

G-Regs™

## ICC – Sales Promotion Rules



<b>Full title:</b>	<b>The International Chamber of Commerce Code of Advertising and Marketing Communication Practice; Sales Promotion rules extract</b>
<b>Title of relevant section:</b>	Sales Promotion
<b>Chapter:</b>	Chapter A
<b>Clause:</b>	<p><b>Scope of chapter A</b></p> <p>This chapter applies to marketing devices and techniques which are used to make products more attractive by providing some promotional item, whether in cash or in kind, or the expectation of such a benefit. The chapter applies irrespective of the form of distribution or of media, including digital (e.g. websites) and audiovisual media. It also applies to sales and trade incentive promotions, to editorial promotional offers and to those made by audiovisual media.</p> <p>Promotions are usually temporary activities, but the chapter applies also to the long-term and permanent use of promotional techniques.</p> <p>The chapter covers all forms of sales promotion, including</p> <ul style="list-style-type: none"> <li>• Premium offers of all kinds;</li> <li>• Reduced price and free offers;</li> <li>• The distribution of stamps, coupons, vouchers and samples; □□charity-linked promotions;</li> <li>• Prize promotions of all kinds, including incentive programmes;</li> <li>• Promotional elements used in connection with other marketing communications, such as direct marketing or sponsorships.</li> </ul> <p>The chapter does not cover the routine distribution of product supplements or accessories of a non-promotional nature.</p>
<b>Clause:</b>	<p><b>Terms specific to sales promotion</b></p> <p>The following definitions relate specifically to this chapter and should be read in conjunction with the general definitions contained in the General Provisions:</p> <ul style="list-style-type: none"> <li>• The term “promotional item” refers to any goods or services (or combination thereof) offered for a promotional purpose;</li> <li>• The term “consumer” refers to any person, company or organisation to whom any sales promotion is directed or who receives a benefit from it, either financially or in kind;</li> </ul>

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- The term “prize promotion” refers to any skill contest or prize draw used in conjunction with a sales promotion activity;
  - The term “intermediary” refers to any person, company or organisation, other than the promoter, engaged in the implementation of any form of sales promotion;
  - The term “main product” refers to the goods or services (or combination thereof) being promoted;
  - The term “promoter” refers to any person, company or organisation by whom or on whose behalf a promotion is initiated.

Depending on the circumstances, any producer, wholesaler, retailer or other person in the marketing process may be a promoter, intermediary and/or consumer for the purposes of a particular sales promotion.

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**Clause:****A1 Principles governing sales promotions**

- All sales promotions should deal fairly and honourably with consumers.
  - All sales promotions should be so designed and conducted as to meet reasonable consumer expectation associated with the advertising or promotion thereof.
  - The administration of sales promotions and the fulfilment of any obligation arising from them should be prompt and efficient.
  - The terms and conduct of all sales promotions should be transparent to all participants.
  - All sales promotions should be framed in a way that is fair to competitors and other traders in the market.
  - No promoters, intermediaries or others involved should do anything likely to bring sales promotions into disrepute.
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**Clause:****A2 Terms of the offer**

Sales promotions should be so devised as to enable the consumer to identify the terms of the offer easily and clearly, including any limitations. Care should be taken not to exaggerate the value of the promotional item or to obscure or conceal the price of the main product.

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**Clause:****A3 Presentation**

A sales promotion should not be presented in a way likely to mislead those to whom it is addressed about its value, nature or the means of participation. Any marketing communication regarding the sales promotion, including activities at the point of sale, should be in strict accordance with the General Provisions of the Code.

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**Clause:** **Administration of promotions**

Sales promotions should be administered with adequate resources and supervision, anticipated to be required, including appropriate precautions to ensure that the administration of the offer meets the consumers' reasonable expectations.

In particular:

- The availability of promotional items should be sufficient to meet anticipated demand consistent with the express terms of the offer. If delay is unavoidable, consumers should be advised promptly and necessary steps taken to adjust the promotion of the offer. Promoters should be able to demonstrate that they have made, before the event, a reasonable estimate of the likely response. Where a purchase or a series of purchases are a precondition for obtaining the promotional item, promoters should ensure promotional items are sufficiently available to match the number of purchases being made;
- Defective goods or inadequate services should be replaced, or appropriate financial compensation given. Any costs reasonably incurred by consumers as a direct result of any such shortcoming should be reimbursed immediately on request;
- Complaints should be efficiently and properly handled.

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**Clause:** **A5 Safety and suitability**

Care should be taken to ensure that promotional items, provided they are properly used, do not expose consumers, intermediaries, or any other persons or their property to any harm or danger.

Promoters should ensure that their promotional activities are consistent with the principles of social responsibilities contained in the General Provisions, and in particular take reasonable steps to prevent unsuitable or inappropriate materials from reaching children.

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**Clause:** **A6 Presentation to consumers**

Complex rules should be avoided. Rules should be drawn up in language that consumers can easily understand. The chances of winning prizes should not be overstated.

***Information requirements***

Sales promotions should be presented in such a way as to ensure that consumers are made aware, before making a purchase, of conditions likely to affect their decision to purchase.

Information should include, where relevant:

- Clear instructions on the method of obtaining or participating in the promotional offer, e.g. conditions for obtaining promotional items, including any liability for costs, or taking part in prize promotions;
- Main characteristics of the promotional items offered;
- Any time limit on taking advantage of the promotional offer;

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- Any restrictions on participation (e.g. geographical or age-related), availability of promotional items, or any other limitations on stocks. In the case of limited availability, consumers should be properly informed of any arrangements for substituting alternative items or refunding money;
  - The value of any voucher or stamp offered where a monetary alternative is available;
  - Any expenditure involved, including costs of shipping and handling and terms of payment;
  - The full name and address of the promoter and an address to which complaints can be directed (if different from the address of the promoter).

Promotions claiming to support a charitable cause should not exaggerate the contribution derived from the campaign; before purchasing the promoted product consumers should be informed of how much of the price will be set aside for the cause.

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### ***Information in prize promotions***

Where a sales promotion includes a prize promotion, the following information should be given to consumers, or at least made available on request, prior to participation and not conditional on purchasing the main product:

- Any rules governing eligibility to participate in the prize promotion;
- Any costs associated with participation, other than for communication at or below standard rate (mail, telephone etc.);
- Any restriction on the number of entries;
- The number, value and nature of prizes to be awarded and whether a cash alternative may be substituted for a prize;
- In the case of a skill contest, the nature of the contest and the criteria for judging the entries;
- The selection procedure for the award of prizes;
- The closing date of the competition;
- When and how the results will be made available;
- Whether the consumer may be liable to pay tax as a result of winning a prize;
- The time period during which prizes may be collected;
- Where a jury is involved, the composition of the jury;
- Any intention to use winners or winning contributions in post-event activities and the terms on which these contributions may be used.

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#### **Clause:**

#### **A7 Presentation to intermediaries**

##### ***Information for intermediaries***

Sales promotions should be so presented to intermediaries that they are able to evaluate the services and commitments required of them. In particular, there should be adequate details as to:

- The organisation and scope of the promotion, including the timing and any time limit;
- The ways in which the promotion will be presented to the trade and to the public;

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- The conditions for participation;
  - The financial implications for intermediaries;
  - Any special administrative task required of intermediaries.

***Information on outer packing***

Where appropriate, relevant information for intermediaries, such as any closing date or time limit, should appear on the outer packing of products bearing promotional offers, so that the intermediary is able to carry out the necessary stock control.

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**Clause:****A8 Particular obligations of promoters*****Interests of intermediaries***

Sales promotions should be devised and administered with due regard to the legitimate interests of intermediaries and should respect their freedom of decision.

***Interests of employees, employers and consumer relations***

The terms of sales promotions should be so designed as to respect the bond of loyalty between employees and their employers.

Promotion and incentive schemes should be designed and implemented to take account of the interests of everyone involved and should not conflict with the duty of employees to their employer or their obligation to give honest advice to consumers.

***Rights of intermediaries' employees***

The prior agreement of the intermediary or his/her responsible manager should always be sought if the proposed promotion involves

- Inviting the employees of the intermediary to assist in any promotional activity;
- Offering any inducement or reward, financial or otherwise, to such employees for their assistance or for any sales achievements in connection with any sales promotion.

In the case of an offer addressed openly through public media, for which such prior permission cannot be obtained, it should be made clear that employees must obtain their employer's permission before participating.

***Timely delivery of goods and materials to intermediaries***

All goods, including promotional items and other relevant material, should be delivered to the intermediary within a period which is reasonable in terms of any time limitation on the promotional offer.

***Contractual relationships between intermediaries and consumers***

Sales promotions involving active co-operation by the intermediary or his/her employees should be so devised as not to prejudice any contractual relationship which may exist between the intermediary and the consumers.

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**Clause:****A9 Particular obligations of intermediaries**

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**Honesty**

Sales promotions that have been accepted by the intermediary should be fairly and honestly handled, and properly administered by him/her and his/her employees.

**Misrepresentation**

Sales promotions involving any specific responsibility on the part of the intermediary should be so handled by him/her that no misinterpretation is likely to arise as to the terms, value, limitations or availability of the offer.

In particular, the intermediary should adhere to the plan and conditions of the promotion as laid down by the promoter. No changes to the agreed arrangements, e.g. alteration of the time limit, should be made by the intermediary without the prior agreement of the promoter.

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**Clause:****A10 Responsibility**

The onus for observing the Code falls on the promoter, who has the ultimate responsibility for all aspects of sales promotions, whatever their kind or content.

Anyone taking part in the planning, creation or execution of any sales promotion has responsibility, as defined in article 23 of the General Provisions, for ensuring the observance of the Code towards intermediaries, consumers, and other parties affected or likely to be affected by the promotion.

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