable environment for such expression is built on mutual trust. This semi-annual report is one of the ways we reaffirm that trust.

Contained herein is a record of the instances in which government agencies—local, federal, and international—have requested information about our users, and how we’ve accommodated or denied those requests. Generally, these requests are made pursuant to a criminal investigation, but also could include any requests from a government agency in a civil matter. To further illuminate the process, we’re trying something new: including some anonymized examples of actual government requests we’ve received.

We began publicly documenting these requests in 2013,

and if you’re interested in reading up on their history, you’ll find the full archives at [tumblr.com/transparency](https://www.tumblr.com/transparency). For ease of comparison, the categories used and the format in which they are displayed have remained the same.

As always, we’re also using this report as an opportunity to discuss our policies on user notice, national security matters, and other issues that affect online privacy.

Tumblr is committed to being a good steward of the content our users produce, and of the account information with which they provide us. We hope you find this report informative, useful, enlightening—and reassuring. Balancing freedom of speech against our legal responsibilities is a challenge we take seriously, and an effort we’re proud of.

And now, on to the numbers. Enjoy.

Overview of All Requests for User Information, January to June 2016

From January to June 2016, we received 274 requests from U.S. state/territory, federal, and international government agencies for account information associated with 384 Tumblr URLs. Below we highlight which government agencies issued these requests,¹ the nature of the requests,² and how we responded to them.

¹To avoid jeopardizing ongoing investigations or public safety, we've grouped our numbers as follows:

"Federal" includes requests from the Federal Bureau of Investigation, Department of Homeland Security, Department of Justice, Department of the Air Force and Secret Service.

"State" includes requests from U.S.-based state and local law enforcement authorities (e.g. the New York City Police Department).

"International" includes requests from any foreign law enforcement authorities.

²See Appendix A for a more detailed explanation of the different types of legal processes that government agencies use to request user data.

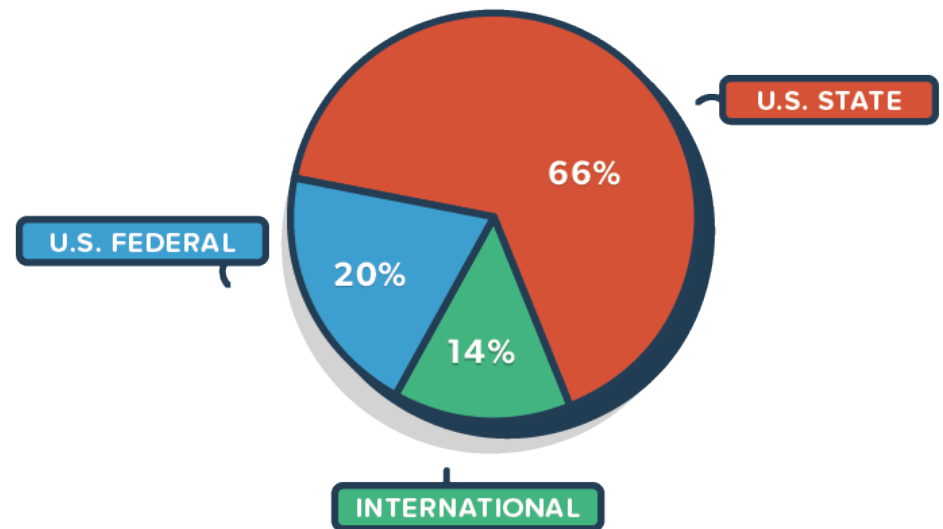
When reviewing the following charts, keep in mind that:

- "Account data" includes the registration email address, how long the Tumblr account has been registered, the IP addresses used when logging in, and the IP addresses used when posting.
- "Blog content" refers to the media and caption of public or private posts, as well as any messages sent between users.
- In cases when we produced blog content, we also produced account data. So the "Blog Content Produced" category is a small subset of the "Account Data Produced" category.

Government Requests Received, January to June 2016

From January to June 2016, we received 274 requests for information, and we provided either account data or blog content in response to 82% of them. The 384 blogs affected constitute approximately 0.00012% of all the blogs on Tumblr.

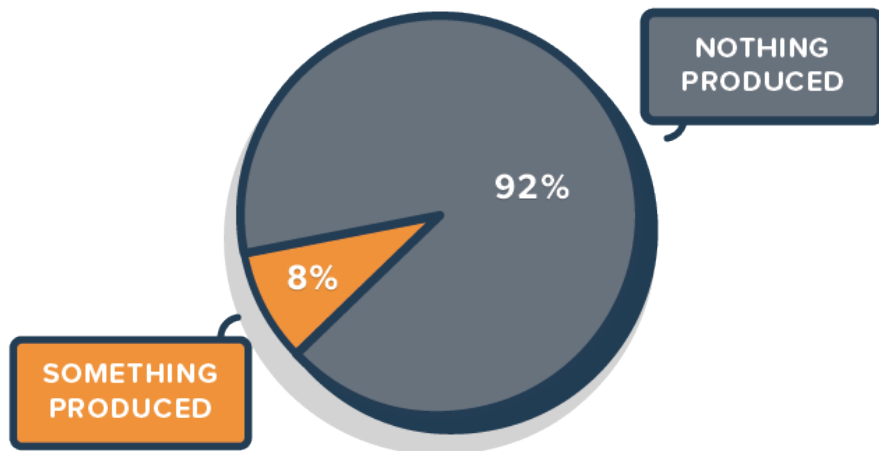
Tumblr refused to produce anything at all in response to 18% of the requests for user information during this reporting period.



	# of Requests	# of URLs Affected	% of Total Requests	% Blog Content Produced	% Account Data Produced	Was Something Produced? (%)
Federal	55	89	20%	10%	95%	YES 95% NO
State	182	251	66%	56%	93%	YES 93% NO
International	37	44	14%	0%	8%	YES 8% NO
Total	274	384	100%	32%	82%	YES 82% NO

International Requests for User Information, January to June 2016

From January to June 2016, we received 37 requests for user information from 17 foreign countries. 44 blog URLs were affected. We produced account data in response to 8% of these requests. We did not produce blog content in response to any foreign requests.



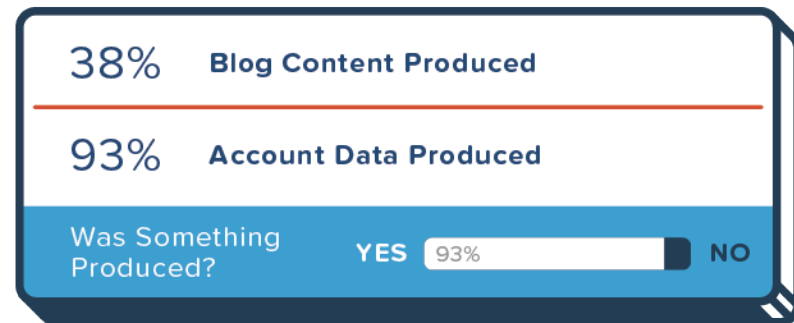
	# of Requests	# of URLs Affected	% Blog Content Produced	% Account Data Produced	Was Something Produced? (%)
Australia	1	1	0%	0%	NOPE
Canada	2	3	0%	0%	NOPE
Czech Republic	1	2	0%	0%	NOPE
France	1	1	0%	0%	NOPE
Germany	8	7	0%	0%	NOPE
Hong Kong	1	1	0%	0%	NOPE
India	2	2	0%	0%	NOPE
Indonesia	1	1	0%	100%	100%
Ireland	1	0	0%	0%	NOPE
Italy	2	2	0%	50%	YES 50% NO
Norway	1	1	0%	0%	NOPE
Poland	1	1	0%	0%	NOPE
Russia	1	1	0%	0%	NOPE
Singapore	7	11	0%	0%	NOPE
South Korea	2	2	0%	0%	NOPE
Spain	1	1	0%	0%	NOPE
United Kingdom	4	7	0%	25%	YES 25% NO
TOTAL	37	44	0%	8%	YES 8% NO

Domestic (U.S.) Requests for User Information, January to June 2016

From January to June 2016, we received 237 requests for information from U.S. federal and state/territory authorities, regarding 340 different blogs. We produced blog content in response to 38% of domestic requests, account data in response to 93% of domestic requests, and nothing at all in response to 7% of domestic requests. In cases where no content or data was produced, the requests may have been withdrawn, or were defective, or we may have objected to the requests on legal grounds.

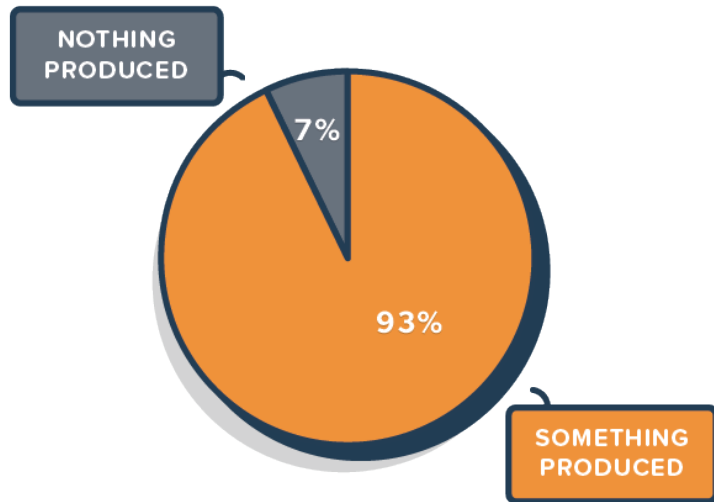


Additionally, we received between 0 and 249 national security requests in this time period,³ which affected between 0 and 249 URLs. U.S. law includes a highly restrictive framework for reporting this category of requests, and so we are limited to reporting in the aggregate and in bands of 250. We will continue to report as much information as we are legally allowed and include additional details if and when we can.

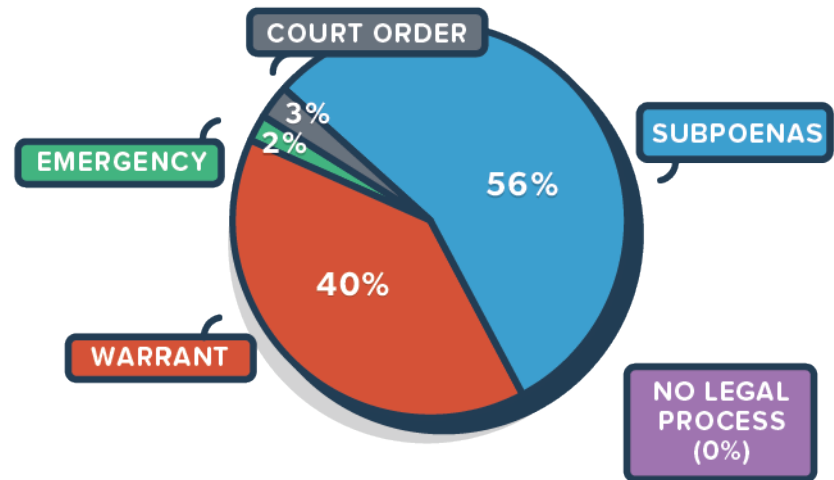


3. "National security requests" includes National Security Letters and FISA court orders.

Response to Domestic Legal Process



Type of Domestic Legal Process



Domestic (U.S.) Requests for User Information- State-By-State Analysis

From January to June 2016, we received 182 requests from state/territory law enforcement authorities, covering 251 blogs. We produced blog content in response to 46% of domestic state/territory requests, account data in response to 93% of domestic state/territory requests, and nothing at all in response to 7% of domestic state/territory requests.

	# of Requests	# of URLs Affected	% Blog Content Produced	% Account Data Produced	Was Something Produced? (%)
Arizona	5	8	20%	60%	YES 60% NO
Arkansas	1	1	100%	100%	100%
California	16	49	94%	100%	100%
Colorado	6	9	83%	100%	100%
Connecticut	1	1	100%	100%	100%
Delaware	1	3	0%	100%	100%
Florida	19	22	26%	89%	YES 89% NO
Georgia	10	10	60%	90%	YES 90% NO
Illinois	6	6	17%	100%	100%
Iowa	1	1	0%	100%	100%
Kentucky	3	5	0%	100%	100%
Louisiana	3	3	100%	100%	100%
Maryland	6	9	33%	100%	100%
Massachusetts	1	1	0%	100%	100%
Michigan	1	1	100%	100%	100%
Minnesota	6	5	0%	83%	YES 83% NO
Mississippi	1	1	0%	100%	100%
Missouri	5	5	20%	60%	YES 60% NO
Nebraska	2	2	0%	100%	100%
Nevada	9	10	22%	89%	YES 89% NO
New Hampshire	1	1	0%	100%	100%
New Jersey	6	10	0%	100%	100%
New Mexico	1	1	0%	100%	100%
New York	6	7	0%	83%	YES 83% NO
North Carolina	2	2	100%	100%	100%
Ohio	9	11	56%	100%	100%
Oklahoma	1	1	100%	100%	100%
Oregon	1	1	100%	100%	100%
Pennsylvania	3	2	0%	67%	YES 67% NO
Puerto Rico	3	4	0%	100%	100%
South Carolina	6	7	50%	67%	YES 67% NO
South Dakota	2	2	100%	100%	100%
Tennessee	3	3	67%	100%	100%
Texas	18	21	50%	100%	100%
Vermont	3	3	100%	100%	100%
Virginia	5	5	60%	100%	100%
Washington	4	6	100%	100%	100%
West Virginia	2	2	50%	100%	100%
Wisconsin	3	10	100%	100%	100%
TOTAL	182	251	46%	93%	YES 93% NO

Tumblr's User Notice Policy

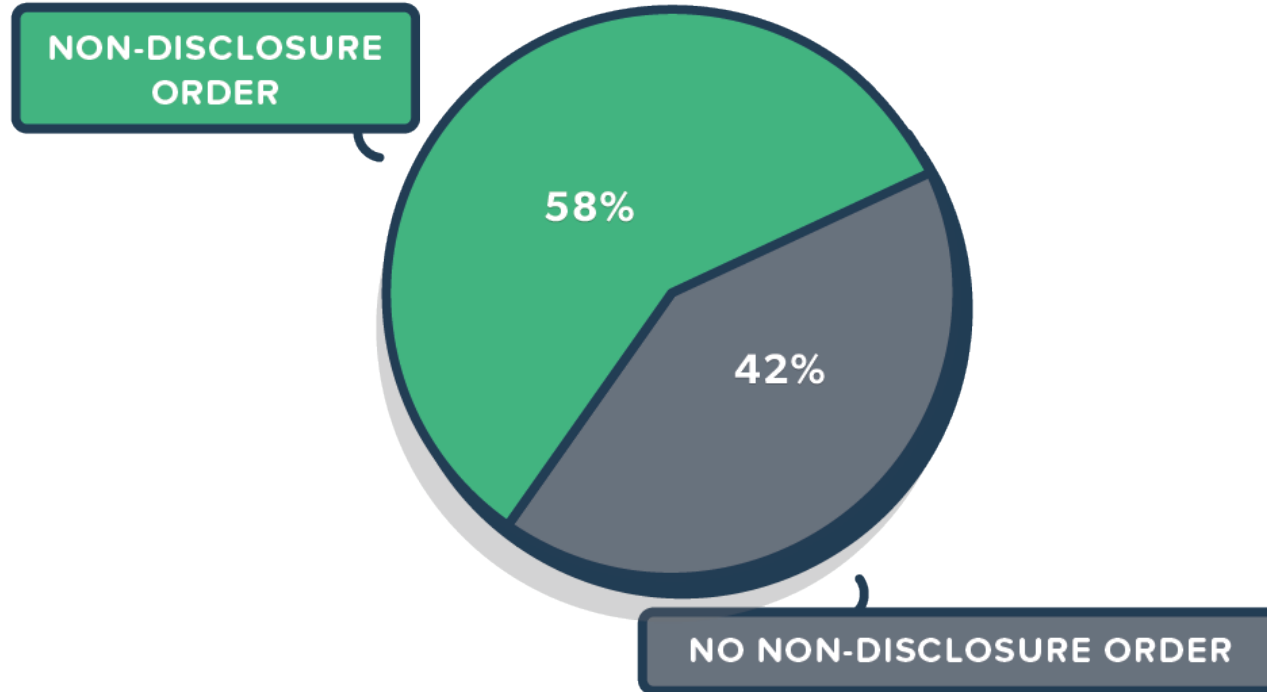
Our standard policy, as noted in previous transparency reports, is to notify users of any requests for their account information prior to disclosing it to the requesting agency. We do so in order to give the user an opportunity to challenge the request in court.

There are a handful of circumstances, however, when we delay any notice. Specifically:

- When we're prohibited from doing so by a non-disclosure order.
- When we conclude, in conjunction with government officials, that the time required to provide notice might result in death or injury. For instance, if officials asked for data that would help locate a user in need of immediate medical assistance.
- When presented with material indicating a serious threat to public safety, such as an imminent violent crime or harm to a minor. In such an event, we may delay notifying the user by 90 or more days to give law enforcement reasonable time for their investigation. We will notify the user that their account has been targeted once it becomes appropriate to do so.

Non-Disclosure Orders

From January to June 2016, 58% of account information requests were accompanied by non-disclosure orders, meaning that a court legally prohibited us from notifying our users about the request.



User Notice by Category of Investigation

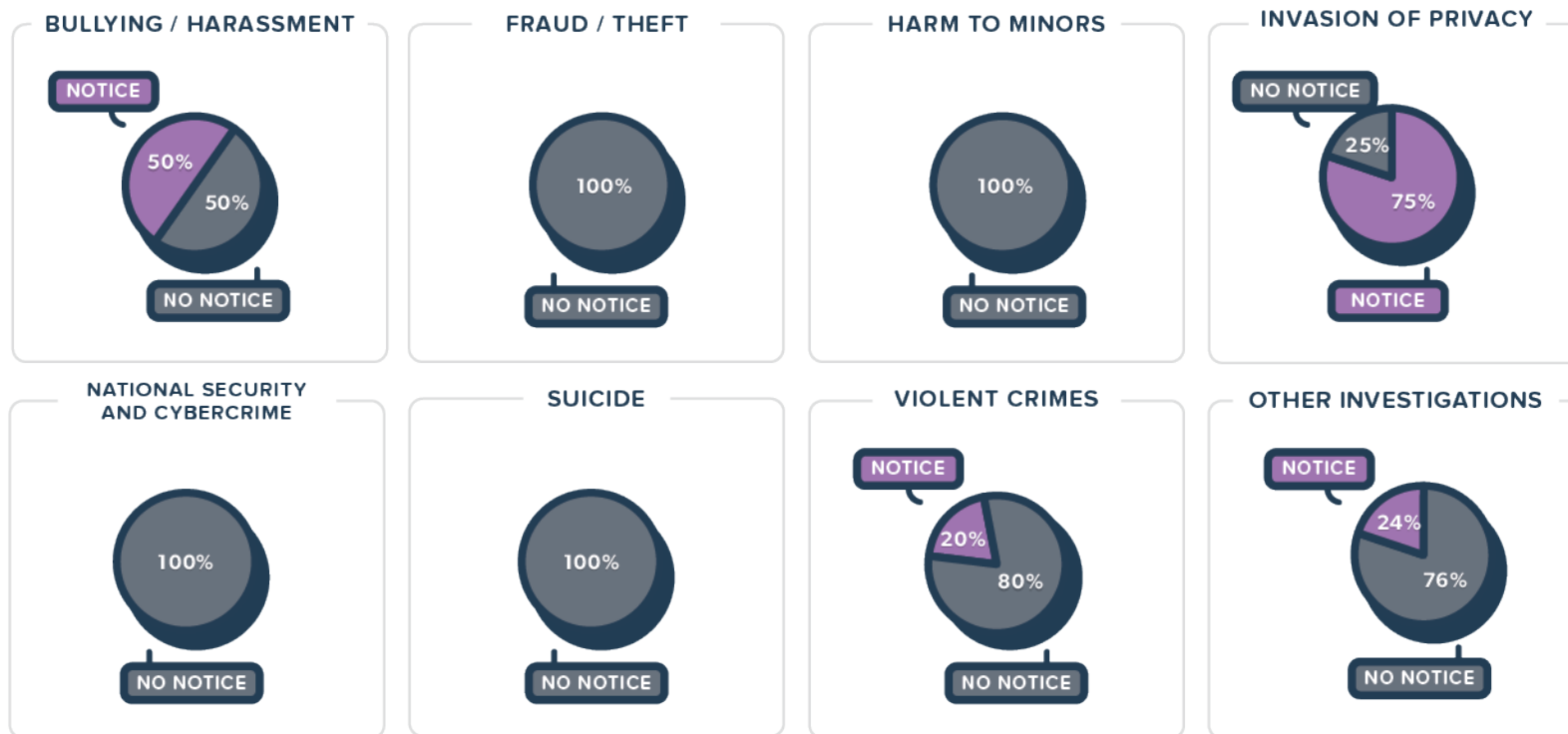
Below is our track record on providing prior user notice in those cases when we complied, at least in part, with requests for user information,⁴ organized by category of investigation.⁵

⁴ Note that in some cases, we provide user notice after having complied with a government data request.

⁵ "Other Investigations" includes all requests in which the nature of the underlying criminal investigation was not clear based on the request.

As mentioned above, if users were not notified prior to the disclosure of their account data, it was for at least one of the following reasons:

- The request was combined with a binding non-disclosure order;
- Notice was not practicable due to the threat of death or serious injury; or
- The case presented a serious threat to public safety.



Government Takedown Requests

From January to June 2016, we received 40 requests for content removal from 15 different countries. 73 blogs were affected. We removed content in 60% of the requests.

Tumblr is a U.S. company and complies with U.S. laws. In instances where foreign governments make takedown requests, we only process them when the content in question violates our Community Guidelines or Terms of Service. Additionally, in an effort to be as transparent as possible, these numbers include all requests coming from an official government office, to the extent that we are able to identify that the request came from a governmental authority, including informal requests made through our abuse forms.

	# of Requests	# of URLs Affected	Was Content Removed? (%)
Canada	1	1	100%
France	1	2	NOPE
Germany	7	10	YES 57% NO
India	1	2	100%
Italy	1	1	100%
Japan	3	18	100%
Mexico	1	1	100%
Norway	1	1	100%
Pakistan	1	1	100%
Russia	2	2	YES 50% NO
Singapore	2	3	YES 50% NO
Spain	3	3	YES 67% NO
Turkey	5	5	NOPE
United Kingdom	2	2	YES 50% NO
United States	8	19	YES 75% NO
TOTAL	40	73	YES 60% NO

Examples of Government Takedown Requests

In an effort to further illustrate the type of requests that we see at Tumblr, and provide even more transparency around these topics, we wanted to provide a few anonymized examples of requests that we received this reporting period.

From Singapore: We received two requests from the Singapore government to remove content that violated a local statute regarding Insulting the Modesty of a Woman. We removed content in response to one of these requests, as it violated Tumblr's Community Guidelines.

From the United Kingdom: We received one request from law enforcement in the UK to remove content related to a case of harassment. We rejected the request as the content did not violate Tumblr's Community Guidelines.

From the United States: We received one request from local law enforcement in Alabama, on behalf of the victim, requesting that images of non-consensual pornography be removed. We removed the content as it violated Tumblr's Community Guidelines.

Possible Emerging Trends

In the course of comparing our numbers from this period, January to June 2016, to those from previous periods, we noticed the following trends:

- We saw a large decrease in number of blogs affected by requests from the United States federal government this reporting period: 384 blogs for this 6 month period, compared with 3,819 blogs for the prior 6-month period.
- After an increase in government requests for content removal last reporting period, this reporting period saw the number of requests drop slightly, from 50 requests down to 40.
- This 6 month reporting period saw the greatest number of law enforcement and government requests for user data and content since we began publishing this report semi-annually. We received 274 requests for user data or content this reporting period, compared to 215 requests for the prior 6-month period.
- We continue to see the majority of request coming from U.S. state/territory law enforcement and government offices, rather than federal and international authorities.
- We received our first request for user information from Puerto Rico this reporting period.

- As far as international requests for user data and content, we received requests from the largest number of countries since we started reporting: 17. Among the countries that we had previously never received a request from are: Czech Republic, Hong Kong, Indonesia, Ireland, Italy, Poland and Spain.

Our sampling numbers are small, and all of these observations should be read with that caveat in mind. Still, the movements highlighted here may portend larger things to come. If you want to dig into the numbers yourself, we encourage you to—and we'd add that Tumblr is the perfect place to publish your findings.

And this concludes another fine transparency report. We hope you found it interesting and informative, and that you'll check back in six months for the next edition.

Appendix A – Types of Legal Process

Subpoenas. Subpoenas are the most common requests we receive. They generally don't require a judge's review. Under U.S. law, we may disclose limited account data in response to a lawful subpoena. Account data includes registration email address, how long a Tumblr account has been registered, and login IP addresses. Account data does not include posts made to a blog, whether public or private. Because Tumblr does not collect real names or addresses, we don't (and can't) provide this information in response to a subpoena.

Court orders. Court orders for user data may be issued under various U.S. federal and state laws, such as section 2703(d) of the Electronic Communications Privacy Act, a federal privacy law. Court orders are issued by judges and are generally harder to obtain than subpoenas. If we receive a lawful 2703(d) order, we may disclose the same account data described above, plus an additional category of account data: the IP address used to make a particular post.

Search warrants. Search warrants may be issued if a reviewing judge or magistrate concludes that there is "probable cause" to believe that a particular account may contain information related to a crime. Search warrants are generally harder to obtain than 2703(d) orders or subpoenas. Under U.S. law, we may disclose the same account data described above, as well as blog content, in response to a lawful search warrant. Blog content includes the posts made to a blog, both public and private. Posts can be any of Tumblr's seven post types, and comprise both the media and the caption of any given post.

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**Copyright and Trademark
Transparency Report**

Jan — June 2016

Introduction

Here it is, our latest copyright and trademark transparency report. As in previous editions, we're covering the number and nature of takedown requests (based on copyright and trademark infringement) we received over the past six months, from January through June of 2016.

To lend some clarity to the complex matter of intellectual property rights, we're once again taking you, step-by-step, through the mechanics of a Digital Millennium Copyright Act takedown order. You'll gain a greater understanding of how disputes around copyright get resolved, and you'll have something to talk about at parties.

Enjoy.

How we handle copyright infringement notifications under the Digital Millennium Copyright Act (DMCA)



A copyright holder, or their authorized representative, finds content on Tumblr that they believe violates their copyright.



The copyright holder or authorized representative sends Tumblr a DMCA notice.



Tumblr reviews the DMCA notice to determine if it is valid.

INVALID

Tumblr determines the request is invalid and notifies the complainant.

VALID



Tumblr processes the notice, removes the specified content, and notifies the user who posted the content. The user may receive a strike against their account. After three valid strikes, their account is terminated.

IF...

the user thinks that the content was removed in error, or can present a legal argument for why the content should remain up, they may file a counter-notice. Instructions for filing a counter-notice are sent to the user in the content removal email.



COUNTER NOTICE FILED

VALID



Tumblr determines if the counter-notice is valid.

INVALID

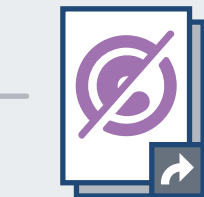
Tumblr notifies the user that their counter-notice is invalid. The deleted content is not restored, and the strike remains on the user's account.



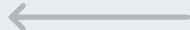
After 10 days, the removed content is restored, and the strike is removed from the user's account.

— BUT —

The user is now liable for the content they've posted. If the original complainant wishes to pursue recourse, they may sue the user for copyright infringement.



Tumblr sends the information from the counter-notice to the original complainant.



Overview of all DMCA notices received, January to June 2016

From January to June 2016, we received 12,864 DMCA notices and determined that 83% (10,686) were valid.¹ In response to valid notices, Tumblr:

- Removed 97,403 pieces of content
- Removed 61,053 posts (0.00004% of posts on Tumblr)
- Terminated 1,558 accounts in accordance with our policy against repeat copyright infringement

Looking at copyright notices by content type (tracking with Tumblr's post types):

Images: 83,515 items (86%)	Links: 868 items (< 1%)
Text: 4,515 items (5%)	Asks: 88 items (< 1%)
Audio: 3,999 items (4%)	Quotes: 86 items (< 1%)
Video: 3,326 items (3%)	Chats: 3 (< 1%)

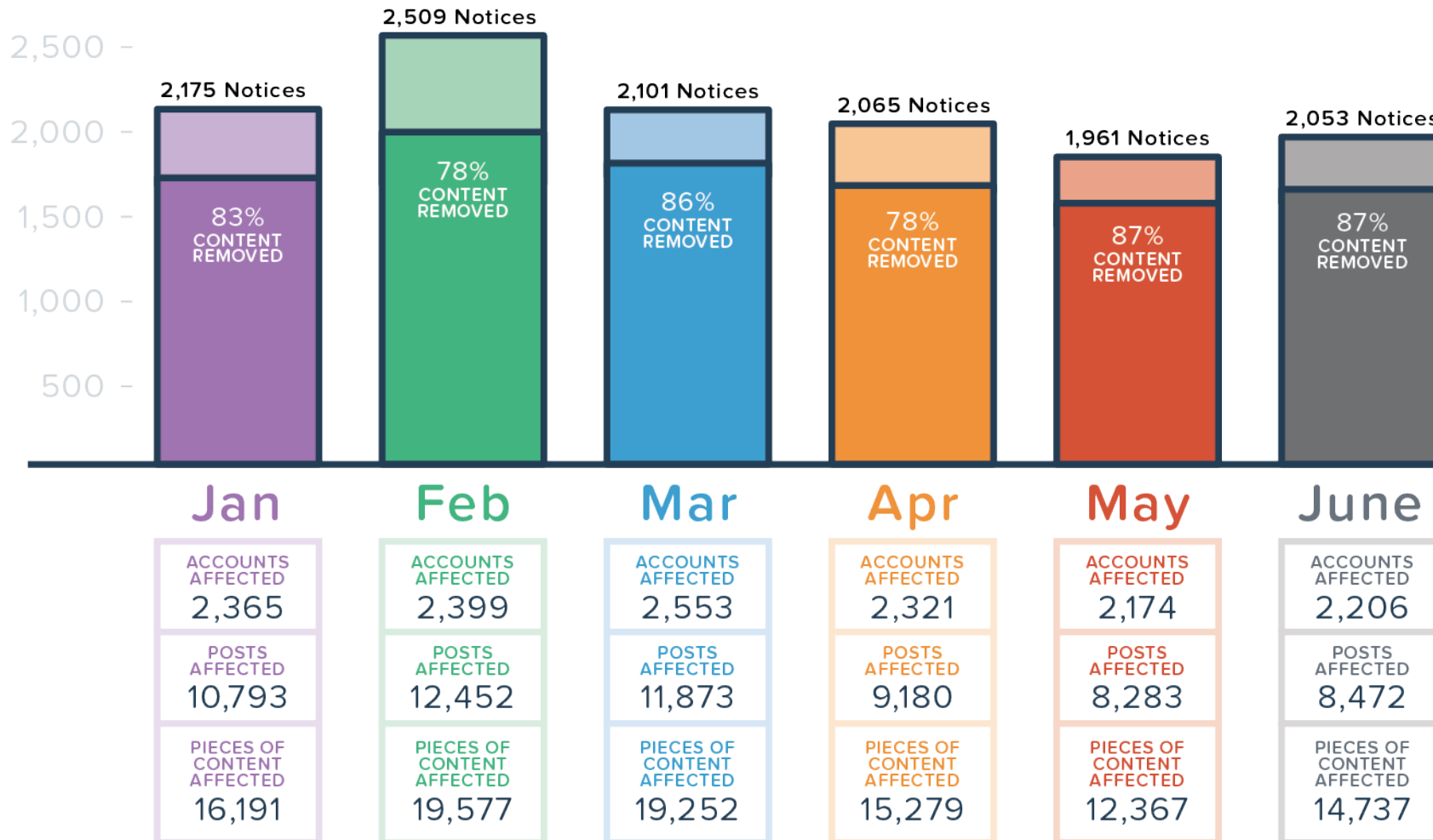
Additionally, 1,005 notices referred to either static blog pages or blog URLs (rather than post permalinks). In the latter case, the notice was ignored.

As a U.S. company, Tumblr requires that all copyright notices be submitted in accordance with the DMCA. When we receive non-compliant requests (including foreign requests), we ask the complainant to resubmit their request in accordance with the statute.

¹ Tumblr processes notices pursuant to the DMCA. Under the DMCA there are a number of conditions a complaining party must satisfy:

1. Identification of the work or material being infringed.
2. Identification of the material that is claimed to be infringing, including its location, with sufficient detail so that we are capable of finding it and verifying its existence.
3. Contact information for the notifying party, including name, address, telephone number, and email address.
4. A statement made under penalty of perjury that the information provided in the notice is accurate and that the complainant is authorized to make the complaint on behalf of the copyright owner.
5. A statement that the complainant has a good faith belief that the material is not authorized by the copyright owner, its agent or law.
6. The complainant's physical or electronic signature.

Overview of all DMCA notices received, January to June 2016



Overview of all DMCA counter-notices received, January to June 2016

From January to June 2016, we received a total of 85 counter-notices from users requesting the restoration of content that had been removed pursuant to a DMCA takedown notice. Of those 85, 32 were deemed valid² (38%). This affected a total of 32 accounts, and resulted in the restoration of 75 posts containing 87 pieces of media. Of the 61,053 posts that were removed pursuant to a takedown notice, 0.1% were restored using the counter-notice process.

² In accordance with the statute, a valid counter-notice must contain:

- The user's physical or electronic signature
- The user's name, address, and phone number
- Identification of the material and its location before it was removed
- A statement under penalty of perjury that the material was removed by mistake or misidentification
- The user's consent to the jurisdiction of a federal court in the district where the user lives (or the federal district court located in New York County, New York, if the user lives outside of the U.S.)
- The user's consent to accept service of process from the party who submitted the takedown notice

In addition to the statutory requirements, we sometimes ask for the legal or factual basis for filing the counter-notification

	# of Counter Notices	% Valid	# Accounts Affected with Restored Content	# of Posts Restored	# of Pieces of Content Restored
Jan	14	36%	5	8	8
Feb	17	29%	5	5	5
Mar	14	29%	4	4	4
Apr	7	43%	3	5	9
May	13	46%	6	9	9
June	20	45%	9	44	52
TOTAL	85	38%	32	75	87

Overview of all trademark complaints received, January to June 2016

Handling trademark issues (either potential infringement or instances of confusion) is complex, especially for neutral platforms like Tumblr, and consequently requires additional analysis as compared to copyright infringement. We first require documentation of a live federal or international trademark registration—often the name of a business or its logo.³ We then look at a variety of factors to determine if reported content or a URL is misleading to users or causes confusion, and what action to take in these cases. Among them:

- How the reported term is being used
- Content found on the blog
- The registered goods and services
- Landscape of similar marks related to the reported term
- When the reported term was first used

³ In rare cases we make exceptions to this requirement, such as when a name or phrase is exceptionally distinctive or famous.

	# of Requests	# of URLs Affected	% Blog Content Removed	% URLs Changed
Jan	23	41	4%	70%
Feb	29	30	0%	79%
Mar	32	33	3%	72%
Apr	18	18	0%	72%
May	24	24	4%	54%
Jun	16	17	0%	75%
TOTAL	142	163	2%	70%

Overview of all trademark complaints received, January to June 2016

Based on our findings, we may prescribe one or more of the following actions:

- If a user is using a misleading URL, we may require them to change it. We notify the URL holder and give them an opportunity to change the URL on their own before we change the URL to something generic on their behalf.
- Alternatively, we may request that a user include a disclaimer on their blog, should we determine that a disclaimer would alleviate confusion.
- Sometimes, we remove specific posts that are using a term to create confusion. Like all content takedowns on the site, we always notify the user when we remove any of their content, and include as much information as possible regarding the claim made against their post.

From January to June 2016, we received a total of 142 trademark complaints relating to 289 accounts on Tumblr. Among those 163 complaints, only 2% of them led to the removal of content, while 70% of them led to the modification of blog URLs.

As you can see, the majority of trademark complaints that we receive are related to a blog URL that a complainant believes is causing confusion.

Possible Emerging Trends

In the course of comparing our numbers from this period, January to June 2016, to those from previous periods, we noticed the following trends:

- The number of DMCA takedowns issued was relatively steady over this period, with the number of posts removed increasing by only 2%.
- We continue to see a decline in DMCA takedowns for audio content—with the number of requests dropping from 5,464 to 3,999.
- Text posts, conversely, received over three times the number of takedown requests—rising to 4,515 from 1,813.

Beyond that, there hasn't been a lot of change in the takedown rate since last time around. But hey, if you like numbers, we encourage to dive as deeply into these numbers as you want.

And that, friend, is the end of our third copyright and trademark transparency report. We hope you've enjoyed this overview of the size, scope, and texture of intellectual property disputes on Tumblr. See you again six months from now, when we'll have updates on takedown requests made throughout the second half of 2016.