



Government Mandates to Remove Content Are Ineffective, Costly, and Anti-Competitive

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Executive Summary

Government mandates that social media sites remove user-generated content are ineffective, costly, and anti-competitive. The CCIA Research Center's *ex post* cost-benefit analysis of Germany's Network Enforcement Act (*Netzwerkdurchsetzungsgesetz* or NetzDG), a model for such policies, finds that in 2022, NetzDG resulted in just 5,138 incremental content takedowns at four leading social media sites with trillions of instances of user-generated content annually. The sites required 441 staffers for NetzDG compliance, resulting in fewer than one incremental content takedown per month per staffer. The compliance regime cost the four sites between \$1,741 and \$5,116 per incremental takedown, with a broader cost to the German economy of €20.4 million (or \$22.25 million) per year, about \$4,336 per incremental takedown. These costs discourage competition in social media by impacting smaller social media sites more than larger sites. As startups have fewer resources to spend on compliance and because there are economies of scale in compliance with NetzDG-like policies, barriers to entry result.

A U.S. NetzDG-like Law Would Waste Users' Time Without Achieving a Significant Reduction in Harmful Content

Germany passed NetzDG in 2017, which imposed high fines for social media networks with 2 million or more registered users. The law requires social media networks to review all complaints and remove designated categories of content within 24 hours, and if they do not comply, the network may be fined up to €50 million euros (or \$54 million) for noncompliance. The law also requires social media networks to provide forms for users to submit complaints about user-generated content, and social media networks that receive more than 100 complaints must publish reports twice a year in German on how they handled NetzDG complaints.¹ Some lawmakers in the U.S. have hinted at proposing similar legislation, which would introduce high compliance costs for social media companies and impose prescriptive mandates on the U.S. digital economy.

According to NetzDG Transparency Reports filed by social media sites pursuant to compliance requirements, in 2022, four social media sites – YouTube, Facebook, Instagram, and Twitter² – received more than 2,710,327 million complaints in Germany pursuant to NetzDG. Of these complaints, 99.8% - 2,705,189 reports - were either non-violative of NetzDG or duplicative. 84.4% of all reports were false positives, and 98.8% of the remaining reports were already caught by the social media sites' community guidelines. For users filing such reports, conservatively assuming it takes an average of ten minutes to complete each detailed submission form, users wasted 22.9 million minutes filing false positive NetzDG reports and 4.2 million minutes filing duplicative reports, for a total of 27.1 million minutes wasted filing NetzDG reports in 2022. That's 51.6 years of users' time wasted filing needless reports during a single year, to produce just 5,138 incremental takedowns across four leading sites. That's 3.7 days of users' time wasted for each incremental takedown.

According to the Transparency Reports³ from these social media companies, the amount of user-generated content removed due to NetzDG is tiny. At each one of the four sites analyzed, more than 83% of all 2022 NetzDG complaints filed were false positives or complaints about non-violative user-generated content. Additionally, more than 91% of the violative content was already being removed due to firm policies such as community guidelines. Extending the analysis to look at the amount of NetzDG removals of all posts, fewer than 2,000 posts per social media sites every six months were removed due to NetzDG, on sites with billions of posts per day and trillions per year. For example, NetzDG resulted in the removal of a tiny fraction of Facebook's content: 2.15×10^{-9} , or 0.000000215% of user-generated content instances.

1 Jenny Gesley, *Germany: Network Enforcement Act Amended to Better Fight Online Hate Speech*, Library of Congress (July 6, 2021), <https://www.loc.gov/item/global-legal-monitor/2021-07-06/germany-network-enforcement-act-amended-to-better-fight-online-hate-speech/>; Jenny Gesley, *Germany: Social Media Platforms to Be Held Accountable for Hosted Content Under "Facebook Act"*, Library of Congress (July 11, 2017), <https://www.loc.gov/item/global-legal-monitor/2017-07-11/germany-social-media-platforms-to-be-held-accountable-for-hosted-content-under-facebook-act/>.

2 On April 4, 2023, the German government initiated a NetzDG proceeding against Twitter alleging a failure to remove violative content regarding a single person. Figures in this paper may change pending the outcome of the case.

3 Google Transparency Report, YouTube, Removals under the Network Enforcement Law, <https://transparencyreport.google.com/netzdg/youtube?hl=en> (last accessed Mar. 23, 2023); Facebook Help Center, How to find Facebook's NetzDG Transparency Reports, <https://www.facebook.com/help/1057152381103922> (last accessed Mar. 23, 2023); Instagram Help Center, How to find Instagram's NetzDG Transparency Reports, <https://help.instagram.com/704881976636188> (last accessed Mar. 23, 2023); Twitter Transparency Report, Germany, Network Enforcement Act, <https://transparency.twitter.com/en/reports/countries/de.html> (last accessed Mar. 23, 2023).

Social media sites are already making strong efforts to remove harmful content due to violation of community guidelines intended to promote digital trust and safety for users and protect brand reputation. Implementing prescriptive legislation only creates additional compliance costs.

A U.S. NetzDG-like Law Would Be Costly and Anti-Competitive

NetzDG compliance requires an enormous, trained staff ready to review complaints within 24-hours of reporting in order to avoid huge fines. YouTube, Facebook, Instagram, and Twitter all had between 77 and 186 staffers specifically trained to handle NetzDG compliance and content removal. Due to the low number of incremental NetzDG takedowns, the NetzDG takedowns per staffer in 2022 ranged from 3.1 to 11.0 in each six month reporting period between all four sites. Aggregating across all four sites, the average was 11.7 incremental takedowns per staffer per year, a pace of fewer than one incremental takedown per month per staffer. This means many workers were hired and trained to handle mostly false positive and duplicative reports, with only a tiny fraction of their NetzDG workload resulting in incremental takedowns of harmful content. Extending the analysis further, the labor compensation cost per incremental NetzDG takedown ranges from \$1,741 to \$5,116 per takedown in 2022.⁴ The introduction of high costs will hit smaller intermediaries the hardest and continue to create barriers to entry for startups and smaller sites because they have fewer resources for compliance and will not benefit from compliance economies of scale.

In addition to the compliance costs social media companies face under NetzDG, the German government estimated compliance costs for the German economy totaled €20,437,000 euros, which implies €3,978 (equal to \$4,336) per incremental takedown.⁵

Conclusion

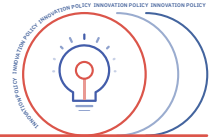
Introducing similar legislation in the United States to that of Germany's NetzDG would be ineffective, as well as unnecessary as the vast majority of the posts in question would have already been taken down. Such legislation also would be onerous and costly – compliance would require a significant amount of resources from social media companies to hire and train staffers to comply with NetzDG, and the user reporting feature wastes decades of users' time each year on false positive and duplicative reports. Moreover, these costs fall disproportionately on smaller sites and startups, discouraging competition and creating barriers to entry in the social media and digital intermediary space.

The appearance of such legislation in highly developed countries, even if introduced with good intentions, risks inspiring copycat laws in other jurisdictions, particularly more authoritarian or illiberal jurisdictions with the express purpose of taking down content to suppress dissent, minority ethnic, religious, or cultural identities, and speech generally.⁶

4 Compensation cost per NetzDG takedown was calculated for workers spending 50% of their time on NetzDG compliance at \$19.50 per hour; 75% of the time at \$19.50 per hour; 100% of the time at \$19.50 per hour; 50% of the time at \$59,600 annually; 75% of the time at \$59,600 annually; and 100% of the time at \$59,600 annually.

5 Deutscher Bundestag, 19. Wahlperiode, *Bericht der Bundesregierung zur Evaluierung des Netzwerkdurchsetzungsgesetzes*, Bundesregierung (Sept. 2020), <https://dserv.bundestag.de/btd/19/226/1922610.pdf>.

6 Jacob Mchangama & Natalie Alkiviadou, *The Digital Berlin Wall: How Germany (Accidentally) Created a Prototype for Global Online Censorship - Act two*, Justitia (Sept. 2020), https://futurefreespeech.com/wp-content/uploads/2020/09/Analyse_Cross-fertilizing-Online-Censorship-The-Global-Impact-of-Germanys-Network-Enforcement-Act-Part-two-Final.pdf.



2022 NetzDG Transparency Report Data

Site	Reporting Period	Total Complaints	Total Takedowns	NetzDG Staffers	False Positive Rate on Complaints	Duplicative Report Rate on Accurate Complaints	Incremental Takedowns due to NetzDG	NetzDG Takedowns per Staffer (annual rate)
YouTube	July 2022 to December 2022	233,440	32,150	77	97.79%	98.50%	481	12.5
YouTube	January 2022 to June 2022	282,858	50,717	77	98.31%	99.11%	449	11.7
Facebook & Instagram	July 2022 to December 2022	182,736	39,079	178	87.74%	96.87%	1,224	13.8
Facebook & Instagram	January 2022 to June 2022	233,929	28,392	186	87.08%	92.79%	2,048	22.0
Twitter	July 2022 to December 2022	947,994	153,416	150	83.82%	99.70%	460	6.1
Twitter	January 2022 to June 2022	829,370	118,938	150	85.66%	99.60%	476	6.3
All Sites	2022	2,710,327	422,692	441	84.4%	98.78%	5,138	11.7