

FACT SHEET 5



CAP Code on prize promotions - suggested terms & conditions for running a prize draw

The British Code of Advertising, Sale Promotion and Direct Marketing (known as 'the CAP Code') sets out certain additional rules which should be followed when running prize promotions.

The CAP Code applies to all marketing communications in print, cinema and video, as well as online advertising. It does not apply to website content except sales promotions and advertisements in paid-for space, or to broadcast commercials which are subject to the BCAP TV or Radio Advertising Standards Code, or to the content of premium rate telephone services, which are regulated by PhonePayPlus.

In addition to the general principles that advertising must be legal, decent, honest and truthful, the CAP Code requires that the following information is given to consumers before or at the time of entry into the prize promotion:

- how to participate (eg by completing a card. Do you want a minimum amount of info provided, perhaps an email address? Entry to a draw in return for provision of data is not considered a 'pay to enter' arrangement, and is therefore a free draw. This means exemption from lottery/gambling laws)
- the start date;
- the closing date in certain circumstances;
- any proof of purchase requirements – or, where a promotion encourages but does not require purchase, a clear statement that no purchase is necessary and explanation of the free entry alternative; (Entry free with a purchase is called 'product promotion'. Provided the price of the product is not increased to cover the cost of the prize, this type of draw is also a free draw and exempt from lottery/gambling laws).
- the minimum number and nature of any prizes, and whether a cash alternative can be substituted; (Is the prize subject to any conditions, eg taken at or used by a particular time? For how many people? Is a prize transferable?)
- any geographical, personal or technological restrictions (eg location, age, or the need to have access to the internet);
- any limit on the availability of promotional packs (if this is not obvious);
- the promoter's full name and business address;
- any restriction on the number of entries;
- how and when winner(s) will be notified, and when they will receive their prizes if this is more than 6 weeks after the closing date;
- how and when the results will be announced;
- the criteria for judging entries eg the most apt and original tie breaker; if the choice is open to subjective interpretation, then an independent judge (or a panel including one independent member) must be appointed, whose name must be available on request;
- who will own the copyright in the competition entries (if relevant);
- how entries will be returned (if applicable); and
- any intention to use winners in any post promotion publicity.

Participants must be able to retain this information or have easy access to it throughout the promotion.

Go to www.asa.org.uk for more detailed info on the CAP Code.

See also our Factsheet no 3 'Contacting your customers - the legal issues'.

Remember...As part of our services, we'll help ensure you stay on the right side of the law with all your customer communications.

Disclaimer: This information does not constitute specific legal advice, but is intended for guidance only. You should consult a suitably qualified lawyer on any specific legal matter.

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