

AIME Interim Guidance Note – Affiliate Marketing

Updated September 2013

In the light of significant issues being caused by a small amount of web advertising affiliates to premium rate services and the consumers using them, AIME issued in July an Interim Guidance Note on Affiliate Marketing for L1 and L2 members.

This Guidance Note has been updated to take into account new information received over the last two months.

AIME provides training courses for Members and non-Members through a webinar format to allow trainees to attend the course remotely. The Webinar on affiliate marketing is one hour and costs £50.

What are Affiliates?

Affiliates are individuals and companies that are paid by the advertising network that they contract to (Affiliate Network) to drive traffic to your service from their internet site or service. They are usually paid when the consumer makes a purchase. This is known as CPA model or cost per acquisition. You pay the Affiliate Network. It is a very legitimate and efficient method of advertising.

In a large majority of cases, affiliates drive genuine traffic to premium rate services (PRS) through hosting banner adverts or sponsored links and other methods. However, there have been recent PhonepayPlus tribunal cases (over the last two years) where the consumers engaging with PRS have been misled on their journey to the services. Most of these are laid out in the draft guidance note issued by PhonepayPlus.

http://www.phonepayplus.org.uk/For-Business/Consultations-and-Invitations-to-Tender/Previous-consultations/~media/Files/PhonepayPlus/Consultation%20PDFs/Consultation_Digital_marketing_practices_May_2013.pdf

Misleading practices by affiliates have included:

- Consumers promoting PRS to friends on Facebook without pricing information
- Promotions offering video content (that would otherwise be unavailable or costly) on condition that the consumer completes a survey. The survey then leads to an unrelated PRS subscription service. In most cases, the content being sought has not been made available to the consumer.

- Promotions offering shopping vouchers on condition that the consumer completes a survey. The survey then leads to an unrelated PRS subscription service and again, consumers have not received the vouchers.
- Legitimate ad banners being served in a frame that masked the essential pricing information of the PRS service being advertised.
- Transparent iFrames that took over a click on an innocent part of a site and redirected the consumer to a PRS service.

The issue that caused the recent Emergency Procedures (EP) was a PC based malware that locked the consumer's browser and promised to unlock it if the consumer entered their mobile number and entered the PIN from the received text message. The entry of the mobile number was being copied to a PRS subscription service and the PIN was also copied to complete the verification. Ten services were affected. The EP was issued to protect consumers while PhonepayPlus worked with the providers.

While the issue of managing affiliates is an L2 provider's responsibility, L1 providers have been fined for lack of risk assessment and control on their L2 customers who have had affiliate issues.

AIME has undertaken activities on behalf of members, including working with PhonepayPlus to understand their expectations of the value chain in the PRS industry in the exercise of control over affiliates and will also be working with members to create comprehensive guidelines. In the interim AIME has issued this advice;

L1 Members:

- Any L2 customer who uses affiliates has to be treated as higher risk than an L2 that does not or is not dependant on affiliates for promotion of its products.
- L2 customers who promote subscription services are a greater risk than those who do not due to the higher fees paid (mainly) to the affiliate networks on consumer acquisition
- If you have an L2 that states that they do not use affiliate based marketing, you should review their product / service to understand why they would not be dependent on affiliate marketing. If you consider their service as "likely" to use affiliates, then place them into a higher risk category.
- For L2 customers that use affiliates or are likely to do so in the future;
 - Be fully aware of the steps that the L2 is making to control their affiliate networks and to detect unusual patterns in consumer sign-up or to detect unusual complaint reasons from consumers
 - Request evidence of their risk assessment and risk control procedures

- Enhance your due diligence prior to contract
- Consider operating the customer service line for the L2 or at least monitor call quantity.
- Train your customer services to spot issues that may be caused by incorrect promotion or misleading consumer journeys and escalate immediately.
- Look for unusually successful new services or services that have a sudden upsurge. Ask your L2 to explain the increase.
- Ask for copies of Affiliate contracts, copies of advertising and affiliate analysis data.
- Ask PhonepayPlus for monthly complaints analysis and respond to anything that looks unusual.
- Document everything so that you can show (if asked) that you have considered and managed the risk.
- Check for similar feedback across different L2s – they may be using the same affiliates.

L2 Members:

- L2 members should conduct due diligence and ongoing risk control on any affiliate network they contract with to assess the legitimacy of the network traffic;
- Include, simple steps like the companies checks (where appropriate), background checks through Google, blogs, forums and AV vendors etc and traffic monitoring through tools such as Alexa.
- Refer to your L1 on checks performed as they may be able to share intelligence on known issues.
- Ensure contracts with Affiliate Networks forbid tampering with your advertising and forbid the creation of misleading promotions or malware to drive traffic.
- Ask Affiliate Networks for reports of non compliant behaviour by their affiliates with other merchant promotions as an indicator.
- Ask for liability clauses.
- Insist that affiliates do not subcontract or if they do, the liability clauses are back to back.
- Explain to your contracted Affiliate networks the role of PhonepayPlus, the PRS market and the fining powers that PhonepayPlus has. These should be reflected in the liability clauses.
- Where appropriate, contracts should also reflect the wider regulatory landscape beyond PhonepayPlus, to include compliance with the principles of CAP, PECR, general consumer legislation and any relevant product specific regulation, such as the Gambling Commission
- Insist on traffic analysis and insist on an explanation of how an affiliate is driving traffic.
- Treat any surge, or abnormal traffic (this may include spikes, high or low conversion rates or unusual patterns) as suspicious and query the Affiliate Network for explanation (in writing);
- Be prepared to suspend payments if anything suspicious is occurring.
- Be responsive to customer complaints that do not have logical explanations. Use probing questions on consumers who call to get a full understanding.
- Treat more than a 0.2% complaint to transaction ratio as suspicious.
- Ask your L1 for monthly call analysis to their customer care and to PhonepayPlus' customer care.
- Be prepared to shut down an Affiliate Network if they cannot control their affiliates.
- Report issues with Affiliate Networks to your L1 provider and where appropriate to PhonepayPlus (PhonepayPlus has indicated that mitigation will be given where an issue has been proactively reported to them)
- Document everything that you have done to assess and mitigate risk.

Please note that the PhonepayPlus 12th Code is outcomes based and in ensuring compliance, providers are required to exercise judgement based upon the circumstances and all the available evidence.



Providers will therefore need to continually assess how they are achieving these outcomes alongside ongoing risk control activity.

Adhering to this guidance as a simple checklist approach will not per se result in a provider being entirely compliant; though following these principles will provide a good foundation for risk mitigation and will be viewed favourably by PhonepayPlus.

As AIME develops more intelligence on this subject we will update this guidance and the Webinar and offer training to members and their customers. If you have any intelligence that would be useful to other members, please contact fleur@aimelink.org.