

Guidance on digital marketing practices and promotions in support of the PhonepayPlus Code of Practice A PhonepayPlus Consultation

List of Consultation Questions

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?

We're in agreement that Digital marketing is a more prominent means to promote products and service, replacing traditional media, and we envisage it becoming more so in the coming years. This consultation document deals a lot with affiliate marketing, however, there are other issues, such as adware, that impact on paid for display advertising etc. that need to be addressed here as well. It is also pertinent to point out that the challenges in managing digital processes, especially affiliate marketing, are not exclusive to the PRS industry, but impact on all brands that promote their services online.

We believe that best practice digital marketing guidelines should be implemented for the PRS industry, but it is essential that this is a living document that is constantly being updated as new marketing techniques and practices come to light. We also think that there needs to be an industry forum, where stakeholders can bring digital marketing trends to the attention of the market and they can be addressed before they become an issue.

Furthermore, we believe that the best way to deal with new trends in the industry is for PPP to highlight any issues that have been discovered in market as soon as they are discovered, rather than letting the issue build until it comes to a head in the form of an investigation. The specific details of the issue found should be shared with the L1 and L2 and a general note be issued to the industry to raise awareness levels. An example of this is that this document does not cover the issue of adware and how that can manipulate a customer journey. However, this is an issue that PPP are now addressing with individual L1s and L2s but the industry as a whole are unaware of it and the possible impact on their business.

There are a lot of actions that can be taken to manage the affiliate marketing process and minimise risk but it is impossible to be able to track every element of the promotional process from when the consumer first sees the affiliate controlled pages, through to the final PRS promotion. So, for example, a L2 can approve pre-lander pages, track them via referrer links and monitor those links on an ongoing basis to check for compliance. What cannot be done is to monitor what the customer has seen before the pre-lander or their journey to the pre-lander. General live web monitoring can be done, but this is needle in the haystack stuff and it is very difficult to replicate a customer's journey.

Specifically relating to sections in the doc;

2.3 - In the case of push marketing, users will sometimes have consented to have ads displayed on their computer via adware when they downloaded free software to their computer. So to say that ads are displayed without customer's consent is not completely accurate.

2.6 - Advertisers do not necessarily get access to tools and techniques via affiliate marketing, advertisers get access to traffic. The tools and techniques are not always visible or known to the advertiser, and it is very difficult to monitor these techniques from the start of the customer journey through to the PRS promotion.

2.8 - As it stands the responsibility for all elements of PRS marketing lies with the service provider, and there is no recourse for the affiliate under the 12th Code of Practice. We would suggest that PPP try to bring affiliates and affiliate networks into the fold and request them to register with PPP. Registered users under this scheme would in essence become a list of affiliates recognised by the industry as being acceptable to do business with. There would then be more scope to engage with them at industry forums and would help the industry as a whole to keep up to date with trends in the marketplace.

2.11 - Can PPP provide a complaint level report by short code on weekly basis to the industry?

2.29 - We note that PPP have been working with companies like Facebook and Google in relation to misleading advertising. It is worth pointing out that online search companies like Google and Bing have contracts with companies who generate traffic from re-directs, toolbars and adware and generate advertising revenue from them, as detailed in the article below - <http://searchengineland.com/googles-enforcement-of-new-policies-is-bad-news-for-many-toolbar-players-147385>

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

Yes, we agree with your consideration of typosquatting and proposed expectations. This practice has been identified by the industry a long time ago and there have been a number of cases where typosquatting has been found in breach. As this practice is widely known in the industry it can be built into contracts with affiliates as a practice that is not permitted. Furthermore, it is relatively easy to check to see if this practice is being employed by typing in a combinations of misspelled urls into your browser.

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

Firstly, we think that there are two separate issues in Sections 3.12 to 3.16 that need to be addressed; clickjacking and iFraming.

iFraming is a practice that can be very detrimental to a PRS provider, however, html or javascript code can prevent this by checking if your page is part of an iFrame and can eject it if it is.

It is very common in the internet for a customer to be directed to a website they have no intention of visiting, e.g. pop unders and pop ups. It is almost impossible for the service

provider to track a customer's journey to their PRS offer via methods such as clickjacking, as quite often this journey is unique to a customer's computer, depending on what toolbars or software they have installed. What the service provider does have complete control over is their landing page. The inclusion of pricing that is proximate and prominent to the main call to action should clearly inform the customer of the nature of the service and the costs involved.

Service Providers can stipulate that Clickjacking is not permitted with affiliate partners, but as stated above it is a very difficult practice to catch in live monitoring and it is impossible to track the customer journey through referrers. Off course if we do catch them via our ongoing monitoring, we will close that affiliate down.

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

We agree that any service should not leverage a consumer's network of contacts without their explicit and knowing consent.

As per Q3 above we believe that if the PRS provider protects themselves from iFraming and pricing is present, prominent and proximate to the main call to action that this should mitigate if any breach has occurred.

Yet again, it is impossible for a service provider to audit and check back on the customer's journey and how they arrived on their page. They can, however, ensure that their own landing pages comply with the code of practice.

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

We agree that the vast majority of banner ads, pop ups and pop unders are compliant with the code. We also agree that it is essential for the service provider to clearly display pricing prominently and proximate to the main call to action on their landing pages.

Once again, it can be stipulated by the service provider that misleading practices such as 'you have already won' are not used by affiliates. The only way to catch this activity is during live monitoring, it is not possible to track the customer journey backwards after the event has occurred.

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

We do not have any experience of this but it seems reasonable that the use of misleading meta tags should not be permitted.

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

Yes, we agree with your consideration of content lockers and proposed expectations. This practice has been identified by the industry a long time ago and there have been a number of cases where content locking has been found in breach. As this practice is widely known in the industry it can be built into contracts with affiliates as a practice that is not permitted. Content locking is also an issue in terms of copyright infringements and any reputable affiliates should steer away from this issue.

By bringing affiliates into the fold via a registration process they will become even more aware of the expectations of the industry on them and the more reputable ones will come to the fore.

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

We agree with the consideration of spam, although to reiterating point 2.3 we would add that in some cases such as software downloads, consumers are opting in - similar to 'soft opt in' under paragraph 229(3) of the regulations- for ad networks to use their browser to display advertisements.

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 think PPP should give the industry their view on adware. The installation of adware on someone's computer can make their customer journey unique to them and is very difficult to replicate from a service provider's point of view. Leading global brands have their ads displayed via adware, although some of them are probably oblivious to this point. PPP have been monitoring adware since the start of March and should have been included in this document. I'd like to know if PPP deem all adware to be misleading or are there cases where they feel it is ok to use it.

Search term re-directing via the installation of toolbars on a user's computer is another area that needs to be addressed.

A living document or forum that keeps pace with new trends in digital marketing that can be contributed to and accessed by the industry is key to allowing the PRS industry to prosper. Consultation documents like this or guide notes every 18 months is not enough to keep the industry aware of the trends in the industry and the likely outcomes if services are being promoted by these means.

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

The diagram excludes ad networks being used by affiliate marketers in order to gain access to a greater audience. This can include the use of third parties offering toolbar networks. Furthermore, affiliate marketers can use sub affiliates to promote offers, which removes the advertiser even further from the start of the consumer's journey. This makes it more difficult for the advertiser to monitor the entire customer journey.

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

3.52. Even with controls in place it is still not possible to guarantee the customer has travelled through the approved customer journey and that the affiliate has not used misleading means. It is primarily through monitoring websites that abuses are found or via complaints, traffic spikes. Ideally, PPP would share their research and intelligence unit discoveries with providers in order for action to be taken. An additional option would be to use third parties to monitor for misleading affiliate advertising.