



Best Practice Guide for PTV Services Using Social Media Promotions

Issue 1

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Significant numbers of TV viewers are simultaneously online while watching television, many of them using a laptop, tablet or mobile phone. Real-time discussions through social networking services such as Twitter and Facebook, whether via a second screen device or a connected TV set, create opportunities for people to become even more socially engaged with TV programming.

This has enormous significance for broadcasters, as viewers can actively engage with each other and influence each other's interaction behaviour, particularly around live event programming. When looking to influence the outcome of a Participation TV show vote or competition, users of social networking sites such as Facebook or Twitter are likely to post associated premium rate numbers.

Simple posts such as 'vote for x' or 'likes' with no promotion of the voting mechanics or entry routes do not give rise for concern but, when a premium rate number is added, there are regulatory considerations. This guidance paper is designed to be an aid to clarify some of the elements to take into consideration for such promotions on social media platforms.

This guidance paper should be read within context of specific regulatory requirements for premium rate services and marketing including without limitation:

- **PhonepayPlus** (www.phonepayplus.org.uk): Premium Rate Services in the UK are regulated by PhonepayPlus and detailed regulatory requirements can be found in the PhonepayPlus 12th Code of Practice. References to Level 1 and Level 2 providers have the meanings set out in the PPP Code. Both will have elements of responsibility for promotions and promotional material.
 - PhonepayPlus Guidance and adjudications may also be relevant and should be reviewed where relevant.
 - PhonepayPlus will also provide specific compliance advice regarding services if requested.
- **Advertising Standards Authority** (www.asa.org.uk): The ASA regulates advertising standards in the UK both in broadcast and non-broadcast space, including internet ads in paid-for space, like banner ads, pop-ups and paid search results. From March 2011 new responsibilities mean that the CAP Code now applies to marketing communications on companies' own websites and in other non-paid space they control, like Facebook and Twitter.
- **Ofcom Broadcasting Code and Licence Requirements:** For promotions which are primarily broadcast based, consideration must be given to the Ofcom Code (www.ofcom.org.uk) and the specific broadcast licence requirements that apply to participation TV particularly to premium rate competitions and voting.

1. Connected Direct Promotions

If there is a direct promotion including premium rate numbers by someone connected with the show/event (for example, employees of the broadcaster, production companies, service providers, presenters, contestant etc) then it is likely that the regulators will consider this a 'sanctioned' promotion. This means that the entities with responsibility for the event should make sure that such promotions are compliant as they are likely to be held responsible for such promotions.

We have also set out below some other key considerations in this area:

- **Terms and conditions of the social media platform:** is the promotion permitted by the terms of the social media platform? For example, most social media platforms will have restrictions on how you use their name, logos and intellectual property. Facebook also currently has restrictions on promotions for competitions on its platform including a requirement for prior approval by Facebook.
- **Responsibility for communications:** Broadcasters are responsible for arrangements for the method of communications between the broadcaster and the public where those methods are publicised in programmes (and broadcasters proprietary on-line environments) and are required to make sure that there is fair and consistent treatment of eligible votes and entries. We recommend that you make sure that the broadcaster is happy with the content and method of communication.
- **Competitions:**
 - We recommend that promoters take legal advice before embarking on promotions with prizes including competitions and prize draws to ensure that the mechanisms involved do not make them illegal gambling. The Gambling Commission (www.gamblingcommission.gov.uk) guidance on prize competitions and free draws is also a useful resource.
 - In particular, if a paid-for route of entry is provided and there is a prize, this may be an illegal lottery. If a free route of entry is being used the choice should be publicised so that it is likely to come to the attention of all those intending to participate. This will include any social media promotions.
 - The various regulatory requirements around competitions suggest that a full set of terms will be required. We recommend that significant restrictions are highlighted and that full terms are easily available to users. Links and locations of full terms and conditions should be promoted.
- **Voting:** care should be taken to make sure that any vote is run fairly. For example, the broadcaster may consider that social media promotions of voting numbers for individual contestants could skew the vote and so all promotion should be through to an authorised website or other approved channels where all contestants can receive equal coverage (see multi-layered promotions section below).
- **General pricing and disclaimer information:** as for any promotion of premium rate numbers, the PhonepayPlus and other regulatory codes have certain requirements which need to be met to ensure a compliant promotion. These include:
 - provision of all information which is likely to influence purchase including cost prior to purchase;
 - premium rate services should not cause the unreasonable invasion of consumers' privacy. This is particularly key with some social media platforms where the measures around data security may not be entirely clear.
- **Refunds:** if you are actively running a premium rate service through any platform (including social media platforms) you will need to understand how you can refund paid-for entries, if required.

2. Unconnected Direct Promotions

If a member of the public or a third party entirely unconnected with a Participation TV show or event promotes, recommends or encourages others to vote or enter a competition, e.g. ‘vote for my preferred act tonight on this number’, or tagging with a PRS number as a ‘like’, this is unlikely to be considered the responsibility of the Level 1 or Level 2 providers but this will depend on the circumstances of the promotion.

Certain members of the public or a third party unconnected with a Participation TV show or competition may promote, recommend or point friends to the show/event homepage. The Level 1 or Level 2 provider has no control over such referrals but they must ensure that the official show/event homepage itself is compliant.

Children’s Services

Services where under 16 contestants or under 16 categories exist within the competition do not necessarily mean that it is a children’s service. Special attention should be paid to PhonepayPlus Guidance and case history to determine whether a PRS service is targeted at children or ‘particularly’ attractive to children.

Where the demographic data and/or branding/nature of the competition can be shown to be a family service then this would be unlikely to be a children’s service e.g. Britain’s Got Talent (as a prime time show without obvious child-targeting imagery).

It is recommended that providers do not actively encourage those connected with the show to solicit votes particularly from those under the age of 16.

Excessive Use

The 12th Code of Practice introduces an ‘excessive use’ provision. Although ‘unconnected’ promotions are beyond the control of providers, a policy of risk mitigation to limit the potential for excessive use should be put in place.

3. Where a provider becomes aware of unsanctioned promotions

Acknowledging that a Level 1 or 2 Provider has no control over unconnected postings in a 3rd party platform environment, there may be situations where a regulatory authority contacts the Level 2 provider for support to address a situation (for example) where a non-compliant post via social media has gone “viral”. In such situations, where for example, it was brought to the provider’s attention that an informal (unconnected) non-compliant promotion was taking place in order to encourage votes for a particular contestant, then we recommend that promoters and providers consider taking steps. For example, posting or tweeting a follow-up with pricing and other key information (or a clearly described link to the official show homepage) and/or contacting the platform (where possible) to take the post down. It is recognised that the provider cannot force a social media platform to take any action.

4. Multi-layered Indirect Sanctioned Promotions

Where a tweet or post refers people to where they can vote or enter a competition, e.g. “if you go to Big Brother’s Facebook page you can vote using Facebook credits, then this is not considered a promotion that would require the full detailed information like price and closing times. Where such posts are made all relevant pricing, opening and disclaimer information does have to be clearly shown on that Facebook page before the user votes. Please note any direct broadcast promotion also needs to be compliant with Ofcom regulation, which also requires clear cost information to be provided.

The key requirement is that the consumer is clearly presented at one stage with the price and other key information **before** they purchase. However, you will also need to consider the nature of the event and the communication to decide if it is relevant to add extra disclaimers.

A promotion of the existence of a vote or competition via a certain platform may be relatively simple but for promotions of specific prizes, it may be safer to include key disclaimers such as a competition closing date, age restrictions and T&Cs references in the actual promotion. It will always be safer to treat such promotions as you would treat any other advertisement.

5. Other elements to be aware of when considering social media

Social media can carry or produce negative comments regarding participants in an event. We recommend that providers make it clear to participants that participation may result in social comment which may be negative but also that providers do not themselves produce any promotional material which may be regarded as offensive or harmful (in line with section 2.5 of the PhonepayPlus Code). This is especially important with any service which could be considered to be a children’s service under the PhonepayPlus Code i.e. premium rate services which, either wholly, or in part, are aimed at children (under 16s), or could be reasonably expected to be particularly attractive to children. An acceptable promotion could be “Great performance by xxx tonight. To vote go to [URL of official site with full PRS details]” but “xxxx has been struggling with their weight. Vote for them at [official site with full PRS details]” could be considered harmful.

6. Further comments

AIME recognises that social media is moving forwards incredibly quickly so please do contribute your experiences or add any comments by writing to us at info@aimelink.org

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