

**Statement following consultation on  
Updates to the Digital Marketing  
Guidance and Annexes**

1 November 2018

## 1. Background

- 1.1. The Phone-paid Services Authority (PSA) is the UK regulator for content, goods and services charged to a phone bill. Our vision is a healthy and innovative market in which consumers can charge content, goods and services to their phone bill with confidence.
- 1.2. In support of this, the PSA develops and issues Guidance to support providers of phone-paid services to market and deliver services in a manner that meets the needs and expectations of consumers and is compliant with the Code of Practice.
- 1.3. In response to an increase in consumer complaints regarding Affiliate Marketing practices, as well as issues observed by the PSA as part of its routine monitoring, the PSA consulted on, and in July 2016 issued, a Digital Marketing and Promotions General Guidance with an Annex specifically on Affiliate Marketing. The PSA has since observed a decrease in the number of complaints received about Affiliate Marketing and in the use of Affiliate Marketing practices that are inconsistent with the Code.
- 1.4. More providers are now using Direct Buy Marketing, which is the direct placing of adverts via major online platforms and which provides greater promotional control for the provider of the service than, for example, Affiliate Marketing. Although this model may be less susceptible to risk it does present some challenges.
- 1.5. For example, the PSA has had concerns that because the consumer journey often has low levels of friction through to payment, some consumers, particularly children, are unknowingly engaging with phone-paid services.
- 1.6. While over time the PSA has seen a significant reduction in the prevalence of ads for phone-paid services appearing in children's content, there is still an opportunity to further reduce the risk of consumer harm. Therefore, the PSA has developed and consulted on a new Annex specifically relating to Direct Buy Marketing.

## 2. Consultation process

- 2.1. On 17 August 2018 the PSA published a consultation on a new Annex to our existing Digital Marketing and Promotions General Guidance. The deadline for comment was 12 October 2018.
- 2.2. We received one response to the consultation from a Level 1 aggregator. A summary of the points raised and the PSA response to these is set out below. We have also published the response in full, which you can find [here](#).

### 3. PSA response to consultation comments

#### Referencing that there are a range of digital advertising platforms

- 3.1. The response expresses the view that while most Direct Buy Marketing traffic is via Google Ads, the Annex is overly focused on Google when there are also other platforms that should be referenced. The response suggests that the Annex should make greater reference to the principles of Direct Buy Marketing advertising controls.
- 3.2. The PSA agrees that the guidance could make it be clearer that effective Direct Buy Marketing uses techniques such as targeting and exclusion, and that the way these techniques are used will vary across different platforms and have amended the text accordingly. In addition, that PSA has clarified that Google is currently the most commonly used platform, but that there are also others.

#### Expectations on Level 1 providers

- 3.3. The response expressed the view that the expectation as expressed in the original draft, that Level 1 providers check and monitor online traffic to validate Level 2 processes for advertising, was too onerous because Level 1 providers do not generally have the capacity, skillset or oversight required to do this. In addition, the response raised that marketing traffic is commercially sensitive to Level 2s.
- 3.4. The response recommended that Level 1 providers should instead be expected to audit their Level 2 partners to assess the effectiveness of their control methods and maintain good records of such audits.
- 3.5. The PSA accepts that this would be a more proportionate approach and has updated the Annex to reflect this feedback. The Annex also now recommends that Level 1 providers review the AdWords Exclusions that the Level 2 providers have in place as this will help ensure that the required Due Diligence, Risk Assessment and Control measures are in place and maintained.

#### Companies House

- 3.6. The response raised the point that many content providers are based overseas and so, rather than the Due Diligence section of the Annex referring to 'current entry in the Companies House Register', it should instead refer to 'current entry on company registers of territories in which businesses are incorporated'.
- 3.7. The wording in the draft Annex reflects that which is contained in the Due Diligence Risk Assessment Guidance (DDRAC). DDRAC Guidance was not consulted on as part of the consultation on the Annex. We have decided to maintain the current draft of the Annex in relation to this point, maintaining consistency with DDRAC Guidance, but will bear this feedback in mind as we continue to consider our DDRAC requirements.
- 3.8. The updated Annex has now been published and can be found [here](#).

#### List of Respondents

Infomedia