

Advisory Committee on Enforcement

Tenth Session

Geneva, November 23 to 25, 2015

INTERACTIVE ADVERTISING BUREAU (IAB) POLAND INITIATIVES ON ADVERTISING MISPLACEMENT TO TACKLE INTELLECTUAL PROPERTY RIGHTS (IPR) INFRINGEMENT

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ABSTRACT

The problem of IPR infringing sites that reap their profits from advertising is extremely important, as it brings with it long-term consequences, not only ethical and social, but also financial. In the short or long term everybody loses. “Advertise consciously. Initiative for fair advertising” is an action launched by IAB Poland¹ as the first “Follow-the-Money” initiative in the country, and one of the first in the European Union (EU). The initiative aims to promote placing ads on legal content sites that respect copyright law. Experience shows that the key to developing successful advertising misplacement initiatives is to embrace an approach that is voluntary, flexible and that involves the highest possible amount of relevant players.

* The views expressed in this document are those of the author alone and not necessarily those of the Secretariat or of the Member States of WIPO.

¹ IAB Poland is the networking and knowledge platform for interactive advertising and digital marketing in Poland. Its main mission is to promote and develop the digital and interactive market by informing, educating, defending, regulating, researching and organizing networking initiatives and activities. Regarded as one of the leading players in the digital economy in Central and Eastern Europe, IAB Poland takes action in relation to various aspects of interactive advertising. Covering internal public affairs, lobbying, education, regulation and promotion, IAB Poland has become the voice of the industry to marketers and the interactive community.

1. The problem of IPR infringing sites that reap their profits from advertising is extremely important, as it brings with it long-term consequences, not only ethical and social, but also financial. Services enabling illegal access to content cause changes in the whole Internet ecosystem and the value chain. In the short or long term everybody loses: rights holders, publishers, advertisers, agencies, agency trading desks (ATDs), demand side platforms (DSPs), advertising networks, sales houses, advertising exchanges and supply side platforms (SSPs).
2. As shown in the PwC report “Analysis of the impact of video content piracy on the economy in Poland”, in 2013 the Polish economy lost PLN 500-700 million of its gross domestic product (GDP), and the direct treasury loss was between PLN 170-250 million. According to the report “Future of online video in Poland”, published by IAB Poland in late 2013, the ads revenue of IPR infringing sites exceeded PLN 50 million, representing nearly 2.5% of the total interactive advertising expenditure.
3. Needless to say, digital advertising has a key role in helping fund digital content, services and applications, making them widely available at little or no cost, as well as driving growth in the digital sector.
4. In 2014, digital advertising powered the European Internet economy by some EUR 30.7 billion (+11.6% growth) and digital advertising is continuously driving more money into the digital economy. In 2006, the value of the EU market stood at EUR 6.6 billion, versus EUR 27.3 billion in 2013. This is an increase in spending of EUR 20.7 billion and translates into a compound annual growth rate of 22.5%, or an average EUR 3.0 billion per year.
5. With a growth rate of 11.9 per cent in 2013 compared to a mere 0.1 per cent increase of the overall EU GDP, the digital advertising sector continues to outperform the overall EU economy.
6. Websites enabling illegal access to content have certain competitive advantages over all legal content distribution channels: they bear no license fees, offer free or a lot cheaper access to content in parallel or ahead of the premiere in legal sources. At the same time, they generate profits for their owners based on the advertising or paid content models.
7. According to the PwC report, as much as 7.5 million Poles are using video services that infringe IPR. Among them, between 29 and 49% of users paid at least once to access content.
8. According to data collected by IAB Europe, advertising misplacement initiatives originated in the United States Quality Assurance Guidelines (QAG) of 2010. In the United States, a second initiative, the Core Criteria for Effective Digital Advertising Assurance (DAAPs), was launched in February 2015.
10. In Europe, initiatives on advertising misplacement have thus far been initiated in nine different countries: Austria, Denmark, France, Italy, Netherlands, Poland, Slovakia, Spain and the United Kingdom. One of the first was the Polish “Advertise consciously. Initiative for fair advertising”. The Initiative, launched in June 2014 to promote white-listed companies and transparency on the measures that companies take to prevent advertising misplacement on copyright infringing sites, has been successful in collecting 15 signatories.
11. IAB Poland holds a number of initiatives related to the protection of intellectual property. Raising awareness of the importance of copyright and other intellectual property is an extremely important issue. IAB Poland sees a further need for education in the field of copyright and other IPRs for both Internet users and those who operate the advertising ecosystem. Therefore, apart from the initiative “Advertise consciously. Initiative for fair advertising” IAB Poland conducts another parallel initiative: “Watch Legal”.

12. The purpose of the “Watch legal” action is to promote the legal distribution of video content and help Internet users to identify safe and licensed services that provide video content. Services distributing such content are applying for a quality mark that is granted by IAB Poland in consultation with the “Watch legal” patrons. The dedicated website at <http://ogladaj-legalne.pl/> provides information about the initiative as well as the list of sites and entities which are involved in this action. It is a source of information of Polish legal video distribution on the Internet since 2012.

13. “Advertise consciously. Initiative for fair advertising” is an action that IAB Poland has, as mentioned above, been implementing since June 2014. It is the first “Follow-the-Money” initiative in the country, and one of the first in the EU. The initiative aims to promote placing ads on legal content sites that respect copyright law. IAB Poland wants to raise the awareness among marketers that advertising on sites that respect such law orders is essential both for branding and advertised product.

14. The initiative is aimed mainly at advertisers and brand owners. Apart from raising consciousness, it encourages them to demand from their business partners (*i.e.* media houses, agencies, ad networks) to ensure that ads for the respective brands are displayed only on IPR non-infringing sites. The initiative also provides guidelines and examples on how to introduce provisions in contractual relations between industry players stating that buyers wish to have their advertisements placed on IPR non-infringing sites only.

15. The Initiative has notably embraced the following avenues:

- encouraging advertisers and agencies to expressly state, in their contractual agreements, their willingness to restrict the display of advertisements on IPR infringing sites;
- encouraging the use of advertising misplacement tools such as white lists;
- encouraging data sharing of URLs of IPR infringing sites and countermeasures used to evade blocking.

16. The Initiative has already been granted a patronage by the Minister of Culture and National Heritage and the Minister of Administration and Digitalization. In early 2015, the Initiative was further appreciated by PISF (National Film Art Institute) and funds for promoting the Initiative have been granted. Between April and July this year, a communication campaign of the initiative has been conducted, including brochures, a conference, a series of articles and a promotional video (<https://youtu.be/lp9y7C-i46s>).

17. The Initiative is the result of fruitful collaborations between rights holders as well as advertising industry players and, as such, currently represents workable solutions for the parties involved. IAB Poland believes that such initiatives across EU member states should be encouraged.

18. Experience of IAB Poland has shown that the key to developing successful advertising misplacement initiatives is to embrace an approach that is voluntary, flexible and that involves the highest possible number of relevant players. The digital advertising ecosystem is currently evolving at a very high speed, in parallel with that of technology. To allow the sector to continue to flourish and innovate, it is fundamental to integrate flexibility and voluntariness in any ad misplacement scheme. Innovation in the digital advertising ecosystem is driven by a myriad of digital players and these players should all be given the opportunity to voice their opinion and potential concerns.

19. The Initiative encourages its signatories to take appropriate steps to tackle misplacement on IPR infringing site. However, being in its early stages, in order to utilize the full potential, more signatories are needed. Therefore, future focus will be mainly on advertisers, brand owners, to raise their awareness, for they can be the main driving factor in limiting ad misplacement.

20. It is important to understand, that while advertising misplacement on IPR infringing sites can be significantly diminished, it cannot be completely eradicated. The online advertising ecosystem's limitations should be understood: billions of advertisements are delivered online every day, and particularly with the advent of technologies and business models like programmatic buying, it is not always straightforward for players to know in advance on what web property their ads will be displayed.

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