HÄRTING

LEGAL LIMITS OF BLOCKING ADBLOCKERS

Dr. Martin Schirmbacher | Oct. 6th, 2015

International Bar Association, Annual Meeting

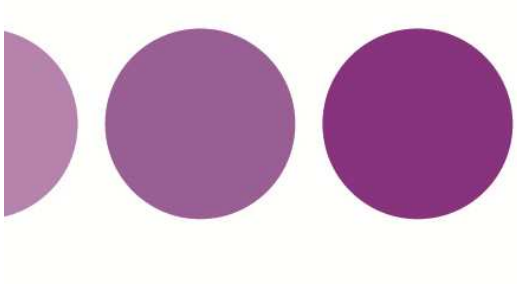
the global voice of
the legal profession

PUBLISHERS LOOKING FOR ALTERNATIVES

- subscription models
- develop an acceptable ads scheme
- detect AdBlockers and communicate with use
- try to deliver ads anyway

It‘s our site and we can do what we want

Ad Blocker Software Alert
It seems your computer is running ad blocker software.
We are now preventing ad-blocked access to our 4oD programmes.
Please disable your ad blocker for channel4.com.
For more infomation, please see our FAQs
Continue



Detecting AdBlockers and not delivering content to users blocking ads is legal

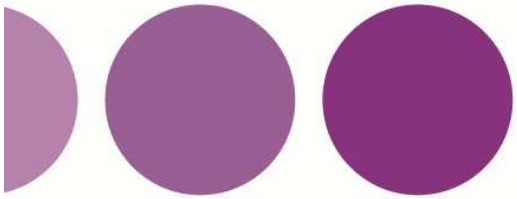
:(

Did you block this ad?

Without ads, we will not survive. GameBanana has been supporting games with cool free content for over a decade. Help us continue that by switching off your adblocker on our site. Thank you.

We notice you've got an ad-blocker switched on. Perhaps you'd like to support the Guardian another way?

Become a supporter today →



Asking user to

- turn off AdBlocker
- become supporter
- become subscriber

is legal

Circumventing AdBlockers and Unfair Competition Laws

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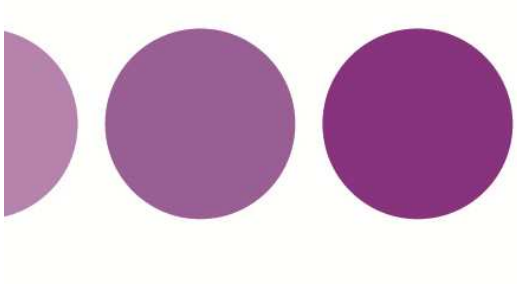
Hey publishers. What if I could eliminate ad blocking forever?
Wouldn't that be..... super?
SOURCEPOINT

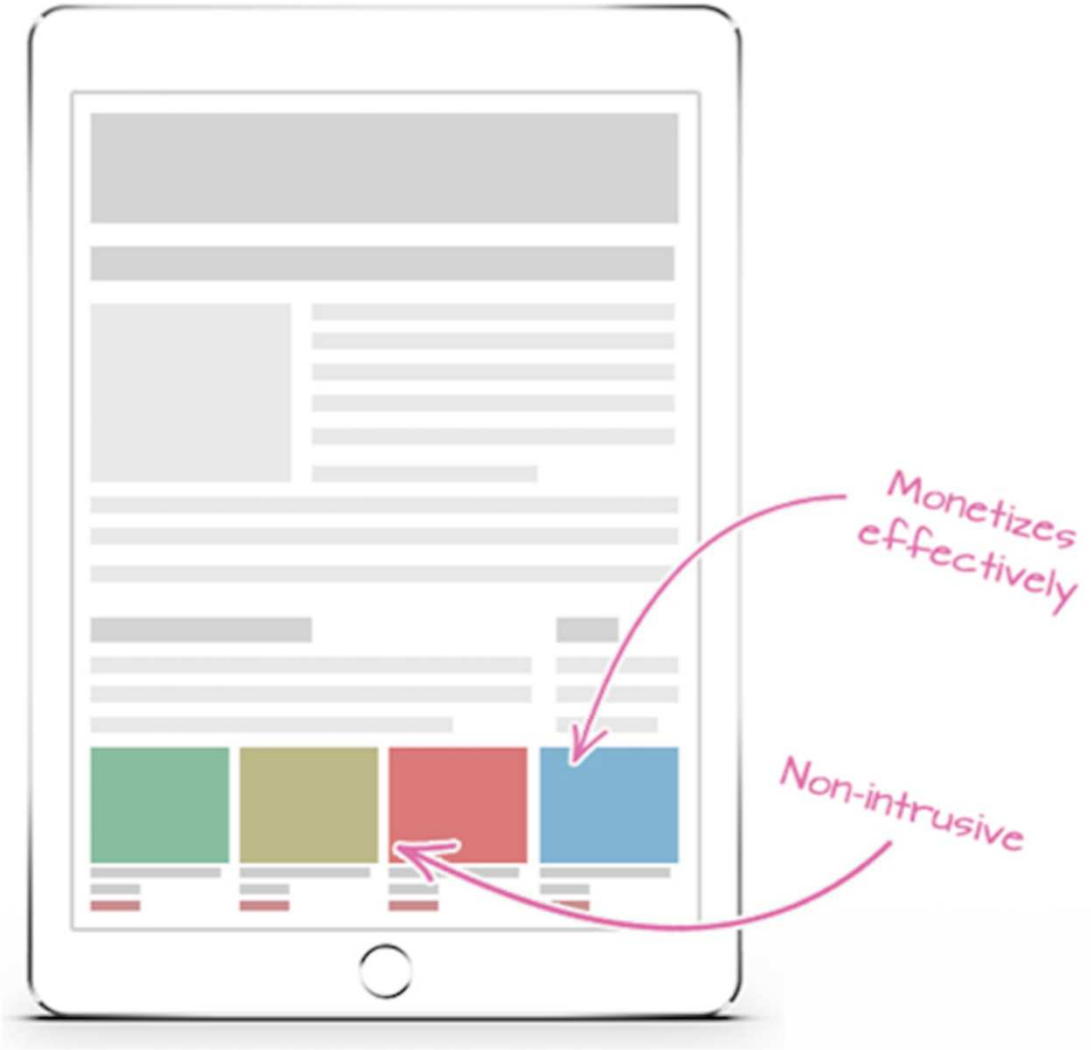
TECHNICALLY CIRCUMVENTING ADBLOCKERS

- German Unfair Competition Act
  - Art 7 para 1: “A commercial practice unconscionably pestering a market participant shall be illegal. This shall apply to advertising particularly in cases where it is apparent that the solicited market participant does not want this advertising.”
- Not as clear in E.C. Law
- And question remains: What exactly the user means to say when using an AdBlocker...



Technically circumventing AdBlockers can be a problem under E.C. law

Serving sponsored content...



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DELIVERING NATIVE ADS

- E.U. Directive on Unfair Commercial Practices
  - Art. 7 para 2: misleading when, “a trader hides or provides ... fails to identify the commercial intent of the commercial practice if not already apparent from the context, and where, in either case, this causes or is likely to cause the average consumer to take a transactional decision that he would not have taken otherwise”
- surreptitious advertising

Native Ads and Sponsored Posts are critical under E.C. Laws

Unblocking AdBlockers via Browser or Operating System

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Youtube is Bypassing Ad Blockers on Chrome

Posted on 7 September, 2015 by **Nate Hoffelder** in **Advertising**, **Web Browser**, **Youtube** // 5 Comments

Google has just shown us another reason why they've been building Chrome for all these years.

Reports are coming in from across the web that Youtube videos are no longer being blocked in Chrome. Multiple users on Twitter report, and AdBlock developer Michael Gundlach confirms, that pre-roll adverts are now playing before Youtube videos.

Super Sean Machine @erytni · Sep 7

Did YouTube up their game with ads or something? Because those ads are REALLY coming on strong...

Sunken Treasures @st_games · Sep 7

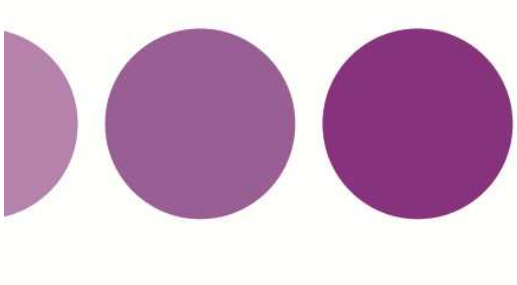
@erytni Do you use Ad Block Plus?

Super Sean Machine
@erytni

Follow

@st_games I did, but after recent YouTube updates, AdBlock will now block the "skip" button but not the ad itself

7:46 PM - 7 Sep 2015



Circumventing AdBlockers via Browsers or Operating Systems may cause antitrust issues in the future

- Basic Principle: It‘s our site and we can do what we want
- Detecting AdBlockers is legal
- Communicating with user is legal
- Delivering Ads anyway can be a problem under E.C. legislation
- It remains a technical race between publishers and AdBlock-providers

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