



PRIZE PROMOTIONS AROUND THE WORLD

Nigeria



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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.

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Last modified 15 May 2019

GOVERNING LAW

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

Name	Law or Code?
National Lottery Act 2005	Law
Advertising Practitioners (Registration) Act Cap A7 Laws of the Federal Republic of Nigeria, 2004)	Law
National Lottery Regulations 2007	Code
Nigerian Code of Advertising Practice & Sales Promotion	Code
Nigerian Communication Guidelines on Advertisements and Promotions	Code

EXTRA-TERRITORIALITY

Do national regulators enforce rules against entities operating abroad?

National laws and regulations are enforceable against all persons, whether corporate or natural, firm, agency, company or any other corporate entity registered as advertising practitioners, including all persons that engage in advertising practice for gain and all organisations, corporate bodies and individuals who use advertising services, whether of indigenous or foreign origin, in so far as they offer advertising services directed at the Nigerian advertising market or are sponsored by a company doing business in Nigeria.

SKILLS COMPETITIONS

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

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According to the definition of lottery in Section 57 of the National Lottery Act, prize promotions can be run based on skill.

PRIZE DRAWS

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

Yes. Prize promotions with an element of chance fall within the scope of the definition of lottery under Section 57 of the National Lottery Act.

SELECTION OF WINNERS

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

A promoter is required to use best endeavours to find and make payment to all prize winners. The detailed terms for selection of winners (which demonstrate best endeavours) are in practice set out in the terms and conditions of the promotion.

JUDGES

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

Promotions must specify, before or at the time of entry, the criteria for judging entries. If the selection of winning entries is open to subjective interpretation, an independent judge, or a panel including one member who is independent of the competition's promoters and intermediaries, shall be appointed. Those appointed to act as judges shall be competent to judge the subject matter of the competition. The full names of the judges shall be available on request.

PRIZES

Are there any restrictions on the prizes awarded?

- Promoters shall award prizes as described in their advertising or reasonable equivalents.
- Prize draws must be awarded in accordance with the laws of chance and under the supervision of an independent observer.
- Participants in instant win promotions shall get their winnings at once or shall know immediately what they have won and how to claim without delay, unreasonable costs or administrative barriers. Instant win tokens or numbers shall be awarded on a fair and random basis and verification shall take the form of an independently audited statement that all prizes have been distributed, or made available for distribution in that manner.

REGISTRATION REQUIREMENTS AND FEES

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

Registration Requirements

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Promotions are generally registered in Nigeria. Requirements include the details of the promotion, duration and related information.

Fees/Taxes payable

Prize promotion expenses are deductible when computing the taxable profits of the promoter or the licensee. Also, Value Added Tax on the cash payments does not arise, as Value Added tax would have been included in the qualifying charges such as the ticket costs.

OTHER LOCAL REQUIREMENTS

Are there any other key local requirements?

- The following must be specified before or at the time of entry:
 - Geographical, personal or technological restrictions such as location, age or the need to have access to the Internet.
 - Any requirement to obtain permission to enter from an adult or employer.
 - If relevant, ownership of copyright in entries.
 - Any intention to use winners in post – event publicity.
- Prize promotions and promotions addressed to children always need a closing date (some others do not e.g. competitions that refer to a special offer).
- Advertisers announcing reader promotions on the front page or cover shall ensure that consumers know whether they will be expected to buy subsequent editions of the publication. Major conditions that might reasonably influence consumers significantly in their decision to buy the publication shall appear on the front page or cover.

TIMING

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

No additional time is required.

TRANSLATIONS

Are the terms required to be translated by law?

No requirements under the law.

PENALTIES FOR NON-COMPLIANCE

What are the penalties for non-compliance?

The National Lotteries Act establishes penalties of fines of a minimum of N100,000 (approx. US\$275)

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for corporate bodies, and N20,000 (approx. US\$55) for each director, manager and officer of such corporate bodies or imprisonment for a term or both. The Code of Advertising Practice establishes a cash penalty of a minimum of N500,000 (approx. US\$1,380) for media houses, agencies and advertisers.

RESTRICTIVENESS OF REGULATIONS

How restrictive are the legal obligations applicable to prize promotions?

The legal obligations applicable to prize promotions in Nigeria are not particularly restrictive. Rather, they are tailored towards promoting high ethical standards in the advertising industry.

REGULARITY OF SANCTIONS

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

The Code is tightly enforced and sanctions (by way of reprimands, warnings, fines and reduction in scope of licenses) are imposed as needed against persons and corporate entities that violate the Code.

KEY CONTACTS



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