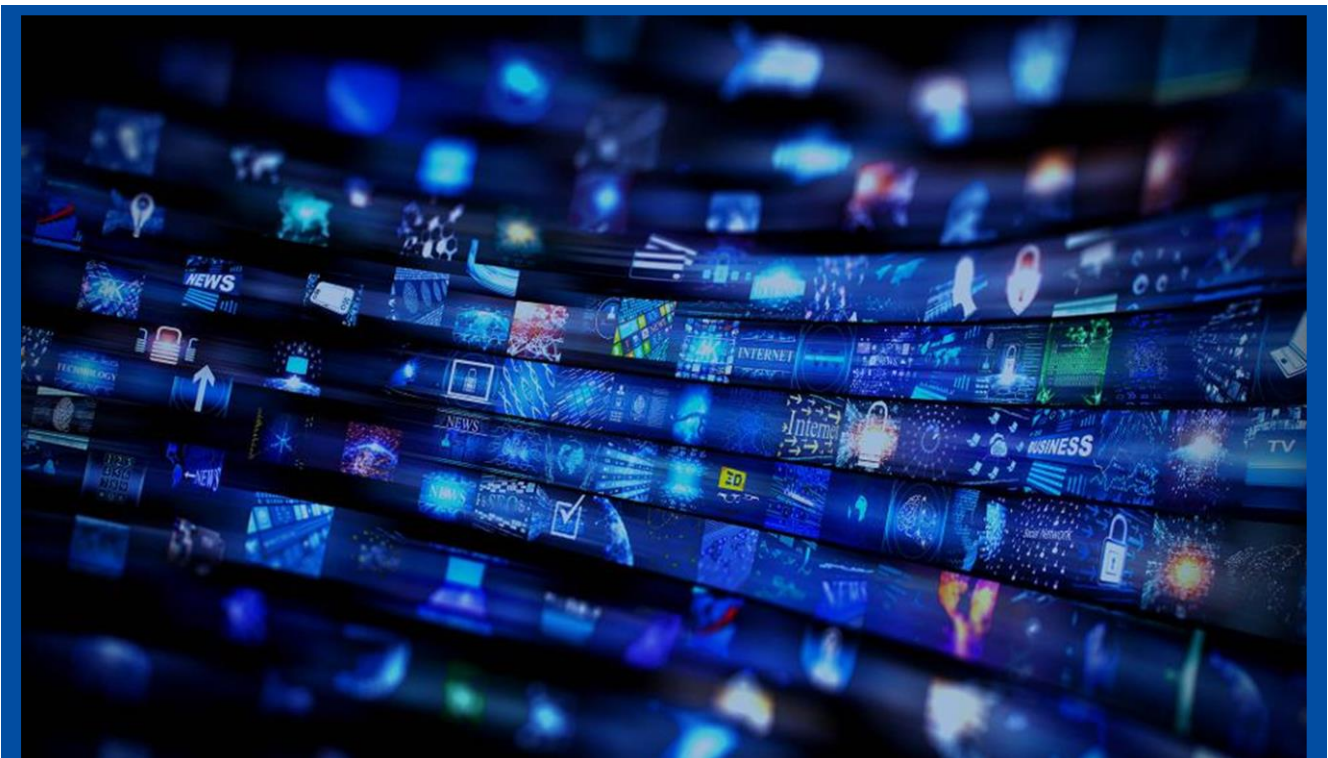


Online advertising on IPR Infringing Websites and Apps

2021

Executive Summary



February 2022

Internet websites and mobile applications that provide access to content, goods or services that infringe intellectual property rights (IPR) on a commercial scale use the sale of advertising space as one of their revenue sources. In addition to providing a revenue stream to IPR infringers, the presence of advertising for legitimate brands on websites and mobile applications that infringe IPR can confuse consumers. It can lead them to mistakenly believe that the site or application they are accessing provides access to legal content, goods or services.

To strengthen the protection of IPR and reduce the harm caused by its infringement, the European Commission sponsored a memorandum of understanding on online advertising and IPR (MoU)⁽¹⁾. The MoU signatories represent parties involved in placing, buying, selling and/or facilitating advertising, including advertisers, advertising agencies, trading desks, advertising platforms, advertising networks, advertising exchanges for publishers, sales houses, publishers and IPR owners, as well as representatives or associations of these groups.

The EU Intellectual Property Office commissioned White Bullet to carry out the 2021 Ad Monitoring Exercise to assess the impact of the MoU on the online advertising found on IPR infringing websites during 2021, to evaluate the estimated amount and type of online advertising on IPR infringing websites and apps, and to estimate the associated ad revenues. This study is an extension of the work undertaken by White Bullet in 2020⁽²⁾ and the first half of 2019⁽³⁾ on behalf of the European Commission.

The 2021 Ad Monitoring Exercise collected data on the ad profiles of the 2021 Monitored Websites (5 758 websites) from 18 EU Member States, and the United States (US) and United Kingdom (UK) as control countries, between 1 January 2021 and 30 September 2021, divided into four quarters.

⁽¹⁾ European Commission, https://ec.europa.eu/growth/industry/policy/intellectual-property/enforcement/memorandum-of-understanding-online-advertising-ipr_en.

⁽²⁾ European Commission, [Study on the impact of the memorandum of understanding on online advertising and intellectual property rights on the online advertising market – 2020 Ad Monitoring Exercise](#), 2021.

⁽³⁾ European Commission, [Study on the impact of the memorandum of understanding on online advertising and intellectual property rights on the online advertising market](#), 2020.

The time periods covered by the four quarters were as follows:

Q1: 1 January 2021 to 9 March 2021;

Q2: 10 March 2021 to 16 May 2021;

Q3: 17 May 2021 to 23 July 2021;

Q4: 24 July 2021 to 30 September 2021.

In 2021, the same countries were monitored as in 2020 and 2019, shown in Table 1 below, although in 2021 the United Kingdom was moved from an EU monitored country to a control country.

| LIST OF COUNTRIES | | | |
|-------------------|----------------|----|----------------------------------|
| 1 | Belgium | 11 | Malta |
| 2 | Czech Republic | 12 | Netherlands |
| 3 | Denmark | 13 | Poland |
| 4 | Estonia | 14 | Portugal |
| 5 | France | 15 | Romania |
| 6 | Germany | 16 | Slovakia |
| 7 | Hungary | 17 | Spain |
| 8 | Ireland | 18 | Sweden |
| 9 | Italy | 19 | United Kingdom (control country) |
| 10 | Lithuania | 20 | United States (control country) |

Table 1 – List of Countries

In addition to collecting data on ad profiles for websites, from Q3 2021, data was also collected on ad profiles on 538 mobile applications that infringe IPRs (Monitored Apps) from the same countries listed in Table 1. This is an important addition to the monitoring, since consumers increasingly access content (both licit and illicit) using mobile devices and applications.

Key Findings

Monitored Website/App analysis

Of the 5 758 Monitored Websites, 43 % were classified as Illegal Websites and 57 % as High Risk Websites. Illegal Websites are those that have been declared illegal by national judicial, administrative or other enforcement authorities in the EU. High Risk Websites have not (yet) been adjudicated in this way, but they are still verified to be infringing and popular amongst EU consumers, including by White Bullet's IPIP™ tool, or by rights holders.

Of the 538 Monitored Apps, 27 % were classified as Illegal Apps – those identified by the Trustworthy Accountability Group as having been confirmed by rights holders as IPR infringing and removed from official app stores – and 73 % as High Risk Apps.

Ad Impression analysis

- In 2021, the Monitored Websites generated 70.3 billion ad impressions⁽⁴⁾ for the 18 monitored countries, 37 % of which were on Illegal Websites and 63 % on High Risk Websites.
- France and Germany had the highest numbers of ad impressions on Monitored Websites among the 18 EU Member States.
- The 2021 Monitored Apps generated 8.6 billion ad impressions worldwide, 18.5 % on Illegal Apps and 81.5 % on High Risk Apps.

Brand analysis

For the purpose of this report Branded Advertising is broken down into two sub-groups:

- **Major Brands:** brands that are on selected top advertiser lists or are otherwise reputable established brands with a strong search engine presence in EU countries;

⁽⁴⁾An ad impression is a metric of online advertising, which quantifies when an ad is loaded from its source and can be counted. It is also known as an ad view, based on it being viewable by a visitor.

- **Other Brands:** brands that are not major but are also not fraudulent, adult, or malicious.
- Branded Advertising represented 30 % of estimated ad impressions across all Monitored Websites and 82 % across all Monitored Apps.
- The top-level sectors for all Branded Advertising for the Monitored Websites were Arts & Entertainment (43 %) (which includes gaming), followed by Gambling (23 %), Technology & Computing (13 %), Shopping (11 %), and Personal Finance (2 %).
- The top-level sectors for all Branded Advertising for the Monitored Apps were Arts & Entertainment (54 %), followed by Technology & Computing (23 %), News (7 %), Shopping (5 %), and Business (4 %).
- The Monitored Websites had advertising from 8 076 unique brands, of which 12 % (941) were Major Brands⁽⁵⁾.
- On the Monitored Apps, a total of 1 432 brands were identified, of which 20 % (281) were Major Brands.

Estimated ad revenue analysis⁽⁶⁾

In 2021:

- the total worldwide revenue generated by the 5 758 Monitored Websites was estimated to be EUR 912.7 million;

⁽⁵⁾ The brands were classified as Major Brands if the brand, or parent company of the brand, was present on one of the following lists:

- AdAge Global Marketers Index;
- Millward Brown Global and National brand ranking lists;
- Ranking the Brands Top 100 List;
- World Federation of Advertisers (WFA) membership;
- Association of National Advertisers (ANA) membership;
- Forbes Global 2000.

⁽⁶⁾ The figures shown are estimated annual figures, based on extrapolation of the monitoring period. Further details are provided in section 2.8.

- the total estimated revenue generated by the Monitored Websites in the 18 EU monitored countries alone was EUR 102.5 million;
- the total worldwide revenue generated by the 543 Monitored Apps was estimated to be EUR 57.1 million.

Evolution during 2021

- *Estimated ad impressions* for the Monitored Websites increased by 39 % between January 2021 (6.1 billion) and September 2021 (8.6 billion), with a peak in August (8.8 billion).
- The Monitored Apps showed a 6 % increase in estimated ad impressions between June 2021 (520 million) and September 2021 (549 million).
- *Ad Volume*: whilst the count of all Monitored Websites decreased by 29 % from 2020 to 2021, the ad volume collected from the Monitored Websites increased by 292 % from 2020 (6.3 million) to 2021 (24.7 million).
- *Branded Advertising sectors*: the top four sectors for Branded Advertising – Arts & Entertainment, Gambling, Technology & Computing, and Shopping – were ranked the same in both 2020 and 2021.
- *Estimated ad revenue*: worldwide estimated ad revenue generated by the Monitored Websites increased by 75 % from EUR 520.9 million in 2020 to EUR 912.7 million in 2021. The estimated ad revenue for the 18 monitored EU Member States increased by only 40 % from EUR 73 million in 2020 to EUR 102.5 million in 2021, whilst estimated ad revenue for non-monitored territories increased by 241 % from EUR 75.9 million in 2020 to EUR 258.6 million in 2021.

These figures highlight a serious issue, namely that websites and apps that infringe IPR do not only derive revenue from their infringing activities, but also from advertising by legitimate brands that is placed on such websites unwittingly, partly as a result of the very complex internet advertising ecosystem. However, the 40 % increase in estimated ad revenue for websites for the EU Monitored Countries in 2021 (along with the 48 % increase in the US and 50 % increase in the UK) was significantly lower than the 241 % increase in estimated ad revenue for the rest of the world. In the EU, UK and US, the ad industry has introduced measures to address ad funded piracy. These measures do not appear to be as advanced in the rest of the world.