

tumblr.

**Government
Transparency Report**

January – June 2015

Introduction

Welcome to our January–June 2015 government transparency report.

At Tumblr, we're committed to maintaining trust and transparency with our users. This semi-annual report is one of the ways we reaffirm that trust. What you have here is a record of government requests for user information—including when, why, and how government agencies (both domestic and international) asked us for user data, and how we responded to those requests.

We also use this space as an opportunity to discuss our policies on user notice, national security matters, and other issues that affect online privacy.

Should you find yourself interested in previous editions of this report, you'll find them archived at [tumblr.com/transparency](https://www.tumblr.com/transparency). The format and categories are the same, so it should be pretty easy to compare.

We hope you find this report informative, useful, and enlightening. Or at the very least, free of typos. Enjoy.

Overview of All Requests for User Information, January to June 2015

Between January and June 2015, we received 190 requests from state, federal, and international government agencies for account information from 227 Tumblr URLs. Below we highlight which government agencies issued these requests,¹ the nature of the requests,² and how we responded to them.

1. To 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, and Department of Justice.*
- *"State" includes requests from U.S.-based state and local law enforcement authorities (e.g. New York City Police Department).*
- *"International" includes requests from any foreign law enforcement authorities (e.g. investigators or prosecutors in Chile, France, or India).*

2. See Appendix A for a more detailed explanation of the different types of legal process we receive from government agencies.

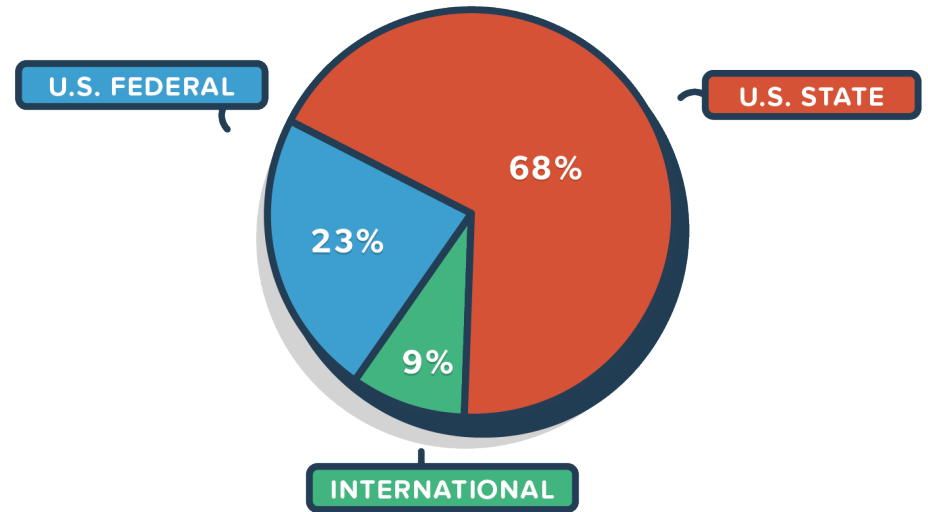
When reviewing the following charts, please keep in mind that:

- "Account data" includes the registration email address, how long the Tumblr account has been registered, login IP addresses, and the IP address used to make a post.
- "Blog content" refers to the media and caption of public or private posts, as well as any messages sent between users, like fan mail.
- 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.

All Government Requests Received, January to June 2015

From January to June 2015, we received 190 requests for information, and we provided either account data or blog content in response to 82% of them. The 205 blogs affected constitute approximately 0.00008% 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.

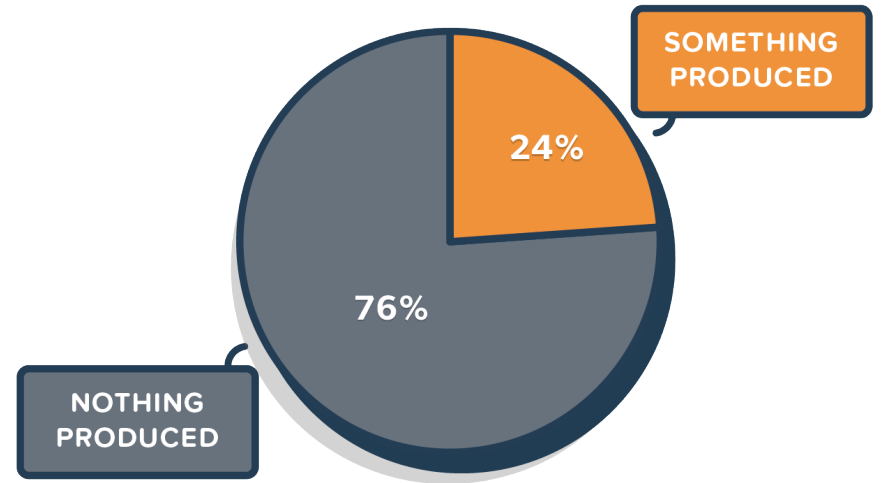


	# of Requests	# of URLs Affected	% of Total Requests	% Blog Content Produced	% Account Data Produced	Was Something Produced? (%)
Federal	43	63	23%	14%	91%	YES 91% NO
State	130	148	68%	36%	87%	YES 87% NO
International	17	16	9%	0%	24%	YES 24% NO
Total	190	227	100%	28%	82%	YES 82% NO

International Requests for User Information, January to June 2015

From January to June 2015, we received 17 requests for user information from 11 foreign countries.³ 16 blog URLs were affected. We produced account data in response to 24% of these requests. We did not produce blog content in response to any of these requests.

3. To avoid jeopardizing ongoing investigations or public safety, any countries that requested user data fewer than three times are reported as "< 3".



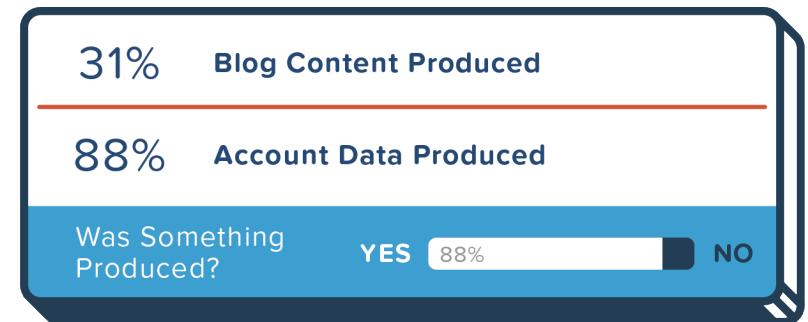
of Requests
of URLs Affected
% Blog Content Produced
% Account Data Produced

	# of Requests	# of URLs Affected	% Blog Content Produced	% Account Data Produced	Was Something Produced? (%)
Argentina	< 3	< 3	0%	0%	NOPE
Canada	< 3	< 3	0%	50%	YES 50% NO
Finland	< 3	< 3	0%	0%	NOPE
France	< 3	< 3	0%	0%	NOPE
Germany	< 3	< 3	0%	50%	YES 50% NO
Greece	< 3	< 3	0%	100%	100%
Korea	< 3	< 3	0%	0%	NOPE
Mexico	< 3	< 3	0%	0%	NOPE
New Zealand	< 3	< 3	0%	0%	NOPE
Turkey	< 3	< 3	0%	0%	NOPE
United Kingdom	4	3	0%	25%	YES 25% NO
TOTAL	17	16	0%	24%	YES 24% NO

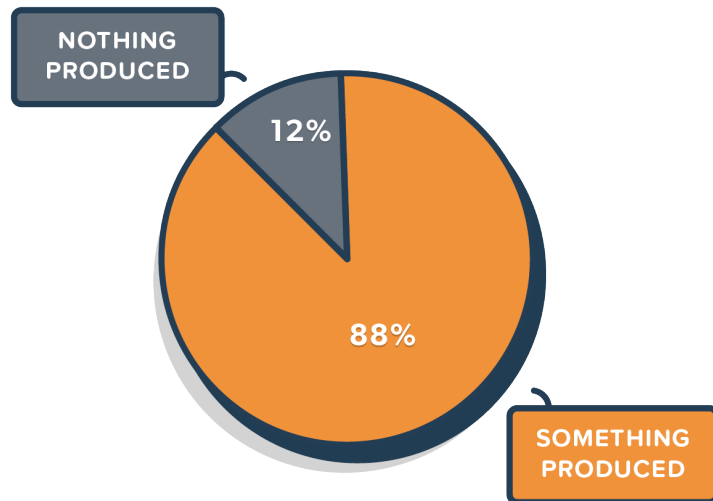
Domestic (U.S.) Requests for User Information, January to June 2015

From January to June 2015, we received 173 requests for information from U.S. federal and state authorities. 211 blogs were affected. We produced blog content in response to 31% of domestic requests, account data in response to 88% of domestic requests, and nothing at all in response to 12% 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.

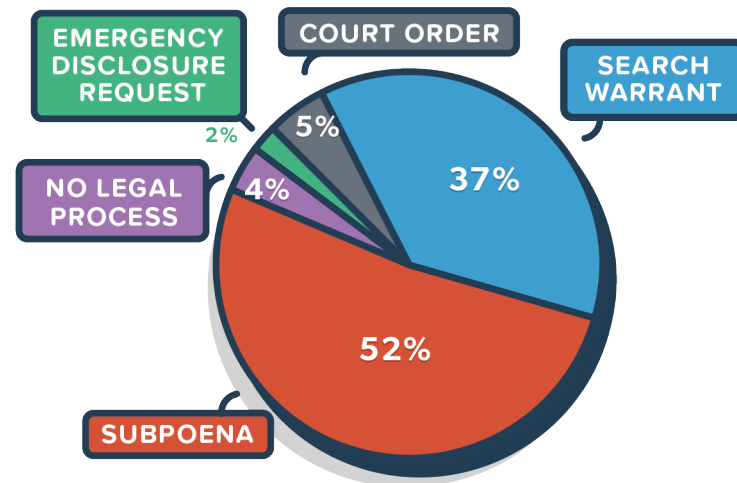
173	Requests Received
211	URLs Affected
3	Emergency Requests
64	Search Warrants
90	Subpoenas
9	Court Orders
7	Other Requests (e.g. email or fax requests)



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 2015, we received 130 requests from state law enforcement authorities, covering 147 blogs. We produced blog content in response to 36% of domestic state requests, account data in response to 87% of domestic state requests, and nothing at all in response to 13% of domestic state requests.⁴

4. To avoid jeopardizing ongoing investigations or public safety, any U.S. states that requested user data fewer than three times are reported as "< 3".

	# of Requests	# of URLs Affected	% Blog Content Produced	% Account Data Produced	Was Something Produced? (%)
Alaska	< 3	< 3	100%	100%	100%
Arizona	< 3	< 3	50%	100%	100%
California	8	9	88%	100%	100%
Colorado	3	3	33%	100%	100%
Connecticut	3	< 3	0%	33%	YES 33% NO
Delaware	< 3	< 3	0%	100%	100%
Florida	8	9	13%	100%	100%
Georgia	< 3	< 3	0%	0%	NOPE
Hawaii	< 3	< 3	0%	0%	NOPE
Illinois	9	15	33%	89%	YES 89% NO
Iowa	< 3	< 3	50%	50%	YES 50% NO
Kansas	< 3	< 3	100%	100%	100%
Kentucky	< 3	< 3	100%	100%	100%
Maine	< 3	< 3	0%	0%	NOPE
Maryland	8	10	13%	88%	YES 88% NO
Massachusetts	3	3	33%	100%	100%
Michigan	< 3	< 3	50%	50%	YES 50% NO
Minnesota	4	4	25%	75%	YES 75% NO
Missouri	< 3	< 3	50%	100%	100%
Montana	< 3	< 3	50%	100%	100%
Nevada	< 3	< 3	0%	50%	YES 50% NO
New Hampshire	< 3	< 3	100%	100%	100%
New Jersey	6	5	20%	100%	100%
New Mexico	4	4	25%	100%	100%
New York	8	7	0%	75%	YES 75% NO
North Carolina	4	4	50%	75%	YES 75% NO
Ohio	5	5	60%	100%	100%
Oregon	< 3	< 3	100%	100%	100%
Pennsylvania	6	5	50%	67%	YES 67% NO
South Carolina	4	4	0%	100%	100%
Tennessee	< 3	< 3	100%	100%	100%
Texas	9	16	22%	100%	100%
Utah	< 3	< 3	0%	100%	100%
Virginia	6	7	67%	100%	100%
Washington	3	6	67%	100%	100%
Wisconsin	< 3	3	50%	100%	100%
TOTAL	130	147	36%	87%	YES 87% NO

Tumblr's User Notice Policy

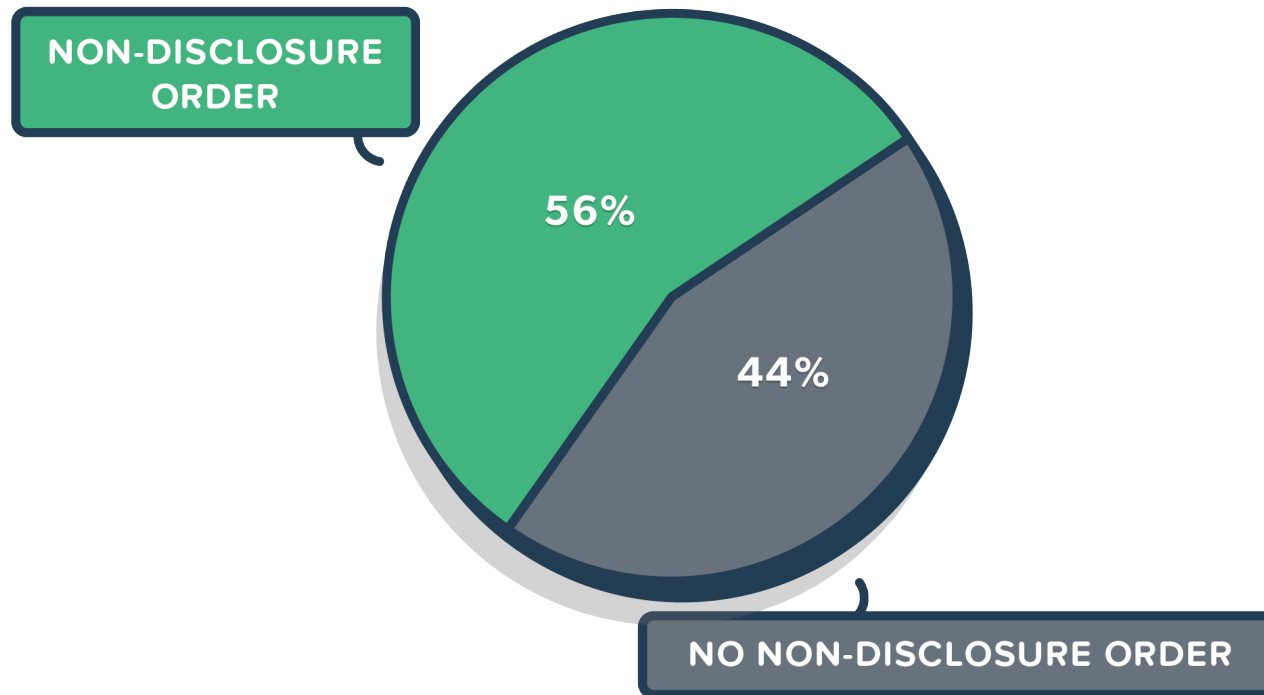
Our standard policy, as noted in previous transparency reports, is to notify users of any requests for their account information prior to disclosing it to the requesting agency. We do so in order to give the user an opportunity to challenge the request in court.

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 a user were to post a credible suicide note, and we were asked for data that would help officials locate him or her so as to provide immediate medical help.
- In cases that present a serious threat to public safety, such as imminent violent crimes or harm to minors. In such an event, we may delay notice 90 or more days to give law enforcement reasonable time for their investigation. Ultimately, however, we will provide the user notice that their account had been targeted.

Non-Disclosure Orders

From January to June 2015, 56% 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

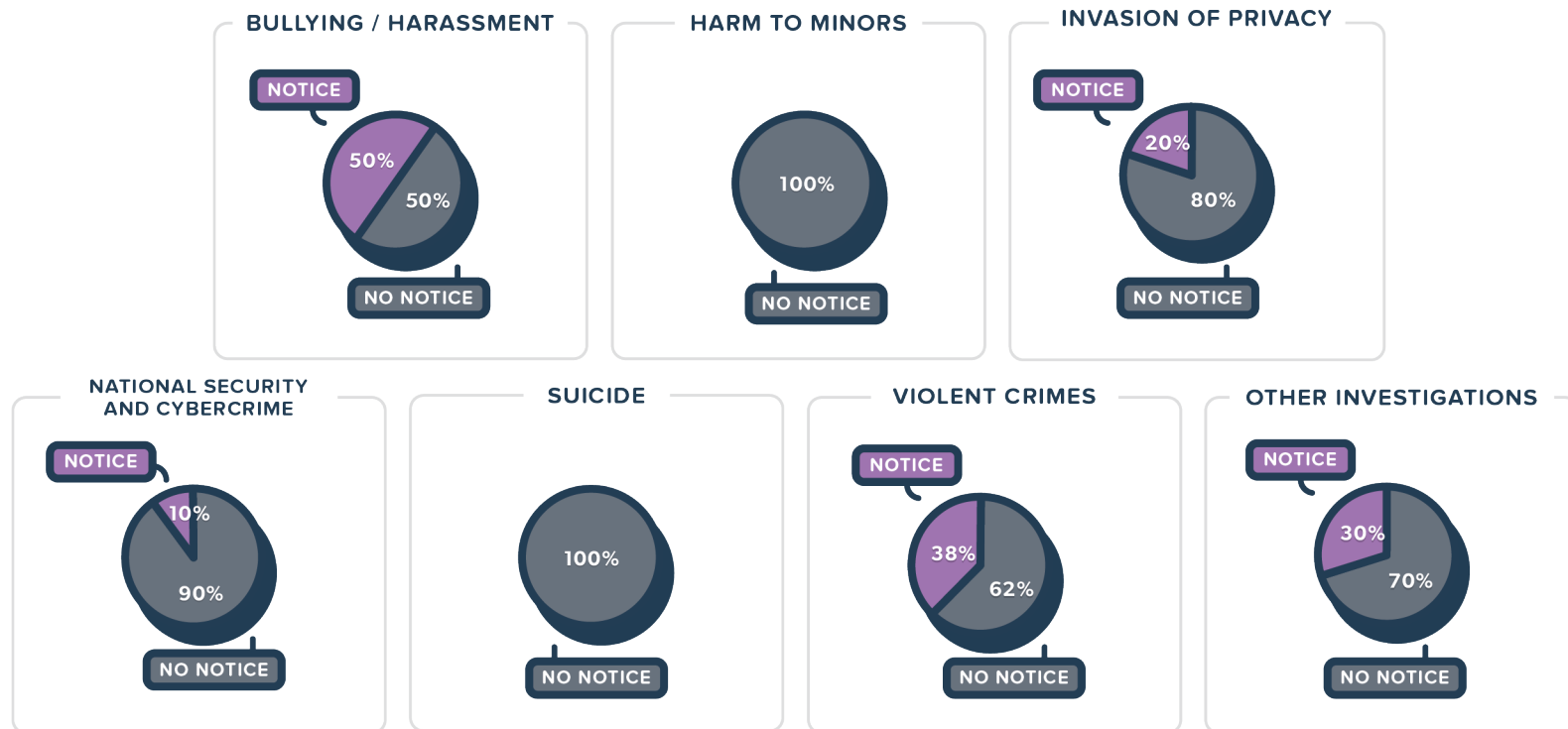
Below is our track record on providing prior user notice in cases when we complied, at least in part, with requests for user information,⁵ organized by category of investigation.⁶

5. Note that in some cases, we provide user notice after having complied with a government data request. Additionally, in previous reports we reported on an 8th user notice category: Fraud/Theft. To our knowledge, we did not receive any requests in that category this reporting period.

6. "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.



National Security Issues

Requests made on national security grounds typically take the form of National Security Letters from the FBI, or classified orders from a FISA (Foreign Intelligence Surveillance Act) court. As of the date of publication, we have never received a National Security Letter, FISA order, or other classified request for user information.

Though there may be times in the future when these instruments prevent us from disclosing any information, we will continue to be as transparent as legally possible.

Government Takedown Requests

From January to June 2015, we received 13 requests for content removal from 5 different countries. 26 blogs were affected. We removed content in 54% of the requests.⁷

7. Note that Tumblr is a U.S. company and complies with U.S. laws. In any instance where content was removed, it was always in accordance with our policies.

To avoid jeopardizing ongoing investigations or public safety, any countries that submitted a takedown fewer than three times are reported as "<3".

	# of Requests	# of URLs Affected	Was Content Removed? (%)
Brazil	< 3	< 3	100%
Portugal	< 3	< 3	NOPE
Thailand	< 3	< 3	100%
United Kingdom	3	7	YES 33% NO
United States	6	15	YES 67% NO
TOTAL	13	26	YES 54% NO

Possible Emerging Trends

In the course of comparing our numbers from this period, January to June 2015, to those from previous periods, we noticed the following trends:

- Though the number of requests did not increase significantly, we saw a notable decrease in blogs affected by the requests: 227 blogs for this 6-month period, compared to 269 blogs for the prior 6-month period.
- We received proportionally more “facially defective” domestic law enforcement requests (that is, not supported by any legal process): 4% of all requests for this period, compared to 0.58% for the prior period.
- There was an increase in valid requests, as we were required to provide account data in response to 82% of all requests for this period, compared to 77% for the prior period.
- On the user notice front: We continue to see an increase in requests that contain non-disclosure orders. This period, 56% of all requests were combined with a non-disclosure order, compared with 43% for July–December 2014, and 37% for January–June 2014.

We’ll leave it to the number crunchers and policy wonks to draw (or not draw) broader conclusions from this data, and we should emphasize that our sampling numbers are very small, but we still think these trends are worth highlighting.

And that’s the end of our 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 one of Tumblr's seven post types, including text, audio, images, or videos.

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**Copyright and Trademark
Transparency Report**

January – June 2015

Introduction

Welcome to our inaugural copyright and trademark transparency report, which covers the number and nature of takedown requests (based on copyright and trademark infringement) we received from January through June of 2015.

Ever since we published our first government transparency report back in February of 2014, we wanted to include copyright and trademark takedown requests in our reporting. However, we weren't able to aggregate all the data as precisely as we wanted to...until now.

As with most legal matters, intellectual property disputes can be thorny, and their handling is almost always dictated by existing laws. Accordingly, we'd also like to take this opportunity to go step-by-step through our process, so that you know more about why and how content gets removed from Tumblr in response to such claims.

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.

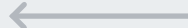


Tumblr determines if the counter-notice is valid.

VALID



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



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.

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.

Overview of all DMCA notices received, January to June 2015

From January to June 2015, we received 13,448 DMCA notices and determined that 84% (11,343) were valid.¹ In response to valid notices, Tumblr:

- Removed 126,198 pieces of content;
- Removed 77,357 posts (0.00007% of posts on Tumblr);
- Terminated 3,174 accounts in accordance with our policy against repeat copyright infringement (~0% of accounts on Tumblr).

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

Images: 108,494 items (86%)

Audio: 13,868 items (11%)

Video: 1,279 items (1%)

Text: 1,084 items (1%)

Links: 306 items (1%)

Quotes: 102 items (<1%)

Asks: 51 items (<1%)

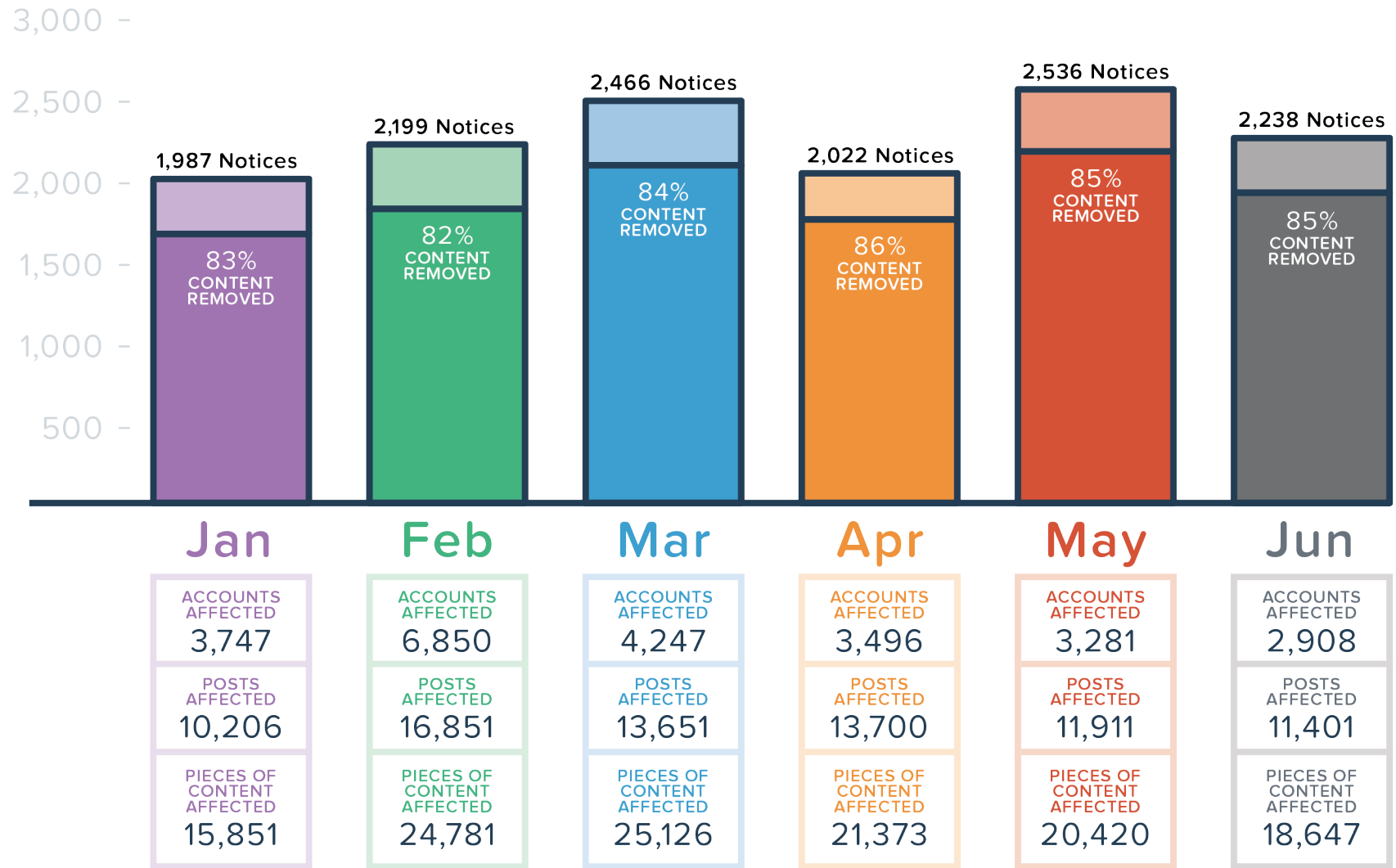
Chats: 5 (<1%)

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:

- *Identification of the work or material being infringed.*
- *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.*
- *Contact information for the notifying party, including name, address, telephone number, and email address.*
- *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.*
- *A statement that the complainant has a good faith belief that the material is not authorized by the copyright owner, its agent, or law.*
- *The complainant's physical or electronic signature.*

Overview of all DMCA notices received, January to June 2015



Overview of all DMCA counter-notices received, January to June 2015

From January to June 2015, we received a total of 55 counter-notices from users requesting the restoration of content that had been removed pursuant to a DMCA takedown notice. Of those, 14 were deemed valid (25%).² This affected a total of 14 accounts, and resulted in the restoration of 63 posts containing 78 pieces of media. Of the 77,357 posts that were removed pursuant to a takedown notice, 0.08% 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	6	33%	2	2	3
Feb	14	29%	4	11	14
Mar	7	29%	2	2	11
Apr	3	33%	1	1	1
May	13	15%	2	41	41
Jun	12	25%	3	6	8
TOTAL	55	25%	14	63	78

Overview of all trademark complaints received, January to June 2015

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	33	50	0%	82%
Feb	27	32	0%	81%
Mar	61	62	5%	77%
Apr	59	70	3%	56%
May	52	58	6%	69%
Jun	57	67	2%	74%
TOTAL	289	339	3%	72%

Overview of all trademark complaints received, January to June 2015

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 current user 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 determine that a disclaimer would alleviate any confusion, and so request that the user include a disclaimer on their blog.
- 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 2015, we received a total of 289 trademark complaints relating to 339 blogs on Tumblr. Among those 289 complaints, only 3% of them led to the removal of content, while 72% 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.

And this marks the end of Tumblr's first-ever copyright and trademark transparency report. We hope you've enjoyed it, and that it helped clarify the sometimes-murky waters of intellectual property disputes. Check back in six months for the next edition, where we'll be updating you on requests made throughout the rest of 2015.