



# HOW TO CROWD IN INTRINSIC CORPORATE MOTIVATION FOR HUMAN RIGHTS DUE DILIGENCE BY MEANS OF CORPORATE SANCTIONS?

UCL - ECGI Biennial Law and Ethics Symposium 10 November 2023





# ACCOUNTABILITY GAP IN BUSINESS AND HUMAN RIGHTS

- HRDD as a voluntary standard not working
  - Mandatory regimes with effective sanctions needed
- EU Directive on Corporate Sustainability Due Diligence
  - Is the proposed administrative sanction regime an effective solution?
  - **Economic deterrence** as the leading paradigm in the EU corporate sanction policy
    - Problem: multiplicity of compliance motivations



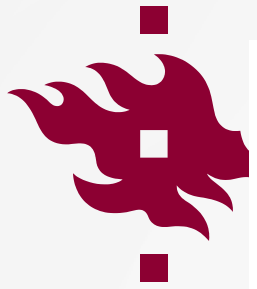
*All pictures in the presentation  
by unknown authors licensed  
under [CC BY-NC-ND](#).*



# EMPIRICAL EVIDENCE ON COMPLIANCE MOTIVATIONS

- Motivational crowding theory
  - External incentives may **undermine intrinsic** motivations
  - Pecuniary sanctions → **economic framing?**
    - Example: EU-based competition law sanctioning (economic deterrence, an economic frame)
- Expressive theory of law
  - Law's ability to **stimulate intrinsic** motivations (and not just undermine them)
  - Under what circumstances does a legal instrument convey a moral message?

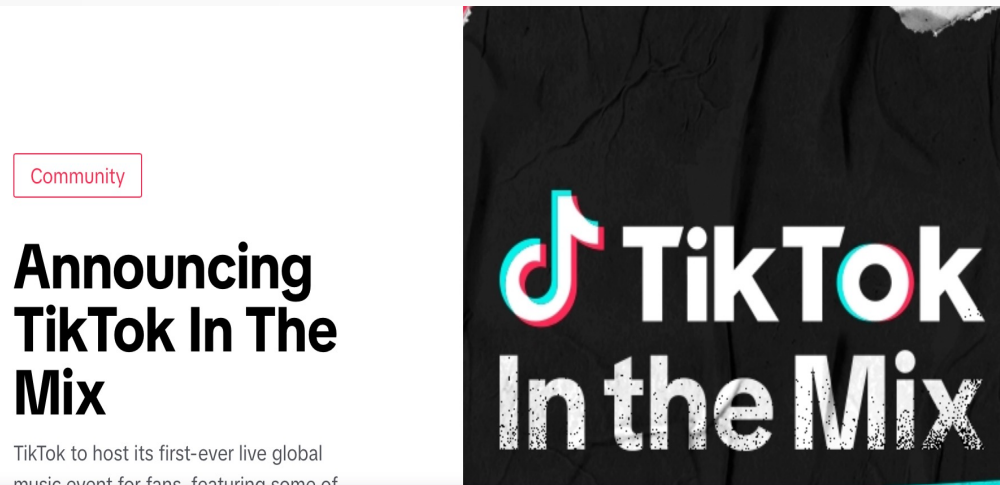




A spokesperson for the social media firm said it "respectfully disagree[s] with the decision, particularly the level of the fine imposed".

"The criticisms are focused on features and settings that were in place three years ago, and that we made changes to well before the investigation even began, such as setting all under 16 accounts to private by default," they said.

Source: BBCNews



### على هذا المتصفح؟ TikTok هل تقبل ملفات تعريف الارتباط من

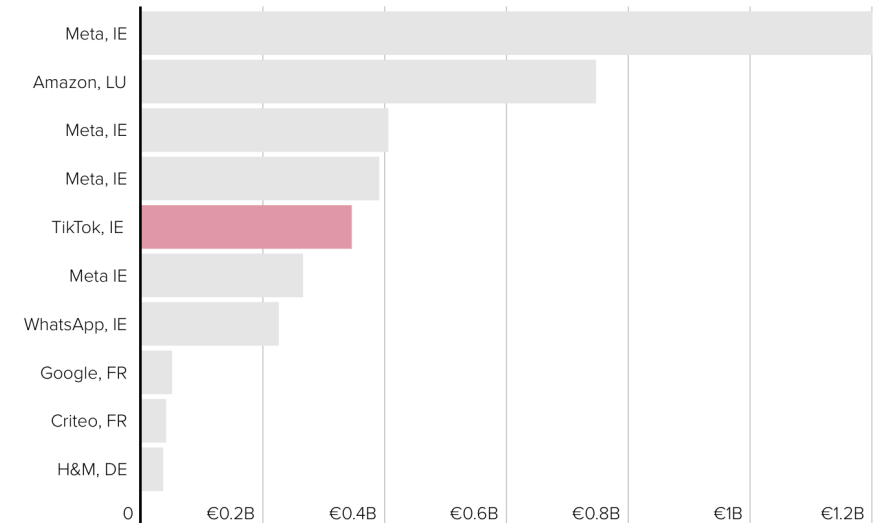
ملفات تعريف الارتباط والتقنيات المماثلة لتوفير خدماتنا وتحسينها وتأمينها وتحليلها. بالنقر فوق "قبول الكل"، فإنك تستخدم ملفات تعريف الارتباط والتقنيات المماثلة لتوفير خدماتنا وتحسينها وتأمينها وتحليلها. بالنقر فوق "قبول الكل"، فإنك تستخدم ملفات تعريف الارتباط والتقنيات المماثلة لتوفير خدماتنا وتحسينها وتأمينها وتحليلها. بالنقر فوق "قبول الكل"، فإنك تستخدم ملفات تعريف الارتباط والتقنيات المماثلة لتوفير خدماتنا وتحسينها وتأمينها وتحليلها.

رفض الكل

قبول الكل

### TIKTOK ENTERS PRIVACY HITLIST

Social media app TikTok was fined the fifth-largest penalty under the European Union's General Data Protection Regulation (GDPR) in September.



The data only contains publicly available fines. Controller/processor names abbreviated for ease of reading.

SOURCE: GDPR Enforcement Tracker

By Lucia Mackenzie

Share

POLITICO





# DESIGNING EFFECTIVE HRDD SANCTIONS



- HRDD seen through an economic lens → risks of **cosmetic compliance**
- **Value-based** HRDD as a goal
  - Genuine corporate respect for human rights → moral framing needed
- How to associate HRDD sanction regime with **morals**?
  - **Culpability and guilt** as a source of blame and moral condemnation in criminal law sanctioning (punishment theories)
  - Role of culpability in HRDD sanctions?

