



HILTON'S PHOTO FINISH

CONTEST GETS LOYALTY MEMBERS TO ENGAGE AND SHARE

HILTON IS RUNNING A CONTEST WITH NATIONAL GEOGRAPHIC MAGAZINE

encouraging its loyalty members to shoot photographs of places where they travel and spend time. The prize? A chance to go to one of the most spectacular settings in the world: The Galapagos Islands.

Through Nov. 21, members of the Hilton HHonors program, which encompasses the company's 10 hotel brands, can enter the "Stories Without Words" photo contest. Photos are being accepted in five different categories, including celebrations, people, adventures, cul-

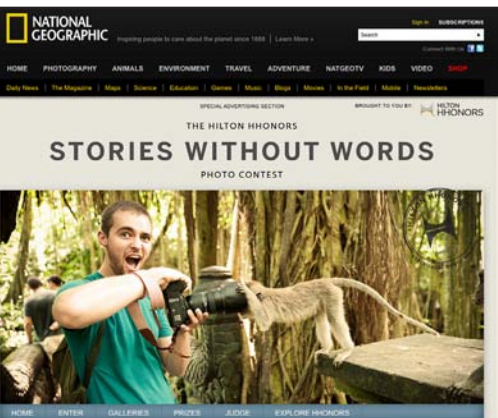
ture and spaces they discover.

The grand-prize winner will receive a National Geographic Expeditions trip for two to the Galapagos Islands that includes a 10-day, nine-night adventure, round-trip airfare to Ecuador and hotel accommodations, along with 1 million Hilton HHonors bonus points and \$10,000 in spending money. Five first-place winners will be awarded 250,000 Hilton HHonors bonus points, a Nikon Coolpix P500 camera and a copy of National Geographic's Ultimate Field Guide to Photography.

"This photo contest gives our members an outlet to share their best moments with the world—and get rewarded in return," Jeff Diskin, senior vice president, global customer marketing, Hilton Worldwide said in a release.

Dan Westergren, senior photo editor for National Geographic Traveler, will judge the photos. He will select 10 finalists, the top two from each of the five categories, around Nov. 30.

The finalist images will be posted at www.HHhonors.com/PhotoStories for public voting to determine the five first-prize winners—one from each of the categories. Westergren will select the grand-prize winner from the 10 original finalists. —PATRICIA ODELL



Tap into Kids' Creativity

The Duct Tape brand can get people to do some pretty crazy things. High school students have fashioned entire prom dresses and suits from the sticky stuff. Another competition turned up, what else, a Duct Tape duck. A local "Dogs 'n Duct Tape" contest was a fundraiser for a local animal shelter.

To kick off football season,

Duct Tape encouraged college and high school students to use the dozens of colors of tape to create tailgate gear, decorations for their dorm rooms, coolers, tents or other football-related stuff. The contest takes place on the Duct Tape Facebook fan page, where photos and captions are entered. Each week through Nov. 6, a random winner will receive a Duct Tape



prize pack. The grand-prize winner gets \$1,000. The lesson plan: Get the product in front of kids when they are young. —PO

PIZZA POINTS:

Kicking Off Loyalty



Papa John's, the official pizza sponsor of the NFL, is playing to its most loyal customers while adding new ones by offering the chance to win one of 60,000 free pizzas each week during the regular football season.

Papa Reward members and new enrollees who sign up at PapaJohns.com get the chance to be randomly selected to receive one of the pizzas in the form of 20 Papa Reward points deposited into their account.

Marketing for the promotion includes digital (home page and web banners), social media, email, local in-store marketing, public relations and on-site NFL activation.

As part of the NFL deal, Papa John's was also a sponsor of the 2010 Super Bowl and in the run up to the big game ran a sweepstakes that offered a trip to the game and free Papa John's pizza for a year. —PO

AWAY FROM P-O-S

The Borden Dairy Co. will begin running sweepstakes as part of a new robust marketing program to grow its share of the milk market. But where past games were largely in-store and POP campaigns, this one will run mostly on packaging and the Internet—for good reason.

"Historically, a lot of sweepstakes were done using in-store P-O-S, but retailers have really shied away from any kind of manufacturers' P-O-S materials going up in their stores," says Randy Gier, the chief marketing officer at Borden. "They are much less open to those kinds of things to protect their look and feel, so it's pushing us to do these kinds of promotions onpack and online." —PO





LEGAL WATCH: TEXT GAME SUIT SETTLED

A settlement was recently reached in a proposed class-action suit filed over the use of premium text messaging as a channel for promoting games built around two very popular TV shows.

► WHAT WAS THE SUIT ABOUT?

Two suits filed separately in federal court in California in 2007 and combined in 2008 alleged that NBC Universal and Fox Broadcasting were running SMS promotions for “Deal or No Deal” and “American Idol” respectively that constituted illegal lotteries.



The games, promoted on-air in TV spots during their respective shows, promised prizes of \$10,000 or more to entrants who texted their answers to questions about the shows to mobile codes that were displayed on the TV screen. In each case, those mobile codes involved sending premium rather than standard text messages. Premium SMS messages cost much more—99 cents compared to pennies or fractions of pennies for standard messaging—and are usually reserved for services that send news alerts, sports scores and other time-sensitive content.

In each promotion, the messenger was asked to perform some function to qualify for entry—answering a multiple-choice trivia question for

the “American Idol Challenge” or choosing one of six briefcases for the “Deal or No Deal Lucky Case Game.” The winner of the cash award was then selected from among the group that texted back with the correct answer.

► SO WHAT'S THE PROBLEM?

The suit claimed that these campaigns constituted illegal lotteries under California state law, since entrants were being asked to spend money for an entry fee—the 99-cent premium charge—in a prize promotion governed by chance, without receiving anything of economic value in return. Those elements are the basic description of a lottery in California statutes, and could therefore render those games illegal.

Since entrants were also charged 99 cents to receive a premium message thanking them for their entry and a further 99 cents if they messaged in a request to stop receiving text messages from the game administrators, the actual cost of entering the game via premium SMS could be closer to \$3.

Each contest also offered viewers the chance to enter and play for free online, but according to the lawsuit, those free options were poorly publicized.

► WHAT WAS THE SETTLEMENT?

Under terms of the settlement, NBC Universal and Fox will refund the text fee to the millions who entered either promotional game without winning a prize. Lawyers for the plaintiffs in the class action maintain that up to 2 million people played the “American Idol Challenge” and as many as 600,000 played the other game.

The settlement also calls for the defendant companies to pay plaintiffs' legal fees of more than \$5.2 million. They have also agreed not to

run similar promotions involving premium SMS without a promise of a return of comparable value for the next five years.

Both “Deal or No Deal” and “American Idol” stopped the games soon after the class action suits were filed in 2007. Other similar TV-based text games for shows such as “I vs. 100” and “The Apprentice” were also allowed to die off.

While the case didn't go to a judgment, the plaintiffs did get pretty much everything they were asking, points out Joseph Lewczak, a partner in the advertising, marketing and promotions department of Davis & Gilbert LLP. While the defendants will have to reimburse every contest entrant making a claim for the cost of their premium text, it's uncertain how many of those who entered and did not win a prize will make such claims.

► WHAT DOES IT MEAN FOR MARKETERS?

The fact that these suits were settled rather than proceeding to a verdict should be good news for marketers, says Lewczak, and should point the way to how premium messaging can be incorporated into a game or sweepstakes promotion.

“For the industry overall it's good, because we don't have a decided case that says these tools are illegal,” he says. “The answer lies in the injunctive relief, which talks about what the defendants can't do for five years: that is, offer premium text messaging programs unless the people who enter that way receive something of comparable value to the premium text charge.” Marketers who want to steer clear of similar lawsuits will need to make sure that players who choose to enter a game via premium SMS receive something of 99 cents' value in the course of that entry.

“Marketers need to structure these games in a way consistent with other promotions that involve a purchase and a free alternate means of entry,” says Lewczak. “I always use the McDonald's Monopoly game as an example [of a game entry done right]. When you buy a Big Mac, you're entered automatically into the game. With a premium text-message promotion, you might be buying a ringtone and getting an entry. The game can't just be for those who choose to pay 99 cents to enter.” —BRIAN QUINTON

