

# Partnerships with Daily-Deal Services: Deal or No Deal for Traditional Media?

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Web- and email-based deal-of-the-day services such as Groupon, LivingSocial, BuyWithMe and others are cropping up everywhere. The basic concept is simple; these services generally provide deep discounts on goods and services for a limited time and allow users to maximize the value that they receive by encouraging their real-life and virtual friends to take part in an offer as well. They combine e-commerce with social media-two areas that many traditional media outlets have recently entered-to fuel their growing popularity. Not surprisingly, newspaper publishers and broadcasters, aware of the public's increasing interest in limited-time deals offered through digital channels, have begun to forge partnerships with companies that provide these offers or, in some cases, to venture into the segment themselves.

While daily-deal and other types of web- and email-based group buying services provide one more way for traditional media to connect with their audiences, partnerships of this variety present a host of legal issues that warrant careful consideration. Broadcasters may unwittingly run into problems regarding payola and/or plugola if agreements are not properly structured and implemented. For instance, if a broadcast station is to receive commissions for deal sales that are generated through on-air mentions, prudence counsels in favor of making appropriate sponsorship identification. In addition, if a broadcaster's or newspaper's website is itself involved in the collection of personal information in connection with deal-of-the-day offerings, privacy and data security issues, as well as consistency with the media outlet website's own terms of use and privacy policies and the laws and regulations concerning collection of data from minors may arise. As in any relationship with a third party that involves cross-

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promotion, intellectual property issues-including ensuring that the broadcaster or newspaper obtains appropriate rights to use the marks of the daily-deal provider for, at the very least, promotional purposes and appropriately protects the use of its own marks by that provider and its other partners-also lurk in the background. And, to the extent that partnerships with deal providers may involve coupons that are delivered directly to mobile devices, traditional media should be aware of the Mobile Marketing Association's recently issued voluntary guidelines for best practices regarding mobile promotions.

A broadcaster or newspaper publisher that partners with a deal-of-the-day provider should also carefully consider the impact that a deal gone bad can have on its own business and reputation. Groupon, for example, recently came under fire in connection with a photo shoot deal that it offered. The alleged problem? The photographer was accused of using stolen images on her website and scheduling so many sessions that she couldn't possibly deliver what she had promised. Once it learned of the suspected scam, Groupon quickly discontinued the deal and issued refunds to all 1,000+ people who had ordered it. But while Groupon's current refund policy may be quite generous, that may not be true across the board. And let's face it, if a media entity itself were running its own deal service, a refund of that magnitude could be a very expensive proposition.

Bottom line: We advise our clients to do their homework before deciding to venture into the deal-of-the-day space. A failure to do so could have legal and reputational ramifications that a little bit of foresight could easily avoid.