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# Germany's Barriers to U.S. Digital Services Suppliers

Germany has recently passed or proposed several key measures that put U.S. digital services suppliers at a competitive disadvantage in Germany's market. These include:

- Adopting discriminatory scoping of U.S. firms for stricter review under competition law;
- Introducing a 8% Local Investment Obligation for streaming services;
- Imposing excessive fines and content takedown requests for content deemed harmful;
- Tolerating de facto network usage fees;
- Consideration of a 10% digital service tax (DST).

Even where not directly or immediately restricting access, the burdens and risks associated with these measures will severely diminish access opportunities in a market that accounted for \$27.3 billion in U.S. digitally-delivered services exports in 2023.<sup>1</sup> Specific proposed or enacted barriers are as follows.

## Discriminatory Competition Oversight

**Section 19(a)(1) of the German Competition Act**,<sup>2</sup> enacted in 2021, allows the German Federal Cartel Office (FCO) to designate certain firms as having “paramount importance for competition across markets,” thereby subjecting them to stricter oversight, including through preemptive prohibitions on conduct. This measure has faced criticism for duplicating the EU's Digital Markets Act (DMA) and causing jurisdictional confusion and policy inconsistency.

The German government recently published an evaluation of the law, which is legally mandated four years after its entering into force. However, the administration conducted this evaluation without gathering any external input through a formal consultation with affected firms or the broader ecosystem of stakeholders. This is highly unusual and can only be viewed as an attempt to dodge the kind of public transatlantic scrutiny which the DMA is under already.

Additionally, a thorough debate about Section 19(a) is overdue, as it has been used exclusively against U.S.-headquartered companies. Over the past four years, the FCO has designated five firms—all American: Alphabet, Meta, Apple, Amazon, and Microsoft. Through its enforcement actions,<sup>3</sup> the FCO is prohibiting affected companies from engaging in arguably procompetitive conduct that their rivals are generally permitted to pursue.

<sup>1</sup><https://apps.bea.gov/iTable/?reqid=62&step=6&isuri=1&tablelist=359&product=4>.

<sup>2</sup> Amendment of the German Act Against Restraints of Competition, BUNDESKARTELLAMT (Jan. 19, 2021), [https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2021/19\\_01\\_2021\\_GWB%20Novell\\_e.html](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2021/19_01_2021_GWB%20Novell_e.html).

<sup>3</sup> See [https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/06\\_07\\_2022\\_Amazon.html](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/06_07_2022_Amazon.html); and [https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/05\\_01\\_2022\\_Google\\_19a.html](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/05_01_2022_Google_19a.html); and [https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/04\\_05\\_2022\\_Facebook\\_19a.html](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2022/04_05_2022_Facebook_19a.html); and [https://www.bundeskartellamt.de/SharedDocs/Meldung/DE/Pressemitteilungen/2023/28\\_03\\_2023\\_Microsoft.html?n](https://www.bundeskartellamt.de/SharedDocs/Meldung/DE/Pressemitteilungen/2023/28_03_2023_Microsoft.html?n).

Recent FCO actions in February 2026, which barred a leading U.S. firm from showing customers competitive prices on its marketplace, highlight the selective nature of these enforcement efforts<sup>4</sup> and the trade implications of restricting conduct that German competitors are permitted to engage in. CCIA criticized the initiation of this case, noting that it targets practices previously cleared by the European Commission.<sup>5</sup> The fact that this has now resulted in fines warrants increased scrutiny.

## Local Content Investment Mandate

In February 2026, Germany’s ruling coalition moved to introduce a **Local Investment Obligation (LIO)**. This law requires streaming services to reinvest 8% of their prior-year net revenue into European and German-language sub-quotas. Despite its 12% “flexibility tier,” which allows services to bypass some regulations in exchange for higher spending, the mandate functions as a regulatory premium that distorts market competition and discriminates against non-German content. CCIA estimates this mandate will require U.S. streaming services to spend nearly USD \$2 billion on local content over the next five years.

While a formal draft of the LIO has not yet been published, the government has announced that the law will include a rights reversion mechanism, meaning streamers would lose rights to European and German content they helped fund after a set period. This goes far beyond anything that exists under regular market conditions today and would prevent streaming services from freely negotiating the terms based on the economic risk they carry. This mandate is particularly contentious because streaming services had already negotiated approximately €1.8 billion in voluntary commitments over five years with the Culture Minister, only for the Social Democrats to reject that “goodwill” agreement in favor of stricter legislation.

The Cabinet is expected to adopt the draft in May 2026. The proposal would then be subject to the EU’s mandatory three-month notification period before proceeding to parliamentary consideration. A final vote is anticipated in late 2026, with the law scheduled to enter into force on January 1, 2027.

This mandate mirrors longstanding measures in several other European countries, and new or proposed obligations in jurisdictions like Canada,<sup>6</sup> Australia,<sup>7</sup> and Brazil,<sup>8</sup> which have increasingly moved to coerce global digital platforms into subsidizing local industries under the mantle of cultural preservation. As in other markets, Germany’s LIO mandate risks interfering with creative and commercial decision-making, potentially lowering production quality as companies prioritize meeting regulatory quotas over audience demand. It may also increase costs that are ultimately passed on to consumers, despite the absence of clear evidence of

<sup>4</sup> See, Bundeskartellamt, *Bundeskartellamt prohibits Amazon from applying so-called price control mechanisms and orders the disgorgement of 59 million euros in economic benefits* (Feb. 5, 2026),

[https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2026/26\\_02\\_05\\_Amazon.html?nn=48916](https://www.bundeskartellamt.de/SharedDocs/Meldung/EN/Pressemitteilungen/2026/26_02_05_Amazon.html?nn=48916);

Mauro Orru, *The Wall Street Journal*, *Amazon Fined in Germany Over Price-Filtering Tools* (Feb. 5, 2026),

[https://www.wsj.com/business/retail/amazon-fined-in-germany-over-price-filtering-tools-7002e015?gaa\\_at=eafs&gaa\\_n=AWEtsgq-p4vPYUPoC0DN\\_00vG2NI1HHCR9ERFKIxqGvBMvvy01PjHZ41Lvef&gaa\\_ts=699e23ad&gaa\\_sig=x8cCmiWmBRdS4nn51cOeP\\_VK86ta6tnDdwjrT6gHWwbczS\\_GZjj1633HXTT3q-r-3R-sV6Fo6lIeF-Wzd5qFkQ%3D%3D](https://www.wsj.com/business/retail/amazon-fined-in-germany-over-price-filtering-tools-7002e015?gaa_at=eafs&gaa_n=AWEtsgq-p4vPYUPoC0DN_00vG2NI1HHCR9ERFKIxqGvBMvvy01PjHZ41Lvef&gaa_ts=699e23ad&gaa_sig=x8cCmiWmBRdS4nn51cOeP_VK86ta6tnDdwjrT6gHWwbczS_GZjj1633HXTT3q-r-3R-sV6Fo6lIeF-Wzd5qFkQ%3D%3D)

<sup>5</sup><https://ccianet.org/news/2025/06/ccia-europe-statement-on-bundeskartellamt-investigation-into-amazons-pricing-mechanisms/>

<sup>6</sup>[https://ccianet.org/wp-content/uploads/2023/01/CCIA\\_Canada-Online-Streaming-Act\\_Bill-C-11\\_Whitepaper.pdf](https://ccianet.org/wp-content/uploads/2023/01/CCIA_Canada-Online-Streaming-Act_Bill-C-11_Whitepaper.pdf)

<sup>7</sup><https://ccianet.org/wp-content/uploads/2025/12/Australias-VOD-Law-Poses-Key-Trade-Barriers-for-U.S.-Streaming-Services.pdf>

<sup>8</sup><https://ccianet.org/wp-content/uploads/2025/12/Brazils-VOD-Bill-Poses-Key-Trade-Barriers-for-U.S.-Streaming-Services.pdf>

market failure, given that Germany’s audiovisual sector has grown approximately 8.5 percent annually over the past five years.<sup>9</sup>

## Content Moderation

The **Network Enforcement Law (NetzDG)**, enacted in 2017, mandates that social media companies remove "manifestly unlawful" content within 24 hours, with potential fines up to €50 million.<sup>10</sup> The law places the burden on platforms to make complex judgments about whether user speech violates legal standards, leading companies, under pressure from short review periods and steep fines, to over-censor by removing lawful content to avoid penalties, raising concerns about transparency, free expression, and the global reach of takedown requirements.<sup>11</sup> Since its enforcement in 2018, the law has inspired similar regulations in countries like Russia, Singapore, Türkiye, and Venezuela.<sup>12</sup>

## Network Usage Fee

For years, Germany’s largest telecommunications operator has leveraged its **termination monopoly** for internet traffic to extract premium payments (“paid peering”) from companies willing and able to pay to reach its end-users—a *de facto* instance of a network usage fee.<sup>13</sup> For other customers, it has unreasonably throttled non-paying traffic and prioritized paid peering, creating congestion that pressures content providers to pay for access and degrades service quality for startups, critical applications, and users across Germany.<sup>14</sup>

## Digital Services Tax

On May 29, 2025, Germany’s Minister of Culture announced the country’s intention to impose a **10% digital services tax** on the revenues of large digital services providers offering online advertising, with the explicit intention of targeting U.S. companies while likely shielding most competing incumbent suppliers.<sup>15</sup> The proposed tax would appear modelled off of Austria’s 5% digital services tax on online advertising services, albeit at a far higher rate of 10% and on a digital advertising market that is one of the largest in Europe (estimated to be worth \$40 billion by 2030).<sup>16</sup> It would therefore represent an unprecedented move to extract revenue in a discriminatory manner, burdensome for U.S. companies and, as a revenue-based tax, in violation of international taxation norms. Although no concrete proposal has emerged, Germany’s Finance Minister reiterated support for the concept early in 2026.<sup>17</sup>

<sup>9</sup><https://www.ibisworld.com/germany/industry/film-television-programme-production/921/>

<sup>10</sup><http://dip21.bundestag.de/dip21/btd/18/130/1813013.pdf>

<sup>11</sup><https://www.hrw.org/news/2018/02/14/germany-flawed-social-media-law>

<sup>12</sup><https://www.euractiv.com/section/digital/opinion/the-digital-berlin-wall-how-germany-built-a-prototype-for-online-censorship/>

<sup>13</sup> See *Wettbewerbsverhältnisse auf den Transit- und Peeringmärkten, Auswirkungen für die digitale Souveränität Europas, Schlussbericht* (2022)

<https://www.wik.org/en/publications/publication/wettbewerbsverhaeltnisse-auf-den-transit-und-peeringmaerkten>

<sup>14</sup><https://epicenter.works/content/beschwerde-gegen-die-deutsche-telekom-wegen-verletzung-der-netzneutralitaet>

<sup>15</sup> The proposal was announced in an interview with German magazine, *Stern*,

<https://www.stern.de/politik/deutschland/google-und-co---regierung-plant-plattformabgabe-fuer-internet-giganten-35762870.html?source=email> and on the Ministry’s website <https://kulturstaatsminister.de/weimer-fordert-plattform-soli>.

<sup>16</sup><https://www.grandviewresearch.com/horizon/outlook/online-advertising-market/germany#:~:text=The%20Germany%20online%20advertising%20market,revenue%20generating%20type%20in%202023>.

<sup>17</sup><https://atr.org/german-finance-minister-calls-for-discriminatory-taxes-on-large-u-s-tech-firms/#:~:text=On%20January%202026,%2C%20German%20Finance,operating%20in%20the%20German%20market>.