

Fundación Karisma

Mr. David Kaye

Special Rapporteur on the promotion
and protection of the right to freedom
of opinion and expression
Palais des Nations
CH-1211 Geneva 10
Switzerland

January 10, 2018

Reference: Submission to study on social media, search, and freedom of expression.

Hereby, Fundación Karisma (hereinafter Karisma) welcomes the opportunity to provide input to the Special Rapporteur's *Study on social media, search, and freedom of expression* in the framework of content regulation in the digital age and submits its contribution.

Karisma is a Colombian digital rights NGO that works in the defense of freedom of expression, privacy, access to knowledge and due process on digital spaces through research and advocacy.¹ Karisma has worked with diverse communities, including librarians, journalists, persons with visual disability, and women's rights advocates to strengthen the defense of human rights in digital spaces. Karisma often works jointly with other NGOs and networks that support their actions and projects.

For explanatory purposes and motivated by what we consider equally worrying, content-related removals, blocking and filtering are treated in this submission indistinctly. We hope this contribution provides interesting elements for the preparation of your upcoming report.

¹ <https://karisma.org.co/>

Company compliance with State laws	4
Other State Requests	5
Global removals	6
Individuals at risk	6
Content regulation processes	8
Bias and non-discrimination	9
Appeals and remedies	10
Automation and content moderation	12
Transparency	13
Examples	13

1. Company compliance with State laws

- a. *What processes have companies developed to deal with content regulation laws and measures imposed by governments, particularly those concerning:

 - i. *Terrorism-related and extremist content;*
 - ii. *False news, disinformation and propaganda; and/or*
 - iii. *The “right to be forgotten” framework?**

- b. *How should companies respond to State content regulation laws and measures that may be inconsistent with international human rights standards?*

Since 2015, Karisma develops the *¿Dónde están mis datos? Report (Where's my data?)*.² This report is inspired by the EFF's *Who has your back?* report and the New America's *Ranking Digital Rights* report. *¿Dónde están mis datos? 2017 Report (DEMD 2017)* looks at how internet service providers (ISP), those that enable internet connection in Colombia, defend user's rights. Based on criteria that we have developed since the beginning of the project, the report seeks to understand how these companies protect freedom of expression and privacy. This is important for Karisma as we see a worrying global trend in which governments are pressuring ISPs to block and filter content, URLs, user accounts and other Internet services.

In the 2017 report, we evaluated the 7 major ISPs in the country and, among others, we analyze their commitment to transparency. Of the 7 companies assessed, only one, Bogotá Telecommunications Company (*ETB* in Spanish), provides information on third-party Internet blocking requests³. However, it does not provide any information about content blocking or services suspension when its users violate the service provider's terms and conditions of service. ETB is also the only Colombian ISP that develops some commitments regarding its capacity to block content or suspend services:

*In several documents, ETB develops its commitments on the freedom of expression of the users of its services. This company provides guidelines on unauthorized behavior and has acceptable use policies that allow for an understanding of service parameters of when services may be terminated or suspended.*⁴

It should be noted that the unauthorized conduct in ETB's terms and conditions of service is (1) the creation of false identities in order to mislead third parties; and (2) activities that violate

² Botero, C. & Spanger, A. (2017) *¿Dónde están mis datos? 2017*. Available on <https://karisma.org.co/dondeestanmisdatos2017/>.

³ ETB display of information requests from some colombian authorities. Available on: https://www.etb.com/transparencia/documents/PQR_Proteccion_de_datos.pdf

⁴ Ibid., p.10.

the law or the company's terms of service.⁵ How this section of the terms and conditions of service has been implemented has not been part of our research, which represents a weakness in evaluating the company's practice in this regard.

On the other hand, we must highlight that ETB is the only Colombian ISP to have some terms and conditions of services that has details on blocking and filtering of content, but also is the only ISP to publish statistical information on content-related blocking by third parties. Even if this isn't a transparency report on itself, it is the closest example to one. This is important because Colombian ISPs have no tradition on publishing transparency reports. Some Colombian ISPs are part of multinational corporations that publish yearly international transparency reports (such as Tigo that is part of Millicom or Telefonica Colombia that is part of the Telefonica family), however, information on Colombia is poor, often in English and published only in the site of the international holding.

In line with the DEMD 2017, Karisma believes that transparency reports and company terms and conditions of services that seek to promote human rights are key tools for the protection of freedom of expression. If ISPs develop better explanations about their role as intermediaries, their commitments and the criteria used to block or remove content, or suspend services, users will be better protected against threats to freedom of expression. Similarly, if users have more and better information about content-related blocking and filtering, they will be in a better position to understand their rights and defend themselves from potential abuses.

As for those intermediaries connecting users and communities such as social media platforms, we are interested in finding out more about them, but our research is still short on this point.

2. Other State Requests

Do companies handle State requests for content removals under their terms of service differently from those made by non-State actors? Do companies receive any kind of content-related requests from States other than those based on law or the company's terms of service (for example, requests for collaboration with counter speech measures)?

According to the DEMD 2017, Colombian ISPs do not provide enough information to fully respond to this question. However, we know from their terms and conditions of service that all ISPs block content based on child sexual abuse and/or exploitation ground and, to some extent, explain the legal procedure to do so. None of the evaluated ISPs has an appeal procedure when there is an error, there are no mechanisms to prevent abuse. Evaluated ISPs also do not indicate whether this kind of procedures exist against other blocking or filtering

⁵ ETB. (n.d.). *De políticas de uso aceptable ETB*, p. 11. Available at https://www.etb.com/transparencia/documents/POLITICAS_DE_USO_ACEPTABLE_ETB_V4.pdf.

grounds. It is worth noting that the only legal basis in the Colombian legal system for blocking content is child sexual abuse and/or exploitation.

As already mentioned, beyond the texts of the Colombian ISPs' terms and conditions of services, ETB has published statistical information on content-related blocking by third parties. According to this information, the reasons for content-related blocking have been child sexual abuse and/or exploitation, court orders and spam.

Based on the information gathered in the DEMD 2017, Colombian ISPs receive content-related requests by other States. We can also infer that non-state actors also request content removal on spam grounds. From the ISPs, public information and terms and conditions of service assessed in the DEMD 2017, Karisma can state that these companies has no public commitment on how they deal with content removal, blocking or filtering requests.

The Colombian ISPs are in a privileged position to control content and, at least, are not aware of the implications for human rights. There is much room for improvement on this area. On the other hand, governments are not treating content blocking, filtering or removing requests as an interference with freedom of expression, which must comply with human rights standards. The most common legal basis in the country is the one that contains child sexual abuse and exploitation material. However, there are no measures to prevent and correct errors. As for other content removal grounds, there is not even any legal recognition.

As for those intermediaries that connect users and communities such as social media platforms, we are interested on finding out more about them, but our research is still short on this point.

3. Global removals

How do / should companies deal with demands in one jurisdiction to take down content so that it is inaccessible in other jurisdictions (e.g., globally)?

Karisma does not have any information that allows us to make a contribution to this point.

4. Individuals at risk

Do company standards adequately reflect the interests of users who face particular risks on the basis of religious, racial, ethnic, national, gender, sexual orientation or other forms discrimination?

According to the DEMD 2017, only two companies have a gender policy and two more have accessibility policy. However, these policies are much more closely linked to working environments and, eventually, legal precepts. DEMD 2017 findings show that the Colombian ISPs still have plenty of room to improve in this area and develop commitments to promote

diversity and protect vulnerable populations. As for consideration of the special impact their services may pose to this population, we can only say that there is even less awareness.

Apart from the Colombian ISPs' terms and conditions of service, Karisma's experience in gender and technology has allowed us to identify cases where collectives and/or persons working on women's rights advocacy, sexual and reproductive rights, political and social recognition of sexual and gender diversity, or feminism issues have been unjustly affected by request for content removal by US-based social media company (e.g. Facebook, Twitter). For example, a lesbian-feminist digital radio station in Colombia told us that its Facebook fanpage has been taken down several times after reports from groups of people –usually men– who report their content, apparently, for fun, hatred or discrimination. This has led this digital radio station to put its efforts to broadcast content outside of this platform, limited their audience range to avoid facing more page blockages.

Another case has been that of a female journalist, who, fed up with the sexual and abusive messages that a male harasser sent her, made public the harassing message on her Facebook wall as a form of public denunciation.⁶ Facebook removed the screenshot she posted for “non-compliance with the Community Standards of the platform”, paradoxically, for harassing her harasser. Facebook also recommended her that if she didn't want to be bothered any more, she had the option to unfriend or block the person's profile. Subsequently, Facebook blocked her messenger chat and prevented her from posting any content on her wall for a few hours. The journalist posted the same content again, which was removed once again by Facebook with a notification that if she uploaded it again her profile would be suspended.

This type of cases occurs over and over again to women activists and any persons who in some way challenge the patriarchal status quo, as well as to people identify as LGBTQ, making it clear that the implementation of terms and conditions of service of these social media companies are highly subjective. There are many times when, for instance, a woman who reports attacks or harassment on these platforms ends up being responsible for the abuse with content taken down or even her profile suspended.

In fact, as part of a diagnosis Karisma's carried out in 2015 to understand the type of digital violence that Colombian women journalists experience in the cyberspaces, we concluded that due to the erratic response of social media companies women end up confining themselves “to socially accepted spaces, assuming a passive role, or otherwise, being blame for the violence for daring to transgress the status quo.”⁷

⁶ Goyeneche, T. (2016, April 5). Denuncié a mi acosador y Facebook terminó censurándome a mí. *Vice*. Available at

https://www.vice.com/es_co/article/jmz74y/acoso-sexual-censura-en-facebook-denuncia-por-acoso.

⁷ Toledo, A. (2016, February 24). *Misoginia en internet: bombardeo a campo abierto contra las periodistas* [blog post]. Available at <https://karisma.org.co/misoginia-en-internet-bombardeo-a-campo-abierto-contra-las-periodistas/>.

As far as we can see, there are due process, transparency and accountability problems by social media companies with regard to content management that promote violence, discrimination and hatred on the basis of religious, racial, ethnic, national, gender or sexual orientation.

5. Content regulation processes

What processes are employed by companies in their implementation of content restrictions and takedowns, or suspension of accounts? In particular, what processes are employed to:

- a. Moderate content before it is published;*
- b. Assess content that has been published for restriction or take down after it has been flagged for moderation; and/or*
- c. Actively assess what content on their platforms should be subject to removal?*

As mentioned above, the only legal basis for an intermediary in Colombia to remove content is child sexual abuse and exploitation. However, only one of the 7 companies assessed in the DEMD 2017, that evaluates terms of use and commitments of the ISPs that enable internet connection in Colombia, details the procedure used for these cases.

However, if we talk about US-based intermediaries, there are other challenges when it comes to content generated or posted by Colombia-based users. One of these problems is related to US copyright rules, its digital enforcement mechanism and its global impact. Intermediaries such as the US-based social media companies are subject to the US Digital Millennium Copyright Act (DMCA) and its copyrighted content removal mechanism, procedures that indisputably harms the exercise of human rights and the ability of people to contribute to the economic, social and cultural development of their societies.

Karisma recently conducted a study on this relationship and will soon publish the report entitled *Internet is Your Passion*, which examines this situation, especially the problems arising from the application of the foreign copyright enforcement system to local realities.⁸ The study refers to the tension between freedom of expression and copyright, based on the premise that local content is essential, for example, for the ability to inform, be informed, and create opinions. A platform for being global must also be local.

The report shows how the potential of the Internet as an expression-enabler tool is threatened by foreign copyright enforcement systems, in which different forms of expression related to a country's cultural production or daily actions of Internet users are censored by foreign companies that respond to a disproportionate and non-transparent system. In this regard, the report also recalls what the UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression said in 2011 about the dangers to the exercise of

⁸ This report will be published in 2018.

this right posed by the notice and take down systems, which he considers to be disproportionate and not very transparent in relation to the way in which the complaint is verified and the content is removed, and in generating a chilling effect and a due process problem.⁹ Ultimately, these systems do not provide sufficient information to the person affected, hence, have fewer resources to defend themselves when they do so.

The report also shows how the imbalances of the copyright system remain to be a problem for users. In the cases documented in the report (see examples on Section 10), invisible victims who do not fit into the statistics of the transparency reports of US-based intermediaries and the initiatives that seek to avoid and denounce censorship of vulnerable groups such as journalists, human rights defenders and minority groups.

The removal of content and/or suspension of accounts, either by legal mandate or by the companies' terms and conditions of service, has a significant impact on people's lives, particularly in the enjoyment of their right, such as freedom of expression, access to information, education, health or access to culture.

Content removal or blocking mechanisms have become a difficult obstacle to overcome and counteract, resulting in a problem for Internet users who view digital platforms as a public space for expressing themselves, creating and even enjoying culture.

6. Bias and non-discrimination

How do companies take into account cultural particularities, social norms, artistic value, and other relevant interests when evaluation compliance with terms of service? Is there variation across jurisdictions? What safeguards have companies adopted to prevent or redress the takedown of permissible content?

This question has been answered throughout the document.

7. Appeals and remedies

How should companies enable users to appeal mistaken or inappropriate restrictions, takedowns or account suspensions? What grievance mechanisms or remedies do companies provide?

⁹ See La Rue, F. (2011, May 6). *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*. A/HRC/17/27. Available at http://www2.ohchr.org/english/bodies/hrcouncil/17session/A.HRC.17.27_en.pdf; and Lee, T.B. (2011, June 3). UN Report: "Three strikes" Internet Laws Violate Human Rights. *Ars Technica Addendum*. Available at <http://arstechnical.com/tech-policy/2011/06/un-free-speech-watchdog-blasts-three-strikes-rules/>.

In March 2016 hashtag *#NoMasCensuraWinSports* (*#NoMoreCensorshipWinSport*) was a Twitter trend in Colombia. It gathered expressions of discontent shared by Colombian soccer fans after the removal of their content and, in some cases, the suspension of their social media accounts. However, this was only the gateway to the discovery of a much broader problem facing, in addition to soccer fans, other types of users such as musicians, designers and cultural promoters, who use social media to share their content.

Important cases similar to the ones described have also been documented in countries such as Ecuador, where parodies or critical speeches against the former president Correa have been removed from digital platforms before copyright claims by the government on used content (e.g. news program pieces or photos).

These cases stem from a 1998 legal obligation imposed to US-based Internet intermediaries, when the DMCA's notice and take down procedure of copyrighted content became effective. This mechanism has been strongly criticised by civil society as it poses a threat to freedom of expression on the Internet. Its stated aim is to combat digital piracy by imposing an obligation on intermediaries to remove content when any rightholders claim that their copyright has been infringed. Once the content is no longer available on the Internet, alleged infringers (users) are notified of the situation and can present a "counter-notification" explaining that they did not act in bad faith, claiming that there is "fair use", and requesting that the content be re-established. If users fall into this behavior repeatedly, their accounts may be suspended.

In order to analyse the relationship between this type of case, the global discussions on the intermediaries liability and the right to freedom of expression, Karisma undertook the above-mentioned *Internet is Your Passion* research project based on the following hypothesis: DMCA's notice and take down mechanism encourages intermediaries to intervene in the enforcement of rightholders' intellectual property rights disproportionately against users, given their ability to inform and be informed in the new digital environment. This effect is magnified by mechanisms that content platforms such as YouTube, Twitter, Facebook, Instagram and others have implemented to comply with these legal requirements. The effect is an important barrier to the exercise of the right to freedom of expression and access to information not only for US citizens, but for anyone around the world. We believe that intermediaries should review how they implement notice and take down mechanism, and should do so from a human rights perspective.

In this study, we have identified, among others, the following issues:

- Lack of transparency. First, in its terms and conditions of service, most platforms do not have public information on the notice and take down mechanism. In this regard, many users only become aware of the existence of this mechanism when they receive a notification for alleged copyright infringement, and do not have additional information that explains how it works, or to provide them with clear information about the

possibility of counter-notify on fair use grounds. Second, once the notification process has been initiated, the platforms do not fully comply with DMCA's requirements regarding the obligation to send the user the rightholder's complaint. This hinders access to information that is key if the users decided to counter-notice by fully respond to the original claim. Finally, there is no clarity about the number of notifications that generate an account suspension. There is no information on the platforms and yet accounts are suspended.

- Notice and takedown mechanism implemented by platforms in compliance with the DMCA do not consider the local contexts in which they operate; hence, they do not guarantee the adequate defense of those who can be affected by them. If users decide to continue the process –e.g. to counter-notify– and the claimant initiates legal action, defendants must accept the jurisdiction of US courts. This is a barrier that produces a chilling effect, that is, it causes enough intimidation to deter people from defending their rights to express themselves freely due to the threat of legal penalties.
- The main platforms are based in the US, hence, the language in which they handle their communication is mainly English. Nevertheless, their global reach affects latitudes that are not necessarily native English speakers. When Latin American users are affected by notice and takedown mechanism, the notification come in English, which creates barriers for defense, where a legal message in a foreign language ends up causing a chilling effect.
- There is little information on the response to a counter-notice. According to the DMCA, after an ISP receives a counter-notification by the person whose content was blocked or removed, they must send it to whomever reported the content. From that moment, the intermediary has between 10 to 15 days to report whether the applicant filed an action in court; if not, the platform must re-establish the blocked content or reinstate the suspended account. From our analysis, a counter-notice rarely has the desired effect, and people rarely receive information about the reasons why a content or an account is restored.
- Transparency reports are used to highlight a high rate of content re-establishment when a counter-notification process starts. However, the process is automated and as there are so many barriers for non-English speaking users, often their counter-notice does not meet the requirements of the process and their requests are not even considered; that is, they never received a response because their counter-notice is completely discarded (not even to feed their statistics).

This research is focused on Colombian cases, however, it is a standard mechanism so it could easily affect other users around the world. In that sense, we thought that ISPs can adopt some improvements regarding the promotion of human rights:

- Companies must work to ensure that their policies reflect the linguistic diversity and other needs of the countries in which they are present; this implies that in addition to publishing their policies clearly, in simple language and being easily accessible, they should ensure that the following steps to consult the terms and conditions or the frequently asked questions can also be done in different languages.
- ISPs should work on improving their appeal processes to ensure that content that has been wrongly deleted can be easily restored. This starts by giving people better information and by facilitating mechanisms to present a counter-notice, as it is actually done with the copyright holders who want to make a claim.
- Transparency reports are a tool that generates confidence with users, as it allows them to know the actions of the ISP in order to manage and use their data, and also provides information necessary to guarantee the rights of those who access these platforms. For this reason, we also recommend expanding transparency reports, including information related to content deletions made on the basis of reports from other users or not from the platforms and not only those of the governments.
- Regarding transparency, ISPs are recommended to work on making their processes more transparent by making the process of content management, complaints and counter-notices more clear and public. In this regard, it is necessary that people who have been reported know the complaint in order to exercise an adequate defense. It is not enough just to give the name of the person who filed the complaint and, in any case, is an element that the DMCA itself considers.
- ISPs must adjust their procedures to comply with legal requirements so that the procedure includes due follow-up to the counter-notice process so that, within the term of the DMCA, the content (or account) is restored if the complainant does not submit the judicial complaint.
- These platforms that manage the data of millions of people around the world, must work on educational tools for those who make use of their services, in which they clearly indicate which actions are incorrect, which policies they may violate, how they can defend themselves; and not simply wait for an action to be given to punish them and remove them from the platform for some time or indefinitely.
- Finally, we recommend not only the ISPs, but also the civil society organizations and international multilateral organizations that have been interested in this problem, to consider the impact of these procedures for people in general, for small cases, that is, common users – who are not necessarily activists, opponents or people of a specific

population or minorities – who are affected daily by the possible abuses derived from the notice and takedown system and who do not know what they are dealing with.

Countries that, like Colombia, have not yet legislated to create "safe harbor" systems for Internet intermediaries, must learn from the failures of the US "notice and takedown" system and not repeat them to the detriment of the people.

8. Automation and content moderation

What role does automation or algorithmic filtering play in regulating content? How should technology as well as human and other resources be employed to standardize content regulation on platforms?

Multiple examples at a global level show how both the automated and human moderation mechanisms used by these companies are biased. This has led to the removal of contents that are of news, artistic and/or cultural interests, social denunciation, among others. Therefore, at Karisma we believe that transparency on the part of this company is vital to find solutions to this problem.

On the one hand, when we talk about algorithms we can also speak of accountability, either through open audits –as we think it would be ideal– or at least through a process that has sufficient assurance that the specialised technical community or academia can carry out an independent audit of them.

If we talk about human-moderated mechanisms, we can also highlight their lack of transparency. Little is known and little is said about how they operate, which professionals are part of the moderation teams, what percentage of women, men and non-binary persons are part of these teams, what geographical area they come from, what languages they speak, what kind of training they receive, what specific criteria they follow to make decisions, how they correct the inherently decontextualized nature of the comments when evaluating cases, among others.

Not knowing this information prevents the public from making a more detailed analysis of this mechanism and looks for about ways to make it more effective. At the end of the day, it's not enough to know that moderation teams are being continuously trained –who knows on what– if their biases seem to guide their decisions. There is nothing more than the prejudices that became evident when Facebook staff showed discriminatory expressions on the famous wall of signatures within the company against the Black Lives Matters movement¹⁰, or the total

¹⁰ Kraychik, R. (2016, February 25). Zuckerberg Endorses #BlackLivesMatter; Warns Employees Crossing Out Its Slogan. *The Daily Wire*. Available at <https://www.dailywire.com/news/3692/zuckerberg-endorses-blacklivesmatter-warns-robert-kraychik>.

ignorance of Facebook moderators of the right to self-determination of indigenous peoples against the blockade of a 1909 photograph showing an indigenous woman with her breasts exposed in the Brazilian jungle.¹¹

We also believe it is important that the transparency reports periodically published by these companies go beyond showing only statistics of state request for content or user information, and begin to include information on how many requests for content blocking or removal have been requested by third parties for reasons other than those reported in the transparency reports, how many have been granted, under what grounds (e. g. violence, sexual harassment, hate speech, etc.). In addition, it is important that they begin to release data that can be analyzed by academia or independent researchers to make a diagnosis on the subject, review problems, explore solutions and share current doubts, challenges and practices. Finally, we encourage that the dialogues with the wide range of civil society organizations and other key stakeholders continue to identify problems in different areas of knowledge and related to the content regulation. Only then do we believe that these companies will really be showing their commitment to human rights and not just an interest in generating revenue.

9. Transparency

- a. *Are users notified about content restrictions, takedowns, and account suspensions? Are they notified of the reasons for such action? Are they notified about the procedure they must follow to seek reversal of such action?*
- b. *What information should companies disclose about how content regulation standards under their terms of service are interpreted and enforced? Is the transparency reporting they currently conduct sufficient?*

Both the *Internet is Your Passion* and the DEMD reports show that the transparency reports published by content platforms and ISPs are not enough for their users to understand how content regulations are interpreted and implemented. According to the unpublished *Internet is Your Passion* report

the [transparency] report does not serve to resolve the doubts that arise from the terms and conditions of service, for instance, where will the unsuccessful counter-notice mechanism stop is unknown. No response times are provided, nor do we know the reasons why counter-notices, among other examples, are successful or not.

¹¹ Klamar, J. (2015, April 19). Brazil to sue Facebook for blocking photo of indigenous woman from 1909. *RT News*. Available at <https://www.rt.com/news/250961-brazil-facebook-photo-indigenous/>.

10. Examples

Please share any examples of content regulation that raise freedom of expression concerns (e.g., account suspension or deactivation, post or video takedown, etc.), including as much detail as possible.

The case of @yeimis

Yeimis Echeverry is a soccer fan of Cali's America team, who posted 5 short videos of Colombian soccer players on his Twitter account. On September 15, he received 5 consecutive messages in English informing him of the removal of these contents. Immediately after that, his account was suspended. This occurred as a result of a Colombian broadcaster's claim, RCN, before Twitter, alleging that the videos constituted a violation of its exclusive right to broadcast the matches of the *Liga Colombiana de Fútbol* (Colombian Soccer League).

This case became notorious in social media when Yeimis himself published a video in which he asked WinSports (channel owned by RCN) to restore his Twitter account because, in addition to being a channel to express his passion for soccer, he used it to support his needs as a person with disabilities, carry out health actions and follow up on a complaint to the police social security system.

Since Twitter's emails were in English, Yemis could not understand what was happening. He thought it was enough to reply to some of those emails asking for the reactivation of his account. At that time, in Karisma Foundation we learned about the case and began to help him, explaining that it is necessary to respond to each of the notification and that it must be done with specific conditions and statements, ideally in English, because, by then, we had verified that it was more efficient.

Another difficulty that Yeimis encountered in making the counter-notifications is related to the fact that at that time he was connecting to Twitter through one of the unlimited cell phone plans offered in Colombia in the "zero rating" modality. In other words, he did not have full access to the Internet that would allow him to access his mail and make the counter-notifications. Nor was he in a position to go to an internet cafe to connect to the Internet and make the counter-notification from his email.

Understanding of the procedure and sending the counter-notifications was not easy for Yemis and took several days. Once completed, Yemis recovered his account in a few hours. However, the success cannot be attributed to the counter-notifications that Karisma sent on his behalf. Everything indicates that the account was reactivated because RCN withdrew the claim.

Lo doy porque quiero (I give it because I want it)

This is a forum for discussion that take place in Medellin, Colombia, and whose purpose is the exchange of ideas and knowledge for which multiple audio-visual aids are used. *Lo Doy porque Quiero* happens in a bar and the conference recording goes to YouTube.

This case shows a number of videos silenced by YouTube in response to a notice that said that “a copyright owner has claimed against the content that appears in your video through Content ID.”

The reason for this is that the videos on YouTube has recorded the audio-visual aids used in presentations or, in other cases, a song playing in the bar can be heard during some period of the presentations.

With Karisma’s support, *Lo doy porque lo quiero* organizers initiated the counter-notification process on the YouTube platform. Although they claimed that they were making fair use of the content, their claims were not accepted and their videos remain silent.

In this case, the biggest concern is that after they counter-notified, *Lo doy porque lo quiero* organizers received an email in which the platform reported that the complainant maintains that there is an infringement. In this regard, we understand that the platform is not complying with the norm by failing to provide evidence that the claimant has initiated a judicial proceeding as required by law.

Silencing projects like this one weakens innovation and the circulation of knowledge and culture in the digital age.

Sincerely,

Carolina Botero Cabrera
Director

Amalia Toledo Hernández
Project Coordinator

María Juliana Soto Narváez
Researcher

Ann Spanger
Researcher officer