



EDiMA Position on the Follow the Money Approach

Fighting piracy and counterfeiting online

The Internet represents great potential for consumers, content creators and technology innovators. Today, online services like YouTube, Spotify, iTunes, Amazon and others provide revenue and marketing opportunities for artists, publishers, and copyright owners. Digital music sales are rising, and new products¹ and services are continuously emerging to produce revenues for copyright holders.

It is fair to say that these new services are making great strides against online piracy and counterfeiting as outlined in a recent released study by two respected economists demonstrating how legal online offers have deterred piracy and suggesting that by creating less restrictions on consumers will in turn divert users away from piracy.²

Artists rely on online platforms and services to both increase awareness of their work and for the economic benefits associated with such recognition. Similarly, online services rely on artists and creators to generate new and compelling content to be delivered to users and consumers. Both sides benefit when users have access to legal content and improving both the availability and ease of access to online legal services will benefit all parties involved. Nevertheless, it remains important to find effective ways to stop the flow of support for online pirate sites while traditional content distributors transition to new business models.

Self-regulatory proposals to fight industrial scale piracy and counterfeiting

In the case of rogue sites dedicated to piracy, these sites are in it for the money and EDiMA believes there are steps that could be taken which would help shut them down. As long as the financial rewards persist, no amount of manipulation or ISP blocking will eliminate the problem. EDiMA believes that the objectives of the 'follow the money' approach can best be achieved through voluntary and cooperative frameworks, which would have the effect of cutting off incentives for rogue sites by tackling these sites' revenue streams.

The 'follow the money' approach is one of the most effective ways to combat online piracy and counterfeiting, and the use of voluntary practices and cooperative frameworks are ambitious, yet sufficiently flexible tools to accommodate evolutions in technology to effectively combat online piracy and counterfeiting. This is evident in the Internet industry's participation in several initiatives promoting the 'follow the money' approach, including the IACC's Payment Processor Initiative (RogueBlock[®]), which is a collaborative effort of the IACC and the payment industry to create a streamlined, simplified procedure for members to report online sellers of counterfeit or pirated goods directly to credit card and payment processing networks.

A number of initiatives exist that when coupled with the 'follow the money' approach enhance the effectiveness of the approach to address online piracy and counterfeiting. For example, self-regulatory initiatives such as the Digital Trading Standards Group (DTSG)³ and Operation Creative

¹ IFPI 2012 report: <http://www.ifpi.org/content/library/DMR2012.pdf>

² Halmenschlager, Christine and Waelbroeck, Patrick, Fighting Free with Free: Freemium vs. Piracy (August 3, 2014): <http://dx.doi.org/10.2139/ssrn.2475641>

³ <http://www.jicwebs.org/agreed-principles/digital-trading-standards-group-good-practice-principles>



in the UK⁴ and the White House Best Practice Guidelines for Ad Networks in the US,⁵ as well as self-help measures, such as the Business Software Alliance (BSA) initiative that posts ads on Facebook offering a cash reward to Facebook users who report businesses that use unlicensed software.

These initiatives help to curb and limit online piracy and counterfeiting. In order to run their businesses, commercial infringers need the services of a wide value chain, including for example advertising services providers, registrars, shipping companies, and payment service providers.⁶ Depriving rogue sites of access to funding through targeted voluntary measures in the value chain is a tried and tested measure,⁷ and researchers have found that a complementary strategy of reducing demand through legitimate offerings and targeting the economic incentives of piracy is the most promising way forward.⁸

There are also considerable measures that major brand-owners can take. For example, brand-owners can collaborate to determine which sites they wish to avoid advertising on (whether for copyright or other reasons), making it easier for ad-networks to cut funding to sites dedicated to piracy or counterfeiting.

EDiMA therefore looks forward to further discuss the Commission's plans on a voluntary 'follow the money' stakeholder dialogue but would like to stress that such discussions should in no case lead to legislative initiatives imposing new requirements or regulations on online platforms. Any policy initiatives should also reinforce strong intermediary liability immunity (similar to that provided under the Digital Millennium Copyright Act)⁹, including avoiding affirmative obligations on service providers to track where money is going or taking proactive steps in connection with online products/services to impede the money flow. Any proposed model should be reactive and should follow existing frameworks similar to those found in notice and takedown and law enforcement requests to ensure both creators, users and businesses continue to benefit from evolving online technologies and platforms.

⁴ <http://www.cityoflondon.police.uk/advice-and-support/fraud-and-economic-crime/pipcu/Pages/Operation-creative.aspx>

⁵ Best practices guidelines for ad networks to address piracy and counterfeiting, July 2013: <http://www.2013ippractices.com/bestpracticesguidelinesforadnetworkstoaddresspiracyandcounterfeiting.html>

⁶ See "The Six Business Models for Copyright Infringement", a study researched by BAE Systems Detica and sponsored by PRS for Music and Google: <http://www.baesystemsdetica.com/resources/thesixbusinessmodelsforcopyrightinfringement/>

⁷ In 2012, Google shut down more than 82,000 Adwords accounts for attempting to advertise counterfeit goods, the vast majority as a result of Google's own detection efforts and risk models.

⁸ Lauinger et al., "Clickonomics: Determining the Effect of AntiPiracy Measures for OneClick Hosting" <http://seclab.ccs.neu.edu/publications/ndss2013clickonomics.pdf>

⁹ Digital Millennium Copyright Act, October 1998: <http://copyright.gov/legislation/pl105-304.pdf>