



PRIZE PROMOTIONS AROUND THE WORLD

Turkey



Downloaded: 29 Sep 2020

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

TURKEY



Last modified 16 January 2019

GOVERNING LAW

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

Name	Law or Code?
The Decree on National Lottery w. no 320	Law
Regulation of the Turkish General Directorate of National Lottery on Lotteries and Draws with Non-Cash Prizes	Law
Consumer Protection Law	Law
Regulation on Commercial Advertisement and Unfair Commercial Practices	Law

EXTRA-TERRITORIALITY

Do national regulators enforce rules against entities operating abroad?

Yes, the rules for prize promotions also apply to prize promotions organized by foreign entities located outside Turkey but which target participants from within Turkey. In practice, the foreign entity organizer usually works alongside a local agency or business associate in Turkey to facilitate its application to the General Directorate of the National Lottery ("GDNL").

SKILLS COMPETITIONS

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

Yes, skill based games are generally permissible, but this is subject to approval from the GDNL. Having said that, approval is not required if the contest fulfils any of the following conditions:

- every participant who meets a previously specified criteria is awarded a prize; or

PRIZE PROMOTIONS AROUND THE WORLD

- no entrance fee is charged and the contest does not promote or sell a particular good or service; or
- either (i) no random draw occurs, and the winners are selected according to previously specified rules, or (ii) the winners are selected by means of a draw held in the presence of all the participants in the contest.

PRIZE DRAWS

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

Yes, chance-based promotions are permissible, but this area is heavily regulated by the GDNL. Please note that chance-based games where cash is given as a prize can only be organized by the GDNL. On the other hand, chance-based games where non-cash prizes are awarded can be organized provided permission from the GDNL is first obtained. As an exception, if the value of a non-cash prize awarded does not exceed a specified limit (TRY 115,2 - approx. US\$19, for the year 2019), the approval of the GDNL is not required before organizing the prize promotion.

SELECTION OF WINNERS

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

The terms and conditions of the promotion must be made available to the public, and the process through which the winners shall be determined needs to be clearly set out, including the dates and place where the selection of the winner(s) will take place.

With respect to prize draws, the process of selecting winners must be open to the general public to observe, and the winner must be selected in the presence of a Turkish Notary Public. After the selection, the winners and the deadline for the application to receive the prize must be announced and notified to the winners. The prize must be delivered to the winners at the date announced previously, and this period cannot be more than one year after the beginning of the promotion.

JUDGES

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

There are no specific requirements in relation to skill competitions.

PRIZES

Are there any restrictions on the prizes awarded?

Under Turkish Law, the GDNL alone has the authority to organize lotteries with prize money. Therefore, in Turkey, promoters are not allowed to organize lotteries where the prize is money or any other convertible currency. There are no other specific restrictions on the prizes awarded. However, the prize given should not violate other legislative provisions or public orders (i.e. weapons, tobacco products, etc. cannot be given as non-cash prizes).

PRIZE PROMOTIONS AROUND THE WORLD

REGISTRATION REQUIREMENTS AND FEES

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

Registration Requirements

Pursuant to the Regulation of the Turkish General Directorate of National Lottery on Lotteries and Draws with Non-Cash Prizes, promoters are required to obtain the approval of the GDNL before organizing a lottery, competition or prize promotion with a non-cash prize. Having said that, there are certain exceptions where approval is not required (certain exceptions are mentioned in the sections on Skills Competitions and Prize Draws).

Fees/Taxes payable

The organizer must pay 3% of the total value of prizes on offer (+18% VAT) to the GDNL as a registration fee. The registration fee cannot be less than TRY 6,000 (approx. US\$993) (+18% VAT). Further, the organizer must deposit an amount that corresponds to more than 10% of the total market value of the promised prizes with the GDNL. This deposit requirement is reduced by 50% if the commencement date of the promotion is more than six months before the date for final delivery of the prizes.

In terms of taxes, the winner is responsible for all tax liability associated with the prize. On the other hand, prize draw organizers must pay an inheritance and gift tax of 10% of the total value of prizes on offer. Organizers of contests, sweepstakes and competitions are responsible for submitting the declaration by the evening of the 20th day of the month that follows the month when the contest, sweepstake or competition was held. Then the organizer can receive the tax amount from the winner.

OTHER LOCAL REQUIREMENTS

Are there any other key local requirements?

According to an announcement of the GDNL, prize promotions must be declared/ announced through the official website of the entity running the promotion. In practice, the Directorate does not approve a draw if it is only announced through social media accounts.

TIMING

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

The organizer is required to apply to the GDNL at least 15 days before the prize promotion event. The GDNL generally reviews and responds to the application within 5 business days of receiving the application.

TRANSLATIONS

Are the terms required to be translated by law?

If the promotion targets Turkish citizens, the terms and conditions must be prepared in Turkish and understandable for the Turkish participants in order for the contest/draw to be in compliance with Turkish Consumer Protection Law.

PENALTIES FOR NON-COMPLIANCE

What are the penalties for non-compliance?

According to the Decree on National Lottery w. no 320, if a prize promotion is not in compliance with the relevant rules, an imprisonment between 2 months to 2 years and a monetary fine from TRY 100,000 to TRY 10,000,000 (approx. US\$16,500 - 1,655,000) is legally possible. Additionally, such non-compliant activity may be evaluated in the scope of Consumer Protection Law, and may be deemed to be a misleading activity and/or unfair commercial activity. In this case, the relevant authority may apply an administrative fine up to TRY 341,921 (approx. US\$56,600).

Furthermore, the GDNL may prohibit the organizer from arranging a prize promotion for two years.

RESTRICTIVENESS OF REGULATIONS

How restrictive are the legal obligations applicable to prize promotions?

In Turkey, prize promotion activities are allowed as long as the prize is not money or any other convertible currency. The main focus is on providing consumers with clear and explicit information on the rules of the promotion and on prohibiting misleading marketing.

The skill-based prize promotions are generally subject to general legal rules which are not restrictive. For prize draws, there is a requirement to obtain an approval, and there are also some quite specific requirements as to what must be included in terms and conditions.

REGULARITY OF SANCTIONS

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

Prison sentences are rarely imposed, but fines and prohibition from arranging a prize promotion for two years can be applied.

KEY CONTACTS



Burak Ozdagistanli
Partner
Ozdagistanli Ekici Attorney
Partnership
bozdagistanli@iptech-legal.com
T: +90 216 663 60 11



Hatice Ekici Taęa
Partner
Ozdagistanli Ekici Attorney
Partnership
hekici@iptech-legal.com
T: +90 216 663 60 18

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.