



# RANKING DIGITAL RIGHTS

## Ranking Digital Rights Findings on Transparency Reporting and Companies' Terms of Service Enforcement

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### [Overall Performance](#)

[Performance on Freedom of Expression Indicators](#)

[Performance on Privacy Indicators](#)

### [Index Findings](#)

[Freedom of Expression Findings](#)

[Privacy Findings](#)

### [Recommendations](#)

### [Appendix](#)

[Key Definitions Used by RDR](#)

[Freedom of Expression Indicators: TOS Enforcement](#)

[Freedom of Expression Indicators: Third-Party Requests for Content Restriction](#)

[Privacy Indicators: Third-Party Requests for User Data](#)

Chart: Company Performance on TOS Enforcement and Transparency Reporting Indicators (page 11)

The Ranking Digital Rights (RDR) 2015 [Corporate Accountability Index](#) includes several indicators on companies' transparency reporting practices with regard to free expression and privacy. Three indicators focus on companies' **terms of service (TOS) enforcement** (F3, F4, F9). Three indicators focus on companies' disclosure of their processes and reporting related to **third-party requests for content restriction** (F6, F7, F8). Two indicators focus on companies' disclosure of their processes and reporting related to **third-party requests for user data** (P9, P11). See the [appendix](#) for definitions of key terms, full text of the indicators, and links to Index data about company performance.

## Overall Performance

More than half of the 16 Internet and telecommunications companies<sup>1</sup> examined in the Index publish some form of "transparency report" that covers at least some types of third-party (e.g.,

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<sup>1</sup> The Index evaluated eight Internet companies and eight telecommunications companies.

- Internet companies: Facebook, Google, Kakao, Mail.ru, Microsoft, Yahoo, Tencent, Twitter

government, private party) requests that affect users' freedom of expression and/or privacy. However, disclosure is uneven: company disclosure of processes to respond to third-party requests is more prevalent than company reporting of data about those requests. Disclosure about the circumstances in which companies may restrict content or access to the service, independent of a third-party request to do so, appears to be an industry standard, as all companies provide at least some relevant information. Across the board, there is wide variation in the clarity, comprehensiveness, and quality of disclosure, and no company reports on all types of third-party requests.

Below is a summary of company performance on the relevant indicators. For information on individual company performance on these indicators, see the chart at the end of this document.

### Performance on Freedom of Expression Indicators

- Eight companies provide at least some information about their **process** to respond to third-party requests for **content restriction** (F6); Vodafone is the only company to receive full credit for this indicator, and Google is close behind with a 97 percent score.
- Six companies provide at least some reporting on the number of **government** requests for **content restriction** they receive (F7).<sup>2</sup>
- Four companies provide at least some reporting on the number of **private** requests for **content restriction** they receive (F8).
- All 16 companies provide at least some information about their own rules to **restrict content** (F3) or **restrict access to the service** (F4). However, **no company provides any reporting related to enforcement of their terms of service** (F9).

### Performance on Privacy Indicators

- Eleven companies provide at least some information about their process to respond to third-party requests for **user data** (P9).
- Nine companies provide at least some reporting on the number of **government** requests for **user data** they receive (P11); no companies provide reporting on the number of **private** requests for **user data** they receive (P11 element 6).

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- Telecommunications companies: América Móvil, AT&T, Axiata, Bharti Airtel, Etisalat, MTN, Orange, and Vodafone

For more detail on how each company performed in the Index, click on any of the company names listed on the left of the main Index visualization: <https://rankingdigitalrights.org/index2015/>.

<sup>2</sup> Microsoft released a content removal requests report in October 2015 that includes reporting on government and private requests. Since Microsoft's report was released after RDR's data was finalized, it was not considered as part of Microsoft's evaluation in the Index.

## Index Findings

### Freedom of Expression Findings

- **While best practices are emerging around company reporting on government requests, companies report less (if any) data related to private requests.** Six companies publish data related to government requests for content restriction, and four of those companies also report on private requests (this includes requests made by private individuals or entities via lawful processes such as notice-and-takedown as well as requests made through voluntary mechanisms unrelated to lawful processes). The scope of reporting on private requests to restrict content varies. For example, [Twitter](#) and [Tumblr's](#) disclosure only covers requests related to copyright and trademark, while [Kakao](#) and [Google's](#) reporting includes intellectual property-related requests as well as other requests. Specifically, Kakao, a Korean company, publishes data on non-governmental requests to restrict content based on copyright, trademark, likeness, personal information, and defamation concerns. Google reports on copyright requests related to Google Search as well as requests received under the European Court of Justice's (ECJ) "right to be forgotten" ruling.
- **The majority of companies that report on content restriction requests include information about the legal authority or process under which they receive requests from governments (e.g., court order) or private parties (e.g., DMCA takedown notice; request under the ECJ "right to be forgotten" ruling).** While Google, Kakao, and Twitter publish information about how many government requests come from each type of legal authority, Facebook's reporting only lists the types of legal authorities that make requests; it does not specify the number of requests that come from each authority (For example, see the country-level data from [Facebook's](#) report). Disclosure related to private requests is generally less comprehensive. Google publishes separate reports for private requests to remove Google Search results due to copyright infringement (called "[Requests by copyright owners to remove search results](#)") and requests it receives related to the ECJ "right to be forgotten" ruling (called "[European privacy requests for search removals](#)"). Twitter publishes separate reports on restriction related to [copyright](#) and [trademark](#), while [Tumblr](#) publishes one report with copyright and trademark-related requests. Both companies explain the processes that underpin those types of requests. Unlike others, [Kakao](#) publishes one report that includes data on various types of private requests it receives, and it provides a link to the applicable law that governs each type.
- **Half of the companies that report on government requests for content restriction provide information on the subject matter (e.g., hate speech, harassment, etc.) associated with requests. All four companies that report on private requests for content restriction provide this information, but only two of these four report on private requests beyond those related to intellectual property.** Among the six companies that report any data related to government requests for content restriction,

Google, Kakao, and Facebook include at least some information about the subject matter associated with requests; Yahoo, Twitter, and AT&T do not. Google's report on [government removal requests](#) breaks out the requests by reason (e.g., privacy and security, drug abuse, defamation, other), and its [detailed downloadable data](#) provides a more extensive list of reasons (e.g., national security, adult content). [Facebook](#) and [Kakao](#) give examples of the types of content they restrict in response to government requests, but they do not specify the number of requests associated with each type. With regard to private requests for content restriction, all four companies that do this reporting provide information about the subject matter associated with the request. Twitter and Tumblr only report on requests related to intellectual property. Google and Kakao report on private requests beyond those related to intellectual property. As highlighted in the previous bullet point, Google discloses the number of requests it receives to restrict search results based on [copyright infringement](#) or [privacy concerns](#). [Kakao](#) provides data on the requests it receives to restrict content due to copyright, trademark, privacy, or defamation concerns, and it discloses the number of requests associated with each type.

- **All companies that report data on government requests for content restriction, except Kakao, break down their data by country.** With regard to private requests, [Google](#) breaks out its requests to remove search results under the “right to be forgotten” ruling by country. No other company that reports on private requests breaks out the data by country.
- **Disclosure about company rules for restricting content or responding to content restriction requests is more prevalent than disclosure of data about the volume of these actions.** For example, all companies in the Index provide at least some information about the circumstances in which they restrict content or access to the service. Half of the companies provide at least some information about their process to respond to third-party requests for content restriction, and six companies report some data on the volume of such requests.
- **Positively, there is momentum toward more reporting related to content restriction.** In early 2015, Vodafone published an [updated legal annex](#) that reviewed legal provisions in its operating jurisdictions related to network shutdowns, URL and IP blocking, and government takeover of a network. Vodafone has not published data on the volume of such requests it receives. Last summer, Tumblr released its first [copyright and trademark transparency report](#). In October 2015, Microsoft released its first [content removals requests](#) report. This report, which was released after the 2015 Index data was finalized, includes data on government requests, copyright infringement requests related to Bing search results, and requests received under the European Court of Justice’s “right to be forgotten” ruling.

## Privacy Findings

- **Transparency reporting on requests for user data is more prevalent than reporting on requests for content restriction.** Nine companies publish data related to government requests for user data, while, as noted above, only six of those companies provide any reporting on requests related to content restriction.
- **There is no transparency on private requests for user data.** Tumblr is the only service evaluated in the Index that states that it will not respond to private requests for user data. Its [law enforcement guidelines](#) state, “Requests must come from appropriate government or law enforcement officials; Tumblr will not respond to requests from other sources.”
- **Disclosure about company processes to respond to requests for user data is more prevalent than disclosure of data about the volume of these actions.** Eleven companies disclose information about their process for responding to requests for user data, and nine provide some reporting on the volume of such requests.

## Recommendations

- **Companies should specify what services or platforms their transparency reporting covers.** For example, while RDR was compiling its research, Facebook’s [government requests report](#) did not state whether it included requests related to Instagram or WhatsApp, and for this reason the company lost credit in the Index. Since the release of the Index, Facebook has updated the report’s “[About](#)” page to state: “We’re publishing this information about requests related to our various products and services (including Facebook, Messenger, WhatsApp, and Instagram) because we want people to understand the nature and extent of these requests and the strict policies and processes we have in place to handle them.”
- **Companies should expand their transparency reporting to include requests from private parties as well as those from governments.** Six companies report on government requests to restrict content, but only four of those companies also include reporting on private requests to restrict content. Without company reporting on private requests, the public has no insight into the influence of self-regulatory organizations such as the Internet Watch Foundation or the effect of policies related to copyright infringement, hate speech, the “right to be forgotten,” ruling and other topics. In addition, companies should disclose any distinct processes they have in place related to private requests. For example, if a company does not respond to private requests, it should clearly disclose this to its users — something most companies fail to do

- **Companies should provide enough granularity in their reporting to give the public a clear picture of the scope and implications of company actions.** It is not enough for companies to simply publish the number of requests they receive. We expect companies to release additional data, such as the number of accounts affected, the number of pieces of content affected, the number of requests the company complied with, the type of legal process under which requests are made, etc. (See the [appendix](#) for a full list of elements examined in each indicator). Narrative information, such as an FAQ page or explanation of the company's process to receive and respond to requests, provides additional context to understand these issues.
- **Through terms of service and other community standards-type documents, companies already disclose information about the circumstances in which they restrict content; they should take the next step and report data about the volume of actions they take to enforce these rules with respect to different types of content.** Companies face pressure from many directions related to the content on their services. For example, policy makers call on ICT companies to address terrorist content or hate speech, advocacy organizations highlight the role of ICT companies in online harassment or cyber-bullying, and self-regulatory groups monitor the presence of child sexual abuse online. Certain types of content are problematic and deserve to be addressed, but there are concerns about accountability, fairness, and consistency. By reporting data related to terms of service enforcement, companies can demonstrate the extent to which they are addressing concerns related to particular forms of content.

## Appendix

### Key Definitions Used by RDR

**Government requests** – This includes requests from government ministries or agencies, law enforcement, and court orders in criminal and civil cases.

**Non-judicial government requests** – These are requests that come from government entities that are not judicial bodies, judges, or courts. They can include requests from government ministries, agencies, police departments, police officers (acting in official capacity) and other non-judicial government offices, authorities, or entities.

**Private requests** – Requests made by any person or entity not acting under direct governmental or court authority. These requests can come from a self-regulatory body such as the Internet Watch Foundation, or a notice-and-takedown system established by law, such as takedown requests made under the U.S. Digital Millennium Copyright Act.

### Freedom of Expression Indicators: TOS Enforcement

Click the links below to see data on how companies scored on each indicator.

#### [F3. Reasons for content restriction](#)

Does the company disclose whether it prohibits certain types of content or activities?

1. The company explains what types of content or activities it does not permit.
2. The company explains its process for enforcing its rules.
3. The company provides examples to help the user understand what the rules are and how they are enforced.

#### [F4. Reasons for account or service restriction](#)

Does the company explain the circumstances under which it may restrict or deny users from accessing the service?

1. The company explains the reason(s) why it may restrict a user's account.
2. The company explains why it may shut down or restrict service to a particular area or group of users (where applicable).
3. The company provides specific examples of situations that may trigger restriction or denial of service by the company.

#### [F9. Data about Terms of Service enforcement](#)



Does the company regularly publish information about the volume and nature of actions taken to enforce the company's own terms of service?

1. The company lists the number of accounts affected.
2. The company lists the number of pieces of content or URLs restricted.
3. The company lists the types of content restricted during the reporting period (e.g., hate speech, harassment, incitement to violence, sexually explicit content, etc.).
4. The company provides examples of why it took action in different types of cases.
5. The company reports this data at least once a year.
6. The data reported by the company can be exported as a structured data file.

## Freedom of Expression Indicators: Third-Party Requests for Content Restriction

### [F6. Process for responding to third-party requests](#) [for content restriction]

Does the company publish information about its process for evaluating and responding to requests from governments and other third parties to restrict content or service?

1. The company explains its process for receiving and responding to non-judicial government requests.
2. The company explains its process for responding to court orders.
3. The company explains its process for responding to requests made by private parties.
4. The company explains its process for responding to requests from foreign jurisdictions.
5. The company's explanations include the legal basis under which it may comply.
6. The company commits to carry out due diligence on requests before deciding how to respond.
7. The company's process commits to push back on unlawful requests.
8. The company provides guidance or examples of policy implementation.

### [F7. Data about government requests](#) [for content restriction]

Does the company regularly publish data about government requests (including judicial orders) to remove, filter, or restrict content or access to service, plus data about the extent to which the company complies with such requests?

1. The company breaks out the number of requests it receives by country.
2. The company lists the number of accounts affected.
3. The company lists the number of pieces of content or URLs affected.
4. The company lists the types of subject matter associated with the requests it receives.
5. The company identifies the specific legal authority making the requests.
6. The company lists the number of requests it complied with.
7. The company either publishes the original requests or provides copies to a third-party archive such as Chilling Effects or a similar organization.
8. The company reports this data at least once a year.
9. The data reported by the company can be exported as a structured data file.

### [F8. Data about private requests](#) [for content restriction]



Does the company regularly publish data about requests from non-governmental (and non-judicial) parties to remove, filter, or restrict access to content, plus data about the extent to which the company complies with such requests?

1. The company breaks out the number of requests it receives by country.
2. The company lists the number of accounts affected.
3. The company lists the number of pieces of content or URLs affected.
4. The company lists the types of requests pertaining to the subject matter associated with the requests it receives (e.g., copyright violation, hate speech, incitement to violence, child abuse images, etc.).
5. The company describes the types of parties from which it receives requests (e.g. requests made under a notice-and-takedown system, requests from a non-governmental organization, requests from a voluntary industry self-regulatory body, etc.).
6. The company lists the number of requests it complied with.
7. The company either publishes the original requests or provides copies to a third-party archive such as Chilling Effects or a similar organization.
8. The company reports this data at least once a year.
9. The data reported by the company can be exported as a structured data file.

#### Privacy Indicators: Third-Party Requests for User Data

##### [P9. Process for responding to third-party requests for user information](#)

Does the company publish information about its process for evaluating and responding to requests from government and other third parties for stored user data and/or real-time communications, including the legal basis for complying with such requests?

1. The company explains its process for receiving and responding to non-judicial government requests.
2. The company explains its process for responding to court orders.
3. The company explains its process for responding to requests made by private parties.
4. The company explains its process for responding to requests from foreign jurisdictions.
5. The company's explanations include the legal basis under which it may comply.
6. The company commits to to carry out due diligence on requests before deciding how to respond.
7. The company's process commits to push back on unlawful requests.
8. The company provides guidance or examples of policy implementation.

##### [P11. Data about third-party requests for user information](#)

Does the company regularly publish data about government and other third-party requests for user information, plus data about the extent to which the company complies with such requests?

1. The company breaks out the number of user data and real-time communications access demands it receives by country.
2. The company lists the number of accounts affected.

3. The company lists whether a demand sought communications content or non-content (e.g., metadata, basic subscriber information, or non-content transactional data) or both.
4. The company identifies the specific legal authority or type of legal process through which law enforcement and national security demands are made.
5. The company includes requests that come from court orders or subpoenas (including civil cases).
6. The company includes other non-governmental requests.
7. The company lists the number of requests it complied with, broken down by category of demand.
8. The company lists what types of government requests it is prohibited by law from disclosing.
9. The company reports this data at least once per year.
10. The data reported by the company can be exported as a structured data file.

Company Performance on TOS Enforcement and Transparency Reporting Indicators																
	Internet Companies								Telecommunications Companies							
	Facebook	Google	Kakao	Mail.ru	Microsoft	Tencent	Twitter	Yahoo	America Movil	AT&T	Axiata	Bharti Airtel	Etisalat	MTN	Orange	Vodafone
<b>Terms of Service Enforcement</b>																
Rules for content restriction (F3)	89%	78%	100%	56%	83%	67%	100%	94%	67%	83%	67%	33%	67%	33%	92%	67%
Rules for account or service restriction (F4)	33%	75%	100%	50%	100%	50%	100%	83%	33%	67%	67%	58%	50%	50%	67%	83%
Data on TOS Enforcement (F9)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
<b>Third-Party Requests for Content Restriction (Freedom of Expression)</b>																
Process to respond to content restriction requests (F6)	38%	97%	41%	0%	41%	0%	41%	53%	0%	69%	0%	0%	0%	0%	0%	100%
Reporting on govt requests to restrict content (F7)	17%	83%	41%	0%	0%*	0%	39%	42%	0%	22%	0%	0%	0%	0%	0%	0%
Reporting on private requests to restrict content (F8)	0%	44%	47%	0%	0%*	0%	39%	39%	0%	0%	0%	0%	0%	0%	0%	0%
<b>Third-Party Requests for User Data (Privacy)</b>																
Process to respond to user data requests (P9)	54%	88%	69%	0%	88%	0%	75%	77%	13%	88%	0%	6%	0%	13%	0%	75%
Reporting on govt requests for user data (P11)	23%	65%	60%	0%	60%	0%	70%	64%	0%	60%	0%	0%	0%	6%	35%	35%
Reporting on private requests for user data (P11 element 6)	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%
<b>Legend</b>																
	The company scored 0 percent on this indicator or element.															
	The company received partial credit on this indicator or element.															
	The company scored 100 percent on this indicator or element.															
* After the Index data was finalized, Microsoft released a transparency report that included data on government and private requests.																
Microsoft's report was not evaluated in the 2015 Index.																
For more information, see the Index website at <a href="https://rankingdigitalrights.org/index2015/">https://rankingdigitalrights.org/index2015/</a> .																
To download the Index report or raw data, see <a href="https://rankingdigitalrights.org/index2015/download/">https://rankingdigitalrights.org/index2015/download/</a> .																