



White House and Ad Networks Release Best Practices for Discouraging Piracy and Counterfeiting

The White House's Office of the U.S. Intellectual Property Enforcement Coordinator, the Interactive Advertising Bureau (IAB), and leading ad networks including Google, Yahoo!, Microsoft, and AOL have created self-regulatory [guidelines and best practices](#) for ad networks to address piracy and counterfeiting.

The guidelines require ad networks to establish and post policies prohibiting websites that are principally dedicated to selling counterfeit goods or engaging in copyright piracy from participating in an ad network's advertising programs. The guidelines were designed to reduce the financial incentives for pirate sites by eliminating their revenue supply.

The guidelines also establish procedures and provide a sample form for content owners to notify ad networks of websites engaging in piracy and counterfeiting, stating that "rights holders are in the best position to identify and evaluate infringement of their intellectual property."

The guidelines require participating companies to (among other things) take the following actions:

- (a) Maintain policies prohibiting websites that are principally dedicated to selling counterfeit goods or engaging in copyright piracy and have no substantial non-infringing uses from participating in the ad network's advertising programs and post such policies on the ad network's website.
- (b) Maintain and post the new best practices guidelines on the ad network's website.
- (c) Accept and process sufficiently detailed notices from rights holders or their designated agents regarding websites participating in the ad network alleged to be principally dedicated to selling counterfeit goods or engaging in copyright piracy and to have no substantial

non-infringing uses. To enable ad networks to respond most effectively, such notices should provide information outlined in the sample form.

- (d) Publicly post on the ad network's website the contact information for its designated agent for receiving such notices from rights holders or their designated agents.
- (e) Upon receipt of a valid notice, perform an appropriate investigation into the complaint, including a determination of whether the website has a direct contractual relationship with the ad network. An ad network may take steps including but not limited to requesting that the website no longer sell counterfeit goods or engage in copyright piracy, ceasing to place advertisements on that website (or pages within that website) until it is verified that the website (or pages within the website) is no longer selling counterfeit goods or engaging in copyright piracy, or removing the website from the ad network.
- (f) Upon receipt of a valid notice, ad networks may consider any credible evidence provided by the accused website that it is not principally dedicated to selling counterfeit goods or engaging in copyright piracy or has substantial non-infringing uses. Such credible evidence may take the form of a counter-notice containing the elements set forth in the Digital Millennium Copyright Act (17 U.S.C. § 512(g) (3)). Ad networks may also consider any response by the rights holder to credible evidence provided by the accused website in defense of its conduct.

The guidelines state that they are not intended to impose a duty on any ad network to monitor its network to identify websites engaging in piracy or counterfeiting, and the voluntary best practices "should not, and cannot, be used in

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any way as the basis for any legal liability or the loss of any applicable immunity or 'safe harbor' from such liability."

The term "ad networks" encompasses only services whose primary business is to broker for compensation the placement of website display advertisements and does not include services that are ad-serving platforms or ad exchanges.

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