

# Digital Content Next

Legal and Legislative Committee  
December 8, 2015

Dial-in: 866.740.1260  
Code: 4731000

- Preview and Discussion of December 16 event - The Consumer Rules: Lessons from Ad Blocking
- Ad Blocking and Net Neutrality: What Can The FCC Do?

# The Consumer Rules: Lessons from Ad Blocking

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Wednesday, Dec 16

8:30 – 11:00 AM

Newseum

8:30 – Coffee/Registration

9:00 – Opening Remarks from Jason Kint

9:15 – Panel Discussion

10:00 – Fireside Chat with Julie Brill

## The Consumer Rules: Lessons from Ad Blocking

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- Panel
  - Jed Hartman, Chief Revenue Officer, Washington Post
  - Heather West, Senior Policy Manager, Mozilla
  - Ben Barokas, CEO, Sourcepoint
  - Fatemeh Khatibloo, Principal Analyst, Forrester Research
  - Moderator: Ricardo Bilton, Staff Writer, Digiday

## The Consumer Rules: Lessons from Ad Blocking

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- Topics for Discussion
  - Why are consumers downloading ad blockers?
    - Performance, security, privacy
  - How are publishers responding?
    - Direct messages to consumers?
    - Blocking access?
  - Is ad blocking moral?
  - What can the FCC and FTC do?
  - Can transparency and better controls meet consumer demands?

# Net Neutrality and Ad Blocking: What Can the FCC Do?

December 8, 2015

Greg Guice,

Akin Gump Strauss Hauer & Feld

# Agenda

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- Quick Overview of the Open Internet Order – What the FCC decided
- Unreasonable Interference/Unreasonable Disadvantage
- Ad Blocking Analyzed

## Open Internet Order

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- Three Key Rules:
  - No Blocking
  - No Throttling
  - No Paid Prioritization
- Transparency
- Caveat - Reasonable Network Management



# Unreasonably Interfere With/Unreasonably Disadvantage

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“A Standard for Determining Future Conduct”

ISPs cannot “unreasonably interfere with or unreasonably disadvantage” the ability of consumers to select, access, and use the lawful content, applications, services, or devices of their choosing; or of edge providers to make lawful content, applications, services, or devices available to consumers.

- Case-by-case basis for review of practices
- Key Factors:
  - End-user control
  - Competitive effects
  - Consumer Protection
  - Effects on Innovation, Investment, Broadband Deployment
  - Free Expression
  - Application Agnostic
  - Standard Practices

## Other Avenues for Clearing a Practice

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- Advisory Opinions
- Enforcement Advisories
- Moving forward with the practice

Could a carrier implement ad blocking on its network?

1. Ad blocking would seem to be prohibited under the no blocking rule – lawful content
2. Attempts to degrade serving of such ads would run counter to the no throttling rule
3. Reasonable network management is limited to technical justifications

But...

Could the carriers offer ad blocking service to its customers?

Remember the key factors:

- End-user control
- Competitive effects
- Consumer Protection
- Effects on Innovation, Investment, Broadband Deployment
- Free Expression
- Application Agnostic
- Standard Practices

Questions

Greg Guice

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