



Meta Description: Giant streaming site, Twitch,s last week sent its community into uproar with a storm of copyright takedown emails.

Twitch DMCA Storm Leaves Creators Reeling and Seeking Answers

Giant streaming site, Twitch, last week sent its community into uproar with a storm of copyright takedown emails. The messages, which affected a large swathe of Twitch “partners” - those who actually make money on the platform, notified creators that several pieces of content on their channels violated copyright law.

But here’s the thing. Twitch didn’t inform the creators of the exact content that offended copyright laws. In even more confusing fashion, they deleted the content without letting creators respond to the complaint, and then informed creators that they must immediately work on removing other offending content on their channel, or risk getting “permabanned”. Still without saying what the problem is or how to identify it.

Understandably, this has left users of the streaming platform [less than excited](#). Many are fuming as to what they believe has been Twitch’s unhelpful stance. And even more cringe at the prospect of deleting years of work that may or may not have breached the copyright laws.



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by DMCA.com a private copyright services company.
This article is available at DMCA.com/articles.

What exactly forms the bone of contention and do Twitch users really have any grouse to pick with the platform? Here's what you should know.

The background

Back in June, Twitch creators were hit with a deluge of takedown notices. According to the streaming platform, the notices were due to a "sudden influx of DMCA takedown requests for clips with background music from 2017-19". All of the requests were submitted by the Recording Industry Association of America (RIAA).

The RIAA is well-known for throwing its weight around against people who use its members' copyrighted content without permission. Considering that most streamers either have their favorite Spotify playlist on repeat during streams or play games with copyrighted music, most feel it was only a matter of time to gain the RIAA's attention.

According to [reports from CNN](#), the association went into overdrive in June, sending an estimated 1,800 takedown requests - as against their prior yearly average, which was 700.

But the scary part for creators is that Twitch has what most would call an unforgiving "repeat infringer" policy. The platform issues strikes for each infringement that a user logs. Although there's no official number of strikes that could put one in serious trouble, it's generally understood that three strikes will get you kicked out for good. After receiving the takedown requests, Twitch issued strikes to the implicated creators, leaving everyone fearing the worst.

Fast forward to October, and things seemed to get even worse. Twitch sent creators [new notices](#), informing them that several years-old clips and VODs on their channel were in breach of copyright laws, and stating that the content has been deleted.

Why is the deletion problematic?

The first thing that sticks out for most creators is the apparent lack of due process. Sites that host user-generated content, such as Twitch, have clearly defined roles in the DMCA process. Per normal procedure, when a DMCA takedown notice is filed with a platform, the platform must inform the alleged infringer and give them a copy of the notice. The notice may be filed personally by the copyright owner or through an agency, such as [dmca.com](#).

The notice itself is required to state, and possibly provide a link to, the copyrighted content that has been infringed upon. It should also state how the infringer has breached the owner's copyright, as well as provide the owner's contact details.



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by [DMCA.com](#) a private copyright services company.

This article is available at [DMCA.com/articles](#).

Another important step in the procedure is the infringer should have an opportunity to defend their use of the copyrighted content. A DMCA takedown notice may be sent in error or simply may not appreciate the fact that there was a legal basis for the use of the copyrighted material. As a result, the alleged infringer must be able to defend their use, if a defense exists.

Platforms too can come under scrutiny for negligently hosting or encouraging the posting of content that breaches copyright laws. But the DMCA provides “safe harbor” rules that let platforms avoid liability if they take reasonable efforts to resolve takedown notices and remove offending content.

Clearly, Twitch failed to follow established procedure. Twitch should have informed users of the exact content that offended, and whose rights were breached. They should also have given users the opportunity to respond to the notice before taking further action.

Twitch itself knows this. According to the platform, “We recognize that by deleting this content, we are not giving you the option to file a counter-notification or seek a retraction from the rights holder.” So, instead of giving out strikes, Twitch opted to provide a “one-time warning” to allow creators learn about copyright law as it affects them. But in the meantime, users must work to root out other unlicensed tracks used in their clips and delete them before normal service resumes.

That’s another sticky point for users. Twitch clips and VODs are typically less than a minute long. So, the average creator can amass hundreds of clips over a couple of years. Those that have been on the platform longer have even more clips, most times running into the tens of thousands or hundreds of thousands. That’s a lot of content to sort through.

Yet, at the time of the notices, creators say Twitch failed to put in place an identification system that lets users know what clips offended. There was also no way to mass delete clips at the time. According to [one creator](#), Daniel “DansGaming” Evans, a veteran of more than 11 years with over 200,000 clips, it would take several months of “hard work” to sort through the whole thing.

Faced with a deluge of enquiries and demands to know how they were expected to comply with the notices, Twitch offered a brutal solution – delete everything. But when you think that the offending tracks are only a tiny portion of clips that took a lot of hard work to produce, you can see why that is painful. And for creators like DansGaming with hundreds of thousands of clips, that has got to be mind-numbing.

Can Twitch act as it did?



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by DMCA.com a private copyright services company.
This article is available at DMCA.com/articles.

In principle, yes and no. On one hand, Twitch's [Terms of Service](#) are quite explicit. The terms give Twitch full rights to remove user content in unrestricted circumstances, including where the content violates applicable law. So, that provides a bit of legitimacy to the act.

But on the other hand, it's difficult to justify the action of Twitch on that basis alone. The DMCA gives users clear rights as to due process, and Twitch cannot lightly take that away, even via its Terms of Service. If it was truly interested in seeking a compromise, as the olive branch it extended suggests, there should have been a dialogue before reaching a conclusion.

As it stands however, it's undeniable that giving infringers a free pass for this rash of takedown actions might be the best compromise for both sides. Indications are that thousands of users were likely affected by the actions. So, suspending the system of strikes for now lets them avoid having to ban thousands of accounts.

What are the implications?

By denying users the right to due process, and failing to secure their buy-in before the deletions, Twitch may be opening itself up to legal liability. Although, this may also be a hard sell for creators who are also guilty of using copyrighted music without proper authorization. After all, it will be difficult to build a case premised on your own wrong.

But some users may feel that Twitch has also been at fault, to an extent. There are [reports](#) that the Audible Magic music ID system, implemented by Twitch to help users screen for copyrighted music, has not exactly worked properly. Coupled with the complaint that it's both insensitive and "grossly negligent" to expect users to simply delete years of hard work based on unclear claims of copyright infringement, one can see why the situation is delicate.

So far, Twitch's actions indicate that it is trying mighty hard to remain firmly within the safe harbor provisions of the DMCA. It is trying to avoid liability by showing that it responds swiftly and adequately to takedown requests.

However, it's also important for Twitch to provide better support to its users. These are people that have helped the platform reach where it is today. So, they need to be doing more to help creators work through this difficult period.

What can Twitch streamers learn from this?

Creators can no longer afford to ignore copyright laws and the rights of copyright holders. 2020 has been a difficult year for the music industry, and this may be forcing them to take a closer look at how their music rights are being handled across other



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by DMCA.com a private copyright services company.

This article is available at DMCA.com/articles.

industries. Yet, most indications are that the recent storm of takedown requests is only a test run.

It's important to be more conscious of these rights and how they apply. As Twitch has explained, it is not acceptable to have copyrighted music playing during streams, or on uploaded clips or VODs. Creators should also learn that purchasing a video game may not give you the rights to broadcast the music soundtracks on the game.



* This article provided as information only and **should not be considered legal advice**

** This article was assembled by [DMCA.com](https://www.dmca.com) a private copyright services company.
This article is available at [DMCA.com/articles](https://www.dmca.com/articles).