

EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Innovation and Advanced Manufacturing
Intellectual Property and Fight Against Counterfeiting

THE FOLLOW THE MONEY APPROACH TO IPR ENFORCEMENT - STAKEHOLDERS' VOLUNTARY AGREEMENT ON ONLINE ADVERTISING AND IPR

GUIDING PRINCIPLES

Preamble: These principles will not undermine or impact national initiatives, but will operate in a manner that supports such initiatives, provide a framework for EU level approaches and encourage solutions to be developed in the Member States.

- (1) The purpose of the agreement is to dissuade the placement of advertising on commercial scale IP infringing websites and apps (e.g. on mobile, tablets, or set-up boxes), thereby preventing the funding of IP infringement through advertising revenue.
- (2) The agreement will be open for signature by all parties involved in placing, buying, selling or facilitating advertising, as well as all parties with an interest in fighting against IP infringement, such as but not limited to advertisers, agencies, trading desks, advertising platforms, advertising networks, advertising exchanges, sales houses, publishers and IP rights owners, their representatives or associations.
- (3) Associations signing the agreement need not undertake obligations on behalf of their members, but will, in accordance with the statutory agreements, undertake to encourage them to join or to respect the obligations contained in the agreement. Associations will commit to investing their best efforts to encourage their members, in respective sectors, to not offer the sale, recommend, or buy media space on commercial-scale IP infringing sites. To that end, associations commit to (i) engaging with their members to raise the profile of this subject, and (ii) encouraging buyers (e.g. advertisers) and sellers (e.g. advertising networks) of advertising space as well as facilitators brokering such placement (e.g. ad exchanges) and/or providing the buyer and seller with tools and controls to help protect brand safety (e.g. Content Verification – CV – tools) to make transactions pursuant to a contractual agreement containing certain safeguards.
- (4) Under the agreement, signatories directly involved in buying, selling or brokering the sale of advertising space will undertake to include certain safeguards in their contractual agreements, such as but not limited to the use of Content Verification (CV) tools, Ad Delivery and Ad Reporting systems, schedules, online rights monitoring and brand protection services, with the aim that the advertising placed by them (advertisers) or through their services (advertising intermediaries) is not associated with commercial scale IP infringing content. Signatories agree to pass along the obligations through the chain of contracts, and to set up a working group on possible non-compliance.
- (5) The agreement will not entail the creation of a list/database/repository of commercial scale IP infringing websites at EU level by the Commission. However, such instruments can facilitate the instruments or procedures mentioned under (3) in an efficient manner. Signatories do therefore not exclude setting up such databases as part of specific schemes, subject to national specificities, and will set up a working group on cooperation between the sectors.

- (6) The agreement will establish a verification and compliance process by a recognised and independent third party and a seal of compliance with the terms of the agreement. Signatories agree to set up a working group on the system of verification and compliance, including provisions for a complaint and adjudication process, and recognition of existing verification.
- (7) The agreement will establish key performance indicators (KPIs) that will allow for the objective measuring and reporting of the effectiveness of the agreement. Signatories agree to set up a working group on the KPIs.
- (8) The agreement will ensure protection of intellectual property, legitimate competition and fundamental principles, as recognized by the EU Charter of fundamental rights, such as freedom of expression, access to lawful content and Internet services and technologies, fair process, and privacy. The agreement will also seek to ensure an appropriate and proportionate balance between fundamental rights.

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