



PRIZE PROMOTIONS AROUND THE WORLD

Finland



Downloaded: 07 Mar 2021

PRIZE PROMOTIONS AROUND THE WORLD

ABOUT

Welcome to the fourth edition of DLA Piper's popular Guide to Prize Promotions Around the World. Prize promotions remain a popular marketing tool used globally by businesses to attract customers. The internet and various social media platforms make this an attractive, cost efficient means of reaching a large, multi-jurisdictional customer base; but it is not without its legal challenges.

This handbook is designed to equip our clients with a useful tool to assist them with the management of the early development stages of a promotion, and to bring potentially problematic issues to their attention as soon as possible.

NEW FEATURES AND TRENDS

In response to client demand, this fourth edition of the Guide has been expanded to cover 39 jurisdictions which count among the most significant for our clients, with the addition of Denmark, Hungary, Nigeria and Turkey.

As our interactive map shows, the extent of regulation and sanctions in this area is on the rise, with the most noticeable change being brought about by the introduction of GDPR across the EU. GDPR extends obligations around handling promotion entrants' personal data (eg for winner publicity, use of promotions to generate marketing leads and use of UGC entries containing personal data), and introduces the possibility of huge fines for breaches of those obligations.

ABOUT OUR GLOBAL ADVERTISING AND MARKETING TEAM

The DLA Piper global advertising and marketing team is well-versed in handling complex, frequently multi-jurisdictional compliance projects. This includes advising on compliance aspects of international prize promotions, which we are often asked to clear across large numbers of jurisdictions, while working to short deadlines.

More broadly, our global advertising and marketing team is able to support the full range of advertising-related work, from copy clearance to dealing with advertising regulators and litigation, to negotiating advertising and sponsorship deals, to e-privacy issues and ad-tech. Our advertising and marketing lawyers offer deep understanding of the advertising and media industries, and combine this with a sophisticated approach to cross-border working.

DISCLAIMER

This Guide is not a substitute for legal advice. Nor is it intended to be an exhaustive guide to all rules and regulations relating to promotions in the jurisdictions covered, or to cover all aspects of the legal regimes surveyed, such as specific sectoral requirements. Rather, it aims to simplify what are often complex provisions into a more manageable summary and to highlight areas of potential concern to promoters. It is current as at the last modified date stated in each section.

PRIZE PROMOTIONS AROUND THE WORLD

FINLAND



Last modified 11 January 2019

GOVERNING LAW

What are the main applicable governing laws or codes for prize promotions?

Name	Law or Code?
The Consumer Protection Act (38/1978)	Law
Lotteries Act (1047/2001)	Law
The Act on Electronic Communication Services (917/2014)	Law

EXTRA-TERRITORIALITY

Do national regulators enforce rules against entities operating abroad?

Finnish prize promotion regulation applies to promotions which are targeted at Finnish consumers.

One example of such targeting is where the language used in the prize promotion is Finnish. It should however be kept in mind that Swedish is also an official language of Finland.

Prize promotions held in other countries which are not targeted at Finnish consumers are not required to conform to the requirements of Finnish prize promotion regulation.

SKILLS COMPETITIONS

Can a prize promotion be run that is based on skill?

Yes. Prize promotions can depend on the talent, knowledge and/or skill of the participants. However, also see [Other local requirements](#) section.

PRIZE DRAWS

PRIZE PROMOTIONS AROUND THE WORLD

Can a prize promotion be run where there is an element of chance in the selection of the winner?

Yes. However, see also [Other local requirements](#) section.

SELECTION OF WINNERS

Are there any requirements for the selection of winners and award of prizes?

The selection of winners is not regulated as such.

However, the terms and conditions of the prize competition must disclose clearly and unambiguously the date on which the prize draw is held and how winners will be informed about winning and receiving prizes.

JUDGES

Are there any particular requirements in relation to judges or judging for skills competitions?

No.

PRIZES

Are there any restrictions on the prizes awarded?

Certain prizes are considered improper such as guns, explosives, dangerous chemicals and living animals.

Furthermore, the prize amount and the chances of winning the prize are important factors. Very high value prizes and very high probabilities for winning prizes may be regarded contrary to ordinarily accepted business practices. However, high value prizes as such are not considered improper.

The prize itself must also actually exist. It is strictly prohibited to market through prize promotions where in fact no prize is available.

REGISTRATION REQUIREMENTS AND FEES

Are there any registration requirements, or any fees/taxes payable?

Registration Requirements

There are no registration requirements for prize promotions.

Fees/Taxes payable

Payable taxes depend on whether the prize promotion is based on skill or chance.

Where winning the prize is based on talent or skill, the prize is considered as income for the winner and the winner must pay taxes in accordance with his or her income tax.

By contrast, where the prize is won purely by chance, the winner of the prize must pay a lottery tax in

PRIZE PROMOTIONS AROUND THE WORLD

Finland amounting to 30% of the value of the prize.

OTHER LOCAL REQUIREMENTS

Are there any other key local requirements?

Two types of prize promotions are generally allowed:

- Prize competitions which do not require buying a lottery ticket or payment for participation; and
- Prize competitions which require purchasing a specific product, but do not require payment for participation in the prize promotion (i.e. the price must be the same with or without the contest).

Prize promotions must always be linked to a product or service. The product or service should always be the main subject of marketing, not the prize competition itself.

The terms and conditions for participating in the prize promotion must be clear, unambiguous and easily accessible.

The marketing materials for a prize competition must include the following information:

1. Who organizes the draw or competition;
2. When the draw or competition begins and ends;
3. What criteria are used in determining the winner in a competition based on knowledge or skills;
4. The date on which the draw is held; and
5. How winners will be informed about winning and receiving the prize.

The information referred to in points (1) – (5) must be present on all marketing materials which contain information on the prize competition. Special rules apply to, for example, television and online advertisements where the letter count is limited.

The provisions relating to prize promotions are interpreted strictly when marketing is targeted at persons under 18 years of age. In general, prize promotions which require the purchase of a product in order to participate are prohibited for adolescents less than 15 years of age.

TIMING

Is time required to ensure compliance (other than reviewing the terms and conditions)?

No, although time should be allowed to deal with data protection issues (eg ensuring an appropriate privacy policy is in place and including appropriate tick box functionality for consents).

TRANSLATIONS

Are the terms required to be translated by law?

Although translation is not required by law, the terms and conditions for participating in the prize

PRIZE PROMOTIONS AROUND THE WORLD

promotion must be clear, unambiguous and easily accessible. In practice, this means that the terms and conditions for the promotion must be available in the Finnish language.

PENALTIES FOR NON-COMPLIANCE

What are the penalties for non-compliance?

National authorities can prohibit the prize competition and reinforce the prohibition order by imposing a penalty payment for non-compliance. The amount of the penalty depends on the nature and scope of the obligation imposed, the paying capacity of the addressee, and other issues affecting the matter. There are no maximum sanctions as such.

In 2000 the Market Court held the defendant liable to pay a penalty payment of €50,000 (approx. US\$56,000) for non-compliance with the prohibition order of the Consumer Ombudsman. Moreover, the Market Court reinstated the prohibition order and imposed a penalty payment of €100,000 (approx. US\$112,000) in a case of further non-compliance. The defendant had arranged a prize promotion. The Market Court considered that the prize promotion itself was the main subject of marketing instead of the marketed service. This amounted to a violation of the Consumer Protection Act.

Non-compliance with tax legislation may result in tax consequences and criminal liability.

In cases where a prize promotion amounts to a lottery or gambling (eg participation requires payment), specific criminal sanctions apply. Penalties vary between fines and imprisonment for up to two years.

Finally, there is the possibility that the personal data processing aspects of the promotion could breach GDPR, which has maximum fines of up to the higher of:

- €20 million (approx. US\$22.4m); or
- 4% of the promoter's worldwide annual revenue.

RESTRICTIVENESS OF REGULATIONS

How restrictive are the legal obligations applicable to prize promotions?

Most prize promotion mechanics are allowed as long as the promotion does not amount to a lottery or gambling. The main focus is on providing consumers with clear and unambiguous information on the rules of the promotion and on prohibiting misleading marketing. Also, GDPR has introduced various obligations around processing personal data which have significant application to prize promotions (eg. use of submissions including personal data, winner publicity, etc.).

REGULARITY OF SANCTIONS

How frequently does the regulator impose serious sanctions for non-compliance?

When a prize promotion is prohibited, fines are only imposed in cases of non-compliance with the prohibition order.

The more serious sanctions relate to cases which concern prize promotions that amount to lottery or gambling.

KEY CONTACTS



Markus Oksanen
Partner
Asianajotoimisto DLA Piper
Finland Oy
markus.oksanen@dlapiper.com
T: +358 9 4176 0431

Disclaimer

DLA Piper is a global law firm operating through various separate and distinct legal entities. Further details of these entities can be found at www.dlapiper.com.

This publication is intended as a general overview and discussion of the subjects dealt with, and does not create a lawyer-client relationship. It is not intended to be, and should not be used as, a substitute for taking legal advice in any specific situation. DLA Piper will accept no responsibility for any actions taken or not taken on the basis of this publication.

This may qualify as 'Lawyer Advertising' requiring notice in some jurisdictions. Prior results do not guarantee a similar outcome.

Copyright © 2017 DLA Piper. All rights reserved.