



The Digital Millennium Copyright Act (US)

If you are an Australian business that sells online, you probably use a US-based platform – like Etsy, Shopify or Square. This means that the Digital Millennium Copyright Act (DMCA) from the United States can seriously affect your business.

How the DMCA may affect your business

The DMCA is part of the United States copyright law. It protects intellectual property, and it applies to any material that goes online – this includes online shops, descriptions of services and objects, images and media.

If a person or a business believes any of your online content infringes on their copyright, they can contact the online service provider – Etsy or Shopify, for example – and ask them to take down your content. This is called a takedown notice. The online service provider will then take down your content without warning.

What a takedown notice looks like

A takedown notice will usually come from the online service provider you're using. If you receive a takedown notice, your content has already been disabled and you won't be able to repost for 14 days. This means your online shop will be out of action until you resolve the issue.

The takedown notice will usually include the name and address of the person or business who considers you to be in breach of copyright. This person or business may be based overseas.

A takedown notice doesn't necessarily mean you have breached copyright law – it just means someone believes you have.

What to do if you receive a takedown notice

If you receive a takedown notice, we recommend you seek legal advice and act quickly and carefully.

Some options you have are:

- contacting the person or business that issued the notice to negotiate its removal
- issuing a formal counter-notice to your online service provider.

You should note that, because the DMCA is part of US law, by issuing a formal counter-notice, you are placing yourself under the jurisdiction of the US legal system. This means you may open yourself up to legal action under US law.

How to issue a counter-notice

If you decide to issue a counter-notice, you may want to have a legal representative who can help you through the process.

You must fill out a template for notices. You can find it at the US Copyright office website www.copyright.gov.

With this template, you will need to contact your online service provider with your details and contact information, and details about the content that was removed – what it was and where it was. You must then provide a statement that you:



- believe in good faith that the content was removed due to a mistake
- consent to the jurisdiction of the US Federal District Court
- accept to be served documents by the person who made the claim.

Your online service provider will then forward your counter-notice to the person who made the claim.

The person or business who made the claim can then choose to take legal action against you or to take no further action.

If they choose to take no further action, your online service provider will then restore your content.

Available support

You may want to seek legal advice before taking action.

You can also [contact us for support](#).