



PRIZE PROMOTIONS AROUND THE WORLD

Russia



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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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RUSSIA



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GOVERNING LAW

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

Name	Law or Code?
Russian Civil Code (Part II of 26 January 1996 No. 14-FZ)	Code
Russian Federal Law on Lotteries (dated November 11, 2013 No. 138-FZ)	Law

EXTRA-TERRITORIALITY

Do national regulators enforce rules against entities operating abroad?

The Code and Law do not contain specific rules on prize promotions offered abroad. As a general rule, promotions offered to Russian parties from abroad will be subject to the same treatment as those offered in Russia (in part of any mandatory Russian rules constituting 'public order'). Theoretically, the only sanction which can be applied to foreign prize promotions, run online and violating Russian 'public order', is the blocking of the website through which the violating promotion is run. In practice, we have not heard of practical precedents of such enforcement.

SKILLS COMPETITIONS

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

Yes, this is permitted and specifically regulated under the Code. The main requirements set out in the Code are:

- The competition must be directed to the achievement of socially amenable purposes;
- The announcement of the competition must contain, at least, the essence of the task, criteria and procedure of assessment of results, place, term and order of delivery of results, amount and type

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of award, order and terms of announcement of the competition's results;

- The competition organizer may modify or cancel the competition only within the first half of the set term of delivery and must make the announcement in the same way as the initial announcement. The organizer must reimburse the expenses incurred by participants before such cancellation or modification.

PRIZE DRAWS

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

Yes. In this case, the promotion will fall under the definition of 'lottery' (which is regulated differently and separately from skills-based competitions). The main requirements set out in the Code and in the Law are:

- A lottery conducted in Russia must adhere to certain formal requirements and must be registered as such;
- The terms of the lottery must contain the timeframes of conducting the lottery, order of determining the award and its amount and other formal requirements;
- If the timing for payment of the award is not indicated, the award must be paid out not later than 10 days commencing on the date of determination of the results of the lottery (general rule). In case of non-payment the participants may claim the redress of damages in full amount from the organizer.

The refusal to conduct the lottery in the pre-agreed term will give the participants the right to demand the pay out of damages (only real damages, not lost profit).

SELECTION OF WINNERS

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

In relation to skills competitions, the process of selection of winners and requirements for awarding prizes is determined by the organizer but must be clearly described in the announcement of the competition.

In relation to lotteries, the order of determining the award and its amount must be defined by the organizer and clearly communicated to participants.

JUDGES

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

There are no legal requirements in relation to judges or judging for skills competitions. This is entirely determined by the organizer. However, the criteria and procedure of assessment of results must be announced by the organizer of the competition.

PRIZES

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Are there any restrictions on the prizes awarded?

There are no specific restrictions on prizes to be awarded. However, goods which are generally restricted to the public by law, such as weapons and narcotic substances, cannot be offered as an award.

REGISTRATION REQUIREMENTS AND FEES

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

Registration Requirements

There are no specific requirements for skill competitions. However, lotteries are subject to the heavy regulatory regime. This means the operator of the lottery (i.e. the entity running the lottery) must agree to a contract with the Ministry of Finance or Ministry of Sports ('organizers of the lottery') on the basis of a preliminary held state tender.

Fees / Taxes Payable

For lotteries, a state fee of 10% is payable to the state budget.

OTHER LOCAL REQUIREMENTS

Are there any other key local requirements?

In relation to lotteries the Law contains certain requirements. For example, there are requirements regarding mandatory state inspections of equipment used by organizers in the running of a lottery. Additionally, every operator of a lottery must order and undergo an annual mandatory audit of its activities in relation to accounting aspects.

TIMING

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

No.

TRANSLATIONS

Are the terms required to be translated by law?

While there is no express legal requirement for the terms to be translated into Russian, having such translation in place is highly advisable. The organizer may face various issues and even potential legal disputes relating to consumers misunderstanding of the terms if it is not translated into Russian.

PENALTIES FOR NON-COMPLIANCE

What are the penalties for non-compliance?

Aside from the civil damage awards (in the case of any breach of the rules), there may be

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administrative (or even criminal) sanctions applied to an organizer.

The average sanction is an administrative fine of 200,000 Russian Rubles (approx. US\$3,086). The maximum sanction for gross violations is 3 years imprisonment (applicable to officers of legal entities), but it is not likely to transpire in practice.

RESTRICTIVENESS OF REGULATIONS

How restrictive are the legal obligations applicable to prize promotions?

The skill-based prize promotions are generally subject to soft/mild legal treatment and the applicable legal regulations are not restrictive or onerous.

However, lotteries are subject to a very restrictive and heavily regulated regime (ie mandatory conclusion of a contract with the state authority under the tender procedure, state duties, annual audit, prohibition of lotteries on the Internet).

REGULARITY OF SANCTIONS

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

Rarely imposed for skill-based competitions.

Fines are imposed more often for violations in relation to lotteries.

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