

Recommendations and Guidelines for Administering Social Media Giveaways

James M. Yurasek
San José State University | School of Information
September 10, 2014

Overview

The use of giveaways across a variety of social media platforms (Facebook, Twitter, Instagram, etc.) has been around practically since the inception of these platforms. By all indications, giveaways appear to be a good way to attract new followers as well as keep current followers actively engaged. As Schulten and Rauch (2013) phrase it, “Online sweepstakes and contests are used in dialog marketing as a cost-effective and eye-catching means of building and strengthening consumer relations.” While this type of promotion can vary in complexity, a quick look through one’s social media feeds will likely find that the majority operate under a simple “*Like* for a chance to win” model. While it may seem an easy task to administer a promotion such as this, there are actually several laws and guidelines one must adhere to in order to limit liability. This brief will serve as an overview of recommendations for OCLS regarding the proper administration of a social media giveaway.

Regulations

As outlined by Hawkins (2011), there are three categories of giveaway promotions: sweepstakes, contests, and lotteries. Each has a different set of criteria for awarding prizes, and it is important to properly define which type of promotion will be administered. The least complicated of these is the sweepstakes. Sweepstakes winners are determined by random drawing, and typically, there is no fee to enter. A contest may or may not have a fee to enter; however, winners are determined based upon some defined measurable criteria (e.g. submitting the best essay, taking the best photo, etc.). A lottery requires entrants to purchase a chance to win. Because entrants in a lottery have a stake in the game of chance, lotteries are highly regulated on both the state and federal level.

Both Hawkins and Taylor (2012) provide three factors to determine if a promotion would fall under the definition of a lottery. First, if the awarded prize is something of value. Second, if there is an element of chance in selecting a winner. Third, is if there is consideration, something of value, exchanged for entry into the promotion. Typically this would be a cash consideration, an “entry fee” if you will. Both authors—a lawyer and a Certified Fraud Examiner, respectively—warn that this can be tricky to define. As Hawkins puts it,

“When it comes to the online space, there are few things more valuable than followers/likers/friends [...] As such, requiring someone to ‘like’ you or ‘follow’ you could be construed as consideration.”

However, while Taylor acknowledges that, “Consideration means payment of tangible value by the entrant, which includes substantial time or effort to enter, [*sic*] the contest,” he goes on to give a more favorable summary.

“If the contestant is provided with a cost-free alternate method of entry with minimal time involved to enter, such as mailing in a postcard as instructed in the game rules, the contest will not be considered a game of chance in most states.”

In this definition, the simple act of clicking *like* or opting to *follow* a page does not appear to constitute “substantial time or effort.” The simplicity that this option provides also has a positive effect on likelihood of someone entering the promotion. The research done by Schulten and Rauch shows that the difficulty of entry tasks, “has the strongest effect on consumer entry decisions for online sweepstakes and contests.” Given the large number of promotions operating in this manner on Facebook, this type of promotion would likely be considered merely a sweepstakes, and thus not subject to the scrutiny of a lottery.

There are additional regulations that must be adhered to when administering a promotional giveaway. Among these are laws regarding regulated (alcohol, tobacco, firearms, etc.) and high-value items, terms of use established by hosting sites, and the publication and availability of official rules which must be adhered to once the promotion begins. As for regulated and high-value items, keeping prize value under \$600 USD will avoid the necessity of collecting the social security number and other information from the prize winner for tax purposes. The hosting site guidelines and discussion of official rules will be addressed in separate sections.

Hosting Terms of Use

It is important to adhere to the rules and guidelines set about by the social media platform being used to host the promotion. Facebook, for example, has a section in its *Facebook Pages Terms* (revised 2014, July 14) addressing administering promotions. The use of promotions are covered in § III: E: 1-4, and are as follows:

III

E. Promotions

1. If you use Facebook to communicate or administer a promotion (ex: a contest or sweepstakes), you are responsible for the lawful operation of that promotion, including:

- a. The official rules;
- b. Offer terms and eligibility requirements (ex: age and residency restrictions); and
- c. Compliance with applicable rules and regulations governing the promotion and all prizes offered (ex: registration and obtaining necessary regulatory approvals)

2. Promotions on Facebook must include the following:

- a. A complete release of Facebook by each entrant or participant.
- b. Acknowledgement that the promotion is in no way sponsored, endorsed or administered by, or associated with, Facebook.

3. Promotions may be administered on Pages or within apps on Facebook. Personal Timelines must not be used to administer promotions (ex: “share on your Timeline to enter” or “share on your friend’s Timeline to get additional entries” is not permitted).

4. We will not assist you in the administration of your promotion, and you agree that if you use our service to administer your promotion, you do so at your own risk.

Other social media platforms have similar terms and conditions which must be researched before implementing a promotion on those sites; however for the sake of simplicity, Facebook has been used as the sole example.

Official Rules

Official rules of the promotion must be published and made public throughout the duration of the promotion. Rules may be published on a site (such as a blog) separate from the social media platform being used to host the promotion; however, a link to the published rules must be included in all materials advertising the promotion.

The most concise guidelines for official rules can be found in Hawkins' work, and is as follows:

Official rules must always include:

- “No purchase necessary.”
- The alternative method of free participation.
- Geographic area of the sweepstakes and/or who is eligible to participate in the sweepstakes.
- Opening date and scheduled termination date of the sweepstakes.
- Complete name and address of the sponsor and promoter of the contest.
- Number of prizes, the accurate description of each prize, the retail value of each prize and the odds of winning each type of prize.
- Whether all prizes offered will be awarded and how the prizes will be awarded.
- Manner of selection of winners and when a determination of winners will be made.
- Where and when a list of winners can be obtained.

Additionally, Taylor recommends avoiding trademark infringement. Therefore, along the lines of Facebook's requirement to release it from all liability, it is recommended a similar release of liability be included to address parent and affiliate institutions of OCLS including: Katz Library, UMA, University of Maine System, etc. Unless there is a direct connection to the promotion, this should also be extended to cover producers/suppliers of prizes awarded (i.e. if an Amazon gift card is to be awarded, a statement disclaiming Amazon's endorsement or sponsorship of the promotion should be included in the rules).

Conclusion

The use of online promotional giveaways represents a great opportunity to build awareness of the OCLS across multiple social media platforms. In order to ensure ongoing success, the aforementioned recommendations and guidelines must be vigilantly adhered to when administering such a promotion. While this document of recommendations and guidelines attempt to address the laws and regulations that

govern these promotions, it cannot be considered definitive. It is important to continuously review current laws and regulations and to revise this document as necessary.

Resources

Facebook Pages Terms. (Revised 2014, July 14). Retrieved from https://www.facebook.com/page_guidelines.php.

Hawkins, S. (2011, August 11). Social media promotions and the law: What you need to know [web log post]. *Social Media Examiner*. Retrieved from <http://www.socialmediaexaminer.com/social-media-promotions-and-the-law-what-you-need-to-know/>.

Schulten, M., & Rauch, M. (2013). Optimal design of online sweepstakes and contests: A conjoint analysis. *AMA Summer Educators' Conference Proceedings*, 24142-143.

Taylor, R. (2012). The ins and outs of contests and promotions. *Franchising World*, 44(9), 51-53.