

## List of PP+ Consultation Questions ref. Digital Marketing Practices

### **Q.1: Do you agree with our assessment of digital marketing in the PRS context and with our overall approach for dealing with it? If not, why not?**

For accuracy of definition, Mobjizz Ltd believes that digital pull marketing is not necessarily always sought by the consumer directly, but rather a proposition presented to a consumer within the context of the website they might be visiting/browsing (i.e. a banner for “gardening tools site” on the Chelsea Flower Show website).

Individuals defined as affiliate marketers, affiliate networks or lead generators (the “Advertisers”) generally do not have any control on the actual presentation or provision of the PRS services and on the billing mechanics. This means that in an affiliation model, they have no play in the management of the actual service proposition before the opportunity to purchase: this tends to occur on the service provider own sites.

Although we can accept that such individuals are incentivised to drive a consumer to sites with the purpose of making a purchase, the actual purchase does not occur on the affiliates sites, but rather on the service provider sites/landing pages. Therefore in an affiliation model generally speaking the purchase occurs on sites provided and fully managed by the PP+ registered PRS service provider, not on the marketer site (the “Advertisers”). This means that affiliates marketers are merely responsible for driving traffic/consumers to a service provider portal site, where a sale/purchase can then occur separately. E.g. there is no charge to the consumer for clicking on a banner leading them to a site selling PRS services.

The misleading marketing practices mentioned by PhonepayPlus are not isolated to PRS services and misleading marketing is already regulated separately. Mobjizz believes that this should be taken into account when considering the regulations of digital marketing as a whole, which should already be covered separately by the Advertising Standard Authority and the Internet Advertising Bureau.

Mobjizz believes that there should be a degree of separation between the responsibilities for misleading practices intended to generate traffic to a third party affiliated site (no purchase made at this point) and the content/consumer proposition appearing on the actual site where a PRS purchase can be made. If different parties are involved in these two steps (eg. The Advertisers and the L2 Service Provider being separate entities) then each party should have their own clear responsibility.

Mobjizz feels strongly that affiliate marketers need to have their own place within the PRS value chain, as entities responsible for driving consumers to the a actual PRS offer site, which is generally owned and managed separately by the registered PRS

service provider (L2). The L2 can perform general due diligence on their affiliated marketers, but given the speed, volume and continued evolution of the digital marketing spectrum, L2 cannot be expected to be able to monitor in real time every single banner and traffic source.

One of the main elements to the 12<sup>th</sup> code was the recognition that L1s and L2s had independent responsibilities within the provision of PR services and as such should be accountable for them. By excluding affiliate marketers from the value chain, PhonepayPlus are again allowing for parties to remain unaccountable, hide behind the L2s and not take responsibility for their actions.

Given that digital marketing plays such a significant role within PRS it is unfair to burden L2s with the task of ensuring that these companies adhere to Advertising Standards code, especially when it is only under the L2s own domains that a consumer can make a purchase.

To re-iterate, the 12<sup>th</sup> code made a dramatic breakthrough by adopting the 'polluter pays' strategy; ensuring that accountability for compliance was spread equally and fairly within the industry. However by insisting that compliance of affiliate marketing and promotion is the responsibility of the L2 and not the affiliate marketer, you are potentially permitting malpractice, and 'pollution' to occur within the industry, without consequence to the 'polluter'; the affiliate marketers.

In Mobjizz opinion, most of the Case Studies presented by PhonepayPlus are not covering instances of standard affiliation marketing and simple marketers malpractices, but they instead display misleading advertising practices carried out by the actual L2s directly, whilst promoting their own PRS services displayed on their own portals.

**Q.2: Do you agree with our consideration of typosquatting and proposed expectation? If not, why not?**

We agree with the consideration of typo squatting, but would like to point out that the examples given by PhonepayPlus do not appear to be related to affiliation marketing: rather they relate to L2s own misleading digital marketing practices for their own products/sites.

**Q.3: Do you agree with our consideration of Clickjacking and our proposed expectations? If not, why not?**

We accept the consideration of Clickjacking and as an L2 we will adhere to the set standards when we are directly and solely involved in the promotion of our sites/services.

Our concern as a L2 is the restricted ability to monitor affiliated marketers on this front, especially if the content appearing on our fully compliant landing pages could be masked using i-frames.

As mentioned above, Mobjizz feels strongly that affiliate marketers need to have their own place within the PRS value chain, as entities responsible for driving consumers to the a actual PRS offer site, owned and managed by the registered PRS service provider (L2). The L2 can perform general due diligence on their affiliated marketers, but given the speed, volume and continued evolution of the digital marketing spectrum, L2 cannot be expected to be able to monitor every single banner and traffic source.

**Q.4: Do you agree with our consideration of Likejacking and our proposed expectations? If not, why not?**

We agree with the consideration of Likejacking and as an L2 we will adhere to the set standards when we are directly and solely involved in the promotion of our sites/services.

Our concern as a L2 is the restricted ability to monitor affiliated marketers on this front, especially if the content is appearing on viral unmonitored social networking sites.

As mentioned above, Mobjizz feels strongly that affiliate marketers (the “Advertisers”) need to have their own place within the PRS value chain.

**Q.5: Do you agree with Phonepay Plus’ consideration of banner ads, pop-ups and pop-unders and our expectations around them? If not, why not?**

We agree with the consideration on this, but once again we would like to point out that the examples given by PhonepayPlus do not appear to be related to affiliation marketing concerns, but rather to L2s own misleading digital marketing practices for their own products.

In addition Mobjizz would like to highlight barriers in capturing and monitoring traffic referrals:

- Internet Explorer loses all referrers when you click on links that use JavaScript’s “window.open” method;
- IE also loses the referrer when the link is in a Flash application;
- The referral details in not available if the user views the link in a mobile app and uses an option like “open link in Safari”;

- In iOS 6, if you use Safari's integrated search field up on the right side and then click through to the search result, there will be no referrer at all. That is because Safari seems to use Google's Encrypted Search by default.

**Q.6: Do you agree with Phonepay Plus' definition of SEM and SEO and our expectations around them? If not, why not?**

We have a concern relating to SEO/meta tagging. In some instances the mobile version of a branded site differs from that of a desktop, in terms of the destination page.

In the currently expanding smartphone market, business have realised that landing pages and consumer propositions need to be tailored to the device used to access the website, in order to improve conversion and uptake.

The original desktop site is often meta-tagged by Google with words to describe the website, however when the consumer attempts to access the site via their mobile, they may in some instances be automatically redirected to the mobile version: the mobile version often differs in its consumer proposition to the desktop version. For instance the mobile version may incorporate premium services, which would not appear on the desktop version, or in turn may not display a proposition that appears on the desktop version.

Therefore it is possible for a Google search result description not to be a true reflection of the mobile version of a website.

There is currently no way to differentiate meta tags according to whether a consumer attempts to access the mobile version or the desktop version. According to the proposed guidance this would be classed as misleading.

L2 have no control on the meta tags appearing on affiliated Advertisers' sites or on organic search results (SEO) overall. It should be the responsibility of the Advertisers to liaise with search engines entities to agree separate and correct descriptions for their mobile and desktop sites.

**Q.7: Do you agree with our consideration of content locking practices and our expectations around them? If not, why not?**

We agree with the consideration of content locking, but would like to point out that the examples given by PhonepayPlus do not appear to be related to affiliation marketing, but rather to L2s own misleading digital marketing practices for their own products.

**Q.8: Do you agree with Phonepay Plus' consideration of spam and our related expectations? If not, why not?**

We accept the consideration and concerns about spam.

**Q.9: Are there any other potentially misleading digital marketing practices that we have not identified? If so, then please suggest any, including appropriate evidence.**

We do not believe so.

**Q.10: Do you agree with our illustrative representation of affiliate marketing? If not, why not?**

Yes we do, however the hosting of the actual point of purchase should be clearly placed in the flow. If the purchase occurs on the PRS provider's website, the main responsibility of an L2 should begin there.

**Q.11: Do you agree with our consideration of affiliate marketing and our expectations? If not, why not?**

Whilst Mobjizz is open to consider the suggested due diligence to help policing misleading advertising practices, we need to recognise that with regards to the expected controls, some will be harder to identify and test for than others.

We therefore seek clear clarification on the definition of "robust controls" mechanism to avoid any misunderstanding and potential shortcomings. We would require PhonepayPlus to explicitly describe what would be considered a valid robust check.

The shifting burden of compliance is really unworkable unless until the technology is developed for every banner / pop under etc to be tracked and verified, and the net result may be to drive L2s out of the uk market for fear of upstream ad breaches over which they have limited control.

For this reason we feel the need to re-stress the importance of ensuring that affiliate marketers have their own obligations under the code.

Whilst it is possible for L2s to maintain strict practices and agreements with those they contract with, it is surely more beneficial for the industry for affiliate marketers to have the requirement to follow the same practices as other providers, thus ensuring that those found continually in breach of the guidelines are visible to all.