

FINLAND

Mikael Segercrantz
Roschier, Attorneys Ltd.
Keskuskatu 7 A,
00100 Helsinki
Tel: +358 (0) 20 506 6585
Fax: +358 (0) 20 506 6100
E-mail: mikael.segercrantz@roschier.com
Website: www.roschier.com



ROSCHIER

Is there case law or any statutory regulation governing advertising and promotion incentives? Are there any special consumer protection laws? What role do free gifts, tie-in offers, sweepstakes, rebates and other benefits, play in this context?

The Consumer Protection Act and the Unfair Business Practices Act govern advertising and promotion incentives. The Consumer Protection Act applies to marketing directed to consumers whereas the Unfair Business Practices Act applies to business to business marketing. Chapter 2 Section 5 of the Consumer Protection Act prohibits sweepstakes (and other contest based on chance) in which consumers cannot participate without buying a product. Giveaways, tie-in offers and other benefits are permitted provided the value of the tie-in or benefit is disclosed in marketing. Rebates are also permissible but subject to time limitations.

In your jurisdiction, are there any industry sectors which are subject to special regulations for advertising and promotion incentives (for instance the health products and pharmaceutical industries in some countries)? Please name applicable statutes and self-regulatory codes.

Advertising of medical products in Finland is governed by the Medicines Act and the Medicines Decree. The Finnish Code for the Marketing of Medical Products issued by Pharma Industry Finland (PIF) contains detailed provisions on marketing of medicinal products, complementing the statutory legislation. The PIF Code has been drafted and implemented by the representatives of the pharmaceutical industry. All members of PIF (which includes in practice all major players in the pharmaceutical industry in Finland) have undertaken to comply with the PIF Code and therefore it represents the generally accepted code of conduct of the industry.

Does industry self-regulation replace or supplement government and legislative regulation of advertising and promotion incentives? Is self-regulation an effective tool?

Industry self-regulation does not replace but supplement legislative and regulatory rules in connection with industry specific circumstances. Self-regulation is quite effective in the pharmaceuticals sector in terms of speed and depth of enforcement.

To what extent do promotional incentives extended to staff in public institutions pose legal issues in your jurisdiction (i.e., paying for travel and accommodation costs on the occasion of conferences, personal entertainment, hidden education sponsoring, sponsoring of school snacks for promotional purposes)?

In Finland, bribery of government officials is prohibited by Chapter 16, Section 13 of the Penal Code. The promising, offering or giving to a government official, or to another person, a gift or another benefit, the purpose of which is to influence or attempt to influence the activities of said government official while in service. Bribery is also prohibited in the private sector. According to Chapter 30 Section 7, promising, giving or offering to a person, or to another person, an unjustifiable benefit with the intention to get the person in his/her work or assignment to favour the person given the benefit or another party, is also prohibited. For the pharmaceutical sector the PIF Code sets forth guidelines regarding what is acceptable sponsoring, hospitality and representation.

Are there any formal disclosure requirements for promotional incentives (i.e., rule of separation of procurement from personal dealings, rules of employer consent requirements, written form requirements, adequacy of consideration granted for a service)?

There are no direct formal disclosure requirements for promotional incentives (i.e., rule of separation of procurement from personal dealings, rules of employer consent requirements, written form requirements, adequacy of consideration granted for a service).