

DTI Permit Required for Bloggers Doing Online Promotion: A Four-Way Test



A recent article from Social Media Contest and Promotions

Philippines, a blog run by Janette Toral, raised many eyebrows and caused massive uproar from many bloggers and internet marketers alike.

In a nutshell, the Department of Trade and Industry (DTI) is requiring bloggers to get Sales Promotions Permits for online promotions. Therefore, a blogger needs to go through the burden of processing paperwork and paying fees out of his or her own pocket to run online contest even if there is no purchase required.

I am not a lawyer so I can only give my opinion about this matter with my understanding. I will do my best to make this post as objective as possible.

Let us check this issue using the Four-Way Test.

Is it the TRUTH?

The basis of the policy is the enforcement of Consumer Act of the Philippines that was last updated in 1992. It is very outdated, honestly, considering that the playing field and the industry (including the internet) have already changed more than a decade ago. There was no online promotions then and the term “**blogger**” has not been coined yet.

According to the **Consumer Act of the Philippines**, here are the definitions of consumer and sales promotion:

***Consumer** is a natural person who is a purchaser, lessee, recipient or prospective purchaser, lessor or recipient of consumer products, services or credit“*

***Sales Promotion** is defined as techniques intended for broad consumer participation which contain promises of gain such as prizes, in cash or in kind, as reward for the purchase of a product, security, service or winning in contest, game, tournament and other similar competitions which involve determination of winner/s and which utilize mass media or other widespread media of information. It also means techniques purely intended to increase the sales, patronage and/or goodwill of a product.*

In this definition it seems that **Sales Promotion** is only targeted for **Consumers** of the entity that created the product or service. If you are a blogger that is holding a contest, you normally don't promote the product; you are promoting your blog instead. These are two different things. Giving prizes to blog visitors or patrons is like giving door prizes to concerts, stage shows, stage plays, film shows, and similar activities — which are all exempted from getting permits. Don't believe me? See the FAQ for sales promo from DTI.

Are there exemptions from permit requirements?

Permits for the following sales promotion activities need not be applied for:

- 1. Competitions, except beauty contest conducted nationwide, which do not require the purchase, lease or payment of any consumer product or service or avilment of consumer credit;*
- 2. Parlor games, whether held live during stage shows, parties, special occasions and/or utilizing any form of mass media. Provided, that the home partner of the winner is not required to purchase or lease any consumer product, service, or avail consumer credit facility, including the sending or presentation of any proof;*
- 3. Door prizes given to patrons of concerts, stage shows, stage plays, film shows, and similar activities;*
- 4. Instant sales promotion campaigns;*
- 5. In store promotions, such as, but not limited to price reduction promotions, discount sales and premium-in pack in which no advertisements are made on such sales promotion campaigns.*

If you inspect the FAQ, the terms *blog, internet or online* are not even mentioned once. I don't believe that DTI is seriously targeting online activities. Only after the question was raised that this issue is brought up again.

Art. 116. Permit to Conduct Promotion. – *No person shall conduct any sales campaigns, including beauty contest, national in character, sponsored and promoted by manufacturing enterprises without first securing a permit from the concerned department at least thirty (30) calendar days prior to the commencement thereof. Unless an objection or denial is received within fifteen (15) days from filing of the application, the same shall be deemed approved and the promotion campaign or activity may be conducted: Provided, That any sales promotion campaign using medical prescriptions or any part thereof or attachment thereto for raffles or a promise of reward shall not be allowed, nor a permit be issued thereof.*

What about this Permit to Conduct Promotion article taken from Consumer Act of the Philippines? It looks like only promos **sponsored and promoted by manufacturing enterprises** are only covered by this article. If you are giving out prizes out of your own pocket, why would you need to get a DTI permit? Parlor games are exempted from getting permits. Why can't petty blog contests cannot be exempted as well?

So can we differentiate what is a promo from a sales promo? At this point, it is ambiguous. I believe this is one of the biggest loophole in this topic because DTI considers all online promotions as sales promotions. What about marketing campaigns, list building activities, Facebook liking contest, and so on. All these are not defined but DTI consider them all under the umbrella of sales promotion.

Anyone can bend the truth if there is no explicit guidelines governing these terms.

Is it FAIR to all concerned?

I like to think that DTI is just protecting the consumers from exploits of fly-by-night enterprises. Verification and drawing of winners can be witnessed by DTI representatives, and the interest of consumers and contest participants will be protected.

Gaming of online contests would be prevented if online contest organizers practice the policy and all information given by contestants could be protected .

However, what about giving away prizes for a random comment on a post? How about promoting a fan page which is not necessarily a business entity? If DTI will watch every single raffles held online, does it have the capacity to monitor all contests squarely?

DTI does not check raffles held on parties, clubs and organizations; blog promotions is essentially the same — a promotion for readers or members with the same interest — why would a simple raffle require approvals from DTI?

Do I need a DTI permit if I'm going to raffle off my freedom of speech?

— *Jayvee Fernandez (@Jayvee) July 29, 2011*

There are more unanswered questions and DTI is yet to give an explanation to all of these but the mere inconvenience it brings to each blogger outweighs the advantages it presents.

The benefit is clearly in favor of consumers without protecting the interests of bloggers at all. It is even more unfair to bloggers who blog out of passion and not making a living out of it.

Will it bring GOODWILL and BETTER FRIENDSHIPS?

Between DTI and bloggers, I don't think so. Most of the feedback are against the policy.

The smallest fee would be P1000 since most blog promotion coverage are national. If the sponsor will get the DTI permit for the blogger, the blogger will need a Mayor's permit at the minimum to prove that he or she is a registered business.

What if you are running a small contest for a prize much less than the minimum fee. Even if you are sponsored, it does not makes sense at all; hence the negative feedback from bloggers so far.

Between DTI and contest participants, if these policy is applied to all online promotions, then contest organizers have to take the minimum information required for a raffle stub or an entry to be valid since DTI requires the following information:

1. Full name of participant
2. Complete address, and telephone number, if any
3. Signature

So, if you are running a contest for the most creative response on your blog post before, you don't even need to put any of these personal information. If you win, then that's the time the blogger will contact you and get those information so that he or she can send the prize.

If all of us will follow the policy by DTI, it seems that to make your comment entry valid, you have to submit all these required information while joining the contest.

I don't know how DTI will bring goodwill to online contest participants if on every contest that you join online, you have to submit all these personal information first. There is more risk in doing this and it makes a simple tasks so complicated. It also kills the fun of joining an online community contest.

DTI, please accept that the policy is originally intended for traditional media and is not applicable online.

Will it be BENEFICIAL to all concerned?

The short answer is No. Bloggers are very much disadvantaged.

Like most of the comments you can find on the original article and reactions online, it seems that this is an effort of DTI to milk people earning online.

If DTI is serious in protecting consumers, businesses and individuals without taking any side, it should have sought opinions from all parties first before surprising bloggers with all these information.

Kindly share this and let DTI know your disapproval on its current policy so that the **Consumer Act of the Philippines** will be amended soon.

Updates

Here the following articles that you should read if you're concerned about this on-going issue

[IMMAP, DTI and the Digital Filipino Club](#)

[Email from Janette Toral regarding the DTI, IMMAP and the Digital Filipino Club](#)

Ref.: <http://www.vexite.com/2011/dti-permit-required-bloggers-online-promotion/>

Look also www.media.aboutphilippines.ph