



Axel Springer's legal position concerning Adblocker

Dr. Philipp-Christian Thomale

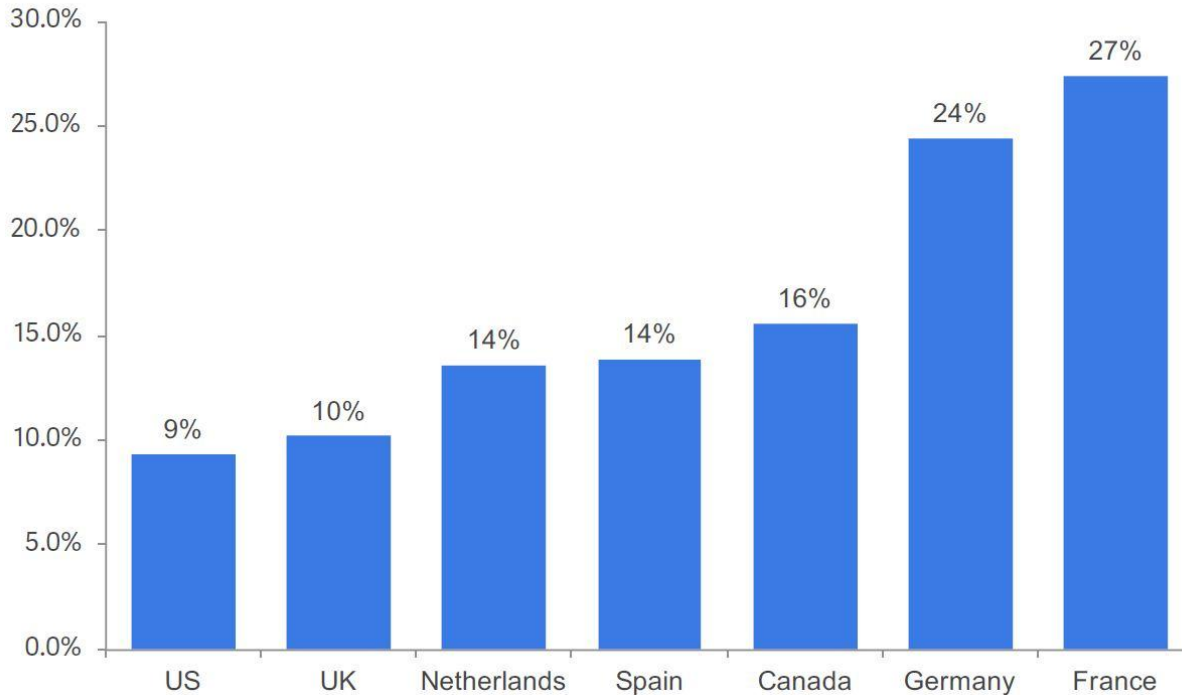
Berlin / Vienna – 6th October 2015

What does Adblocker do?

- Ad blocking extensions **act like a firewall** between the web browser and all known ad servers.
- automatically block ads on all websites and are **effective against almost all ad formats**.
- Adblocker consists of an **extensive list** (so called “**Easylist**”) that contains publishers’ to be blocked adserver addresses, e.g.:

```
(vanityfair.com/ads/js/cn.dart.bun.min.js)(turner.com^*/ads/freewheel/*  
/AdManager.js$domain=cnn.com)(sonypictures.com^*/admedia/)(nyt.com^*/df  
p.js$domain=nytimes.com)(huffingtonpost.co.uk/_uac/adpage.html)  
(washingtonpost.com/wp-adv/advertisers/)
```

Ad block usage share



Source: comScore UDM,
06/2015

The economic damage of adblocking

- Adblock usage in Europe increased by **35 %** during the past year, reaching **77 million** monthly active users in Q2/2015.
- Adblock usage in US grew by **48 %** during the past year, increasing to **45 million** average monthly active users in Q2/2015.
- Since release of iOS 9 users can easily install adblocking on mobile devices.
- The worldwide estimated loss of global revenue due to blocked advertising during 2015 \$ **21,800,000.00** (\$ **41,400,000.00** in 2016).

Source: PAGEFAIR AND ADOBE, 2015 Ad Blocking Report

The business model of AdblockPlus

- world's **most used** adblocker
- blocks **almost any** advertisements on all websites
- Eyeo has developed criteria (“**Acceptable Ads Initiative**”) that have to be met by all website owners
- Adservers may be **unblocked** (“**Whitelisting**”) against 30 % revenue share payment.

Unfair Competition Law

- Adblocking **destroys** implied agreement with users - free content for acceptance of advertisements.
- Blocking Ads means a **deliberate hindrance** of financing publisher's editorial products and therefore infringement of § 4 No. 10 UWG (German Competition Law)
- AdblockPlus targets directly to the hindrance of publishers' expansion to **force them** into a whitelisting agreement with revenue sharing.
- Eyeo's economic target is not to spare users from ads but to **participate in advertising** gained by publishers.

Adblocker legalized by users autonomy?

- Adblocker **can't be legalized** by autonomy of users to decide what shall be displayed on their devices.
- No legalizing of **third parties** rights infringing software.
- **Common understanding** after discussions and court decisions concerning file sharing software (e.g. Napster, Kazaa, etc.) and nowadays concerning bot-software.

Mafia-like business model

- blocking advertisements and simultaneously offering the possibility of **unblocking against payment** of a revenue share.
- Mafia-like and **blackmailing** comparable business model (even “acceptable ads” have to be unblocked against revenue share payment).
- Encumbering free entry to the online advertising market and therefore **infringes antitrust law**.

Constitutional aspects

- **Freedom of the press** protects distribution of news and spreading of advertisements
- Blocking (advertising) content and only unblocking against editorial control leads to an **pre-censorship**.
- Adblocking **contradicting** to a liberal-democratic constitution.

Thank you very much for your attention!

Contact:

Dr. Philipp-Christian Thomale

Senior Legal Counsel Digital & Data Law

Axel Springer SE

Axel-Springer-Straße 65

D - 10888 Berlin

philipp-christian.thomale@axelspringer.de