

Facebook Issues New Guidelines for Running Promotions on its Platform

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November 10, 2009

As Facebook continues to grow in popularity, more companies have started to run various types of sweepstakes, contests, and other promotions on the Facebook Platform. Whenever a company runs — or even advertises — a promotion on a third-party platform, such as Facebook, the company must ensure that the promotion complies not only with applicable laws, but also with the platform's terms and conditions. Up until recently, though, there wasn't any clear guidance on what companies could or could not do on the Facebook Platform. That all changed last week when Facebook issued a detailed set of [Promotions Guidelines](#).

Important Definitions

The Facebook Promotions Guidelines draw a distinction between “publicizing” a promotion on Facebook and “administering” a promotion on Facebook. Publicizing a promotion on Facebook means “promoting, advertising, or referencing a promotion in any way on Facebook or using any part of the Facebook Platform.” This may include, for example, mentioning the promotion in Facebook advertising inventory, on a Facebook Page, or through a status update. In contrast, administering a promotion on Facebook means “operating any element of the promotion on Facebook or using any part of the Facebook Platform.” This may include, for example, collecting entries or submissions, conducting a drawing to select winners, judging entries to select winners, or notifying winners.

There are different requirements for publicizing and administering promotions on Facebook.

Requirements for Publicizing a Promotion on Facebook

Companies are not required to obtain prior written approval to publicize a promotion that is administered completely off the Facebook Platform. However, even though permission is not required, the company still has to follow some basic rules. For example, a company may not represent or imply that Facebook is a sponsor or administrator of the promotion or mention Facebook in the rules or other materials. Moreover, the company may not condition entry upon taking any action on Facebook, such as updating a status, posting on a profile or Page, or uploading a photo. If Facebook determines that a company has violated any of Facebook's terms, Facebook may remove any materials relating to the promotion or disable a company's Page or account.

Requirements for Administering a Promotion on Facebook

Companies may not administer a promotion on the Facebook Platform unless they have received prior written approval from Facebook. If your company is already working with a Facebook account

representative, you can contact that representative to begin the approval process. If your company is not currently working with a Facebook account representative, you can use the contact cited in the Facebook Promotions Guidelines to inquire about working with an account representative.

If your company works with an account representative to receive the necessary approvals, you will have to comply with a number of additional requirements set forth in the Guidelines. For example, (a) you can only allow users to enter the promotion on specified locations on Facebook, (b) you need to include specific language in the rules, (c) you must designate an individual to act as a primary contact to address questions from Facebook, and (d) you must submit materials to Facebook for review at least seven days prior to launch. Companies should pay close attention to these requirements before designing a promotion.

Restrictions on Promotions

There are a number of restrictions on the promotions that can be administered or promoted on Facebook. For most companies, the most notable of these restrictions is that promotions cannot be open to individuals who are under eighteen.

Use of Facebook's Trademarks

You cannot use the Facebook name, trademarks, trade names, copyrights, or any other Facebook intellectual property in the rules or any other materials relating to the promotion, without express written consent.

Examples of What Companies Can and Cannot Do

The new Guidelines provide examples of things that companies can and cannot do:

- **You cannot:** Condition entry in the promotion upon a user providing content on Facebook, such as making a post on a profile or Page, status comment, or photo upload.
- **You can:** Use a third party application to condition entry to the promotion upon a user providing content. For example, you may administer a photo contest whereby a user uploads a photo through a third-party application to enter the contest.
- **You cannot:** Administer a promotion that users automatically enter by becoming a fan of your Page.
- **You can:** Only allow fans of your Page to access the tab that contains the third-party application for the promotion.
- **You cannot:** Notify winners through Facebook, such as through Facebook messages, chat, or posts on profiles or Pages.
- **You can:** Collect an address or e-mail through the third-party application for the promotion in order to contact the winner by e-mail or standard mail.
- **You cannot:** Instruct people (in the rules or elsewhere) to sign up for a Facebook account before they enter the promotion.
- **You can:** Instruct users to visit the third-party application to enter the promotion. Since users must have a Facebook account in order to access an application on the Facebook Platform, if you give this instruction, they will be prompted to sign up for a Facebook account if they do not already have one.

What This Means for Marketers

If your company wants to take advantage of the popularity and reach of Facebook to publicize or administer a promotion, you need to make sure that you comply with the Facebook Promotions Guidelines, as well as all applicable laws. Failure to do so can result in termination of your company's rights on Facebook.

Kelley Drye & Warren's [Advertising and Marketing](#) Practice Group has substantial experience assisting clients in structuring a wide variety of promotions on social media platforms, such as Facebook. We are available to assist clients with developing strategies to address issues contained in this Advisory

For more information about this Client Advisory, please contact:

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