

Notice and Takedown Procedure

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Introduction

This NTD document is one of the items of an initiative of organizations that are doing their best to combat the presence of unlawful or infringing content on its network.

The NTD document establishes no new statutory obligations but is intended to help organizations to operate with care within the existing legislative framework in the removal of information from the Internet at the request of third parties. A procedure is described for this purpose. Complying with the procedure is voluntary, and there can be no formal enforcement in the case of noncompliance. The benefits of complying with this document lie in the achievement of more efficient procedures and in the reduction of liability risks. This is a document of conduct that lays down the conditions for the interaction between the parties involved.

The NTD procedure addresses the way reports concerning (alleged) unlawful content on the Internet are dealt with. In addition, it can also be employed with respect to content that intermediaries consider being undesirable or damaging. The document should contribute to the ability of private individuals and organizations to deal effectively with these types of reports between themselves as far as possible. The possibility always remains for them to bring the matter before the courts or to make an official report to the police.

Notice and Takedown Procedure

HostingClub respects your rights and expects you to respect the rights of others.

This NTD procedure does not apply to situations where other statutory obligations or liabilities are applicable to HostingClub's Customers on the basis of legislation and jurisprudence.

HostingClub is not able to fully monitor the manner in which its services are being used by a Customer or an end user. HostingClub does not have access to the content hosted by its Customers.

The law requires an Applicant to send a notice first to the person or organization that has placed certain content on the Internet. The Applicant can then submit the report to HostingClub in case the responsible person or organization is unknown or if they do not respond to the abuse notification.

Report requirements

It is preferable that a report is only made once it is clear that the Applicant and the content owner will not be unable to reach an agreement. The Applicant is responsible for ensuring abuse reports are correct and complete.

HostingClub should be able to verify that reports following an investigation regarding a criminal offense have originated from an inspection or investigation service, or — in the case of a formal legal order — from the Public Prosecutor's Office. A report of any other nature than the foregoing should be based on HostingClub's compliant procedure.

Evaluation

HostingClub shall evaluate the report and classify it into one of three categories:

1.

Punishable content reported by an inspection or investigation service, or — in the case of a formal legal order.

2.

Unequivocally unlawful and/or punishable content reported by sources other than the authorities listed under 1;

3.

All other content, falling neither under category 1 or 2.

Measures

HostingClub's categorization of the report determines which measures are taken to address the report.

In the event that HostingClub determines that the content concerned is unequivocally unlawful or punishable, in other words, falls under the above-mentioned categories 1 and 2, HostingClub ensures that the access to the infringing source is blocked.

In the event that HostingClub determines that the content concerned is not unequivocally unlawful or punishable, in other words, falls under the above-mentioned category 3, the access to the infringing source is not going to be blocked. HostingClub will inform Applicant accordingly.

In the event that HostingClub is not or insufficiently able to judge whether the content concerned is unequivocally unlawful or punishable, HostingClub will inform the content owner about the report with the request to remove the content or to contact Applicant. If Applicant and the content owner are unable to reach an agreement, Applicant can make an official report to the police if a criminal offense might be concerned. If it concerns content that is alleged to be unlawful under civil law, Applicant can bring the dispute with the content owner before a Dutch court of law. Should the content owner be unwilling to sufficiently identify himself to Applicant, HostingClub has the right to provide Applicant with the content owner's name, email address and IP-address or to block the access the source.

Period

Categorization and appropriate measures will preferably take place as soon as possible, within ultimately 10 work days after receiving the report.

Urgency

Applicant might request HostingClub to deal with the report as a matter of urgency. In that case, the report should substantiate the reasons for urgency. HostingClub determines at its own discretion whether the report should be dealt with as a matter of urgency on the basis of the foregoing explanation.

Final provisions

HostingClub can request an explicit indemnity from an Applicant against claims from the content owner as a result of taking measures in the context of dealing with the report.

Applicants and content owners can come to a mutually acceptable agreement to make use of (shortened) procedures that differ from or that are supplementary to this document of conduct.