
Germany – ALM FAQ Flyer - Advertising Social Media

Full title Association of State Media Authorities for Broadcasting in the Federal Republic of Germany (ALM) *Arbeitsgemeinschaft der Landesmedienanstalten*
FAQs - Answers to advertising questions in social media

Title of relevant section Information about products on YouTube & Co: "Am I allowed to do that? How can I do that?"

Text

As soon as you are active in social networks and create your own content, you are part of the public sphere. If you create something that interests, touches, inspires, if you know the ways in which you can increase awareness of your offer or seek help from experts, the numbers of views will increase.

Through the open and honest presentation of yourself you have gained a little bit of trust. People value your judgement, your opinion and your assessment.

At the same time, companies who want you to advertise their products may take note of you. In you they see a person who can represent their brand well, a brand ambassador so to speak.

With increasing numbers of views and increasing trust, you also bear responsibility for your users. Transparency, honesty and authenticity are important.

There is no reason for you not to advertise a product you like. Or if the advertiser sees you as so important that they will send you the product free of charge or pay you for presenting it. But please do not forget your responsibility, and be transparent: tell your users about this and do not lie to them. Do not risk your credibility.

Advertising must be easily recognisable as such and appropriately separated from the remaining content offered by visual and acoustic means or spatially (Article 58 (3)¹ in conjunction with Section 7 (3)² of the Interstate Broadcasting Treaty).

This is not only in your own interest, but also required by law. The law states the following on this point: if it is not clear that content is advertising or if the separation of advertising from the remaining content is not clear, the advertising must be identified.

The following checklist gives you tips on what you are legally required to do about videos in order to inform your users. You can, of course, go further and explain everything in as much detail as you like.

In addition: You can also find tips for identifying photos and texts on Instagram,

¹ Art. 58 (3) For telemedia including contents which are television-like in their form and content and which are provided by a provider for individual on-demand retrieval at a time determined by the user and from a catalogue of contents stipulated by the provider (audiovisual on-demand media services), Articles 7 and 8 shall apply accordingly. For offers pursuant to Article 2 (3) no. 5, in addition Articles 4 to 6, 7a and 45 shall apply accordingly.

² Art. 7(3) Advertising and teleshopping shall be readily recognisable as such and shall be clearly distinguishable from editorial content. Advertising and teleshopping shall not use subliminal techniques. New advertising techniques used shall also keep advertising and teleshopping quite distinct from other parts of the programme by optical means, on radio by acoustic means in a manner that is adequate to the media.

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Facebook, Snapchat or Twitter.

Example 1

You buy the product

You buy the products that you are presenting in your video, and so you yourself decide which products you buy and show, and how you review them.

The emphasis here is on your independence: You buy and pay for the products out of your own pocket and the statements in your video reflect your own opinion. In that case it is to be assumed that no company has a promotional interest in your video.

But even then, the statements in your video about the products that you recommend do, of course, have a promotional effect - and you should be aware of this, especially because of the age of your target group. You have a role here as a role model and bear a certain responsibility - just like the YouTubers who earn money with their videos.

Identification is not necessary here. But be careful: it is not enough simply to claim that you paid for the products yourself. Someone may make enquiries at a later date about this!

Example 2

You are sent the product free of charge

In addition to lipsticks, deodorants, shirts, trousers or mobile phones, the term "product" (*Produkt*) also includes things like flights, travel, hotel accommodation, etc.

The company provides you with the product free of charge, but not without an ulterior motive. It expects that you will show the product in your video and publicise it in your community. That is to say, the company expects consideration in return for giving you the product. It is important from the company's point of view that you contribute to publicising the product. You decide on:

Version A: The company that gave you the product free of charge did not give you any guidelines on how you should present the product. You yourself see it as your task to describe and review the product and its advantages, but possibly also with its disadvantages: this is not advertising. So, you do not have to identify it as such.

What needs to be taken into consideration?

The presentation of the product is of a promotional nature when the company expects you to describe the product in exclusively positive terms and to review it, or if it is evident from the video that an exclusively positive presentation is intended, for the purpose of getting your followers to buy the product. Therefore, you must make sure that this is identifiable as part of the video.

You can do this either by displaying "Advertisement" (*Werbung*) whenever you display the product. Or at the beginning of your video you can display "supported by ... Product XYZ" (*unterstützt durch ... Produkt XYZ*) and also verbally point out at the beginning of your video that the company has provided the product free of charge. If your video revolves entirely or mainly around the product, you should display "extended/ continuous advertisement" (*Dauerwerbung*) or "promotional video" (*Werbevideo*) the entire time.

Version B: The main focus of your video consists of editorial content, i.e., of the stories you tell, but it also concerns clearly recognisable products. In this case the products do not determine the content of your video, but are embedded within an action.

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What needs to be taken into consideration?

In this case it depends on the value of the product. If it usually costs less than €1,000.00 you do not have to do anything. How do you calculate the value if you have received multiple products free of charge? In this case it depends on the individual price, and the values are not added together. Exception: you get several products from the same brand, the same label, or the same store. In this case the individual values are indeed added together!

If the value is more than €1,000.00, this is called product placement, which must be identified. Here, too, you should point out the cooperation with the company to viewers at the beginning of the video. You can do this either with the reference: "product placement" (*Produktplatzierung*) or with the words: "supported by product placement" (*unterstützt durch Produktplatzierung*) or "supported by (product name)" (*unterstützt durch (Produktname)*).

Example 3

You receive money or other consideration from a company for presenting products in your video

It is important from the company's point of view that you contribute to publicising/promoting the product. And they pay for this.

Here as well, you have two options in the production of your video:

Version A: You create your video in such a way that it consists exclusively or predominantly of a presentation of the product, i.e., the product is the focus.

What needs to be taken into consideration?

If the product is the focus of video or in individual settings, this is advertising. Therefore, you must make sure that this is identifiable as part of the video.

You can do this either by displaying "Advertisement" (*Werbung*) whenever you display the product. Or at the beginning of your video you can display "supported by ... (product XYZ)" (*unterstützt durchProdukt XYZ*) and also verbally point out the cooperation with the company at the beginning of your video.

If your video revolves entirely or mainly around the product, you should display "extended/ continuous advertisement" (*Dauerwerbung*) or "promotional video" (*Werbevideo*) the entire time.

Version B: The main focus of your video consists of editorial content, i.e., of the stories you tell, but it also concerns clearly recognisable products. In this case the products do not determine the content of your video, but are embedded within an action.

What needs to be taken into consideration?

If the product itself is not the focus of your video, this is called product placement, which must be identified.

Here, too, you should inform the viewers about the cooperation with the company at the beginning of the video. For this, you should use the note "product placement" (*Produktplatzierung*) or "supported by product placement" (*unterstützt durch Produktplatzierung*) or "supported by (product name)" (*unterstützt durch (Produktname)*).

Example 4

You use affiliate links

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In the information box - either voluntarily or in consultation with the company - you use affiliate links to link to sites where the product can be purchased directly.

You are thus promoting a specific product page with the link. This is advertising, even if it is left to the user to decide where he or she will buy the product.

What needs to be taken into consideration?

Because the affiliate link always constitutes advertising, you have to point this out to the user. To do this, you should provide a written note directly in the immediate vicinity of the links. In it, you explain to the user how an affiliate link works and point out that you will receive a share of the sales if the user orders the product via this link.

Example 5

Equipment Notes

In the information box, you point out the technical equipment which you used to make your video.

If you mention the camera, the editing program or other technical products, these notes are not advertising. They belong to the equipment you used to create your video. This also applies if the devices were provided to you by the manufacturers free of charge.

Tips for identification / labelling e.g. on Instagram, Facebook, Snapchat or Twitter

Everything you've just read can also be used to identify advertisements in photos and text on Facebook, Snapchat, Twitter, or Instagram. Here, too, "truth and transparency" (*Wahrheit und Klarheit*) applies. Make it transparent to your followers whether your posts have a commercial background so that they will not be misled.

You can implement the identification in different ways. With the labels ADVERTISING (*WERBUNG*) or PROMOTION (*ANZEIGE*) you are on the safe side, but also #ad, sponsored by, powered by. It's important that you identify - and as clearly as possible!

We are happy to receive feedback at: info@die-medienanstalten.de

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