

How to make online world safe with technology: comparing US v EU v Korea

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Billion dollar question: how to scale moderation to online disinformation 1

- **DMCA:** As long as platforms take down ALL noticed contents and restore ALL appealed contents, exemption for liability for all illegal contents → Strong incentive for massive moderation → "freedom of speech"? Massive and expedited restoration of appealed contents → "Illegal contents restored"? Reality: Only 5-10% (now even lower) of noticed contents are appealed → Result: 90-95% of noticed illegal contents are taken down without any issue with freedom of speech.

DSA = attempt to replicate DMCA's success in all other areas

- **DSA:** retains 2000 e Commerce Directive's liability exemption but adds due diligence requirements for all moderation/restoration requests. No obligation to take down (**NetzDG revised to reflect this**) → Disputes: entered into mediation (Not mandatory to accept settlement terms)

Does DSA achieve the similar result as DMCA?

DSA for 2 yrs

- 3 billion moderations
 - 99% voluntary (by 2025 1H)
- 165 million moderations appealed (**5.5% of all moderations**)
- 30% restored
- 1,840 disputed (0.003% of all restorations) → 50% re-moderated
- Any lawsuit out of mediation → So far Zero

DMCA in 2025

- 3.5 billion moderations
- Appeals (**less than 1%**)
- More than 50% restored

Current Korean landscape

- Mandatory "notice and takedown" – When one request "rights-infringing posting" to be taken down, intermediary **must take down**.
 - Erring on the side of taking down lawful postings. Contrast to optional "notice and takedown" under DMCA and DSA (which doubles down on liability exemption of 2000 eCommerce directive)
- Korean Communication Standards Commission's "corrective requests"
 - **"When it is necessary for sound communication ethics"**
 - Many lawful postings being taken down –womenonweb.org, northkoreatech.org, postings critical of President Yoon
- No (effective) liability exemption on the non-copyright side.
 - No sufficient incentive for platforms to engage in notice & takedown

Korean 2025 law “fashioned after DSA”

- Creates a new category of regulated content: **False information** and **Disinformation** (a.k.a. false manipulated information) – 2021 UNSR Irene Khan: Speech cannot be restricted for its falsity. Should be for harms. “Public interest” is not amorphous and subject to abuse.
- Subjects **disinformation** to **administrative non-judicial takedown**
- Subjects **disinformation** to **punitive damages** (5 times actual) for publishing the same
- Subjects “illegal information”, false information and disinformation to **civil damages** and **presumed damages (USD 35,000)** for “circulating”
- Subjects disinformation to **disgorgement up to USD 700K** for publishing the same repeatedly.

Points wished to be emphasized

- “DSA does not create a newly regulated category of speech”
- “DSA is not a content moderation body”
- “DSA does not impose liability on platforms for user created content”
- “DSA requires platforms to engage users and complaints with **due diligence**”
- “State actors forcing private parties to take down specific content *en masse* will backfire”
- “State actors just need to set up the right incentives under which platforms will voluntarily take down bad contents **en masse**. E.g., DMCA, sometimes more and faster than state actors can force them to”

Resources

- <https://www.chosun.com/english/national-en/2025/10/21/O5DVRVGT3JHE3C7ALZKTW4RFZM/>
- <https://cm.asiae.co.kr/en/article/2025121014354258215>
- <https://www.opennet.or.kr/26574>(Korean only)
- [The Democratic Party's Push for the 'Korean-Style DSA' Must Align with International Human Rights Standards | OPEN NET](#) (English translation)