

GREECE

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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?

In the context of Greek Law, there is no specific regulation governing advertising and promotion incentives; these being regulated by the provisions of Greek Laws of Unfair Competition (Law no 146/1914) and of Consumer Protection (Law no 2251/1994). Article 9 of Greek Consumer Protection Law restricts all commercial practices leading to unfair, misleading, excessively tempting and highly persuasive advertising. According to relevant Greek case law, promotion incentives are, in principle, permissible, unless certain conditions are met, such as: the value of the promotional incentive is extremely high compared to the value/price of the main product, the promotional incentive is unprocurable in the market or the promotional incentive is misleading in relation to consumer's consideration regarding the "real" price of the product sold. In consequence, free gifts, sweepstakes and other benefits are, in general, permitted, though subject to certain limitations provided by several provisions of Greek laws.

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.

Certain industry sectors are subject to special regulations governing promotion and advertising. Tobacco advertising is subject to specific limitations provided by the Decision of the Ministry of Financial Affairs no 1591/1989 while the advertising of certain pharmaceutical products is totally prohibited according to Greek Medicine Law no 1316/1983. Similarly, restrictions are being imposed on the advertising and promotion of agricultural and farming medicines, in accordance with the provisions of Law no 2538/1997. Radio and TV advertising is specially regulated by the provisions of Law no 2328/1995 and is, in practice, controlled by the National Radio and TV Council (Law no 2863/2000). Most importantly, the Greek Advertising and Communication Association (EDEE) has issued and implements the Greek Advertising and Communication Code which is in conformity with the rules of the International Chamber of Commerce.

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

In Greece, self – regulation actually supplements government and legislative regulation of advertising and promotion incentives, thus being an effective tool by developing specific guidelines and principles.

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)?

According to Articles 235 and 236 of Greek Criminal Code, any form of bribery (passive and active) constitutes a criminal offence which is punished with imprisonment of at least 1 year. In this context, it is prohibited to grant benefits/ retributions to public officers, should the benefits relate to the officers' duties/course of action. The conduct of civil servants is also governed by the provisions of the Greek Code of Conduct of Civil Servants. Responding to the query whether the sponsoring of certain products is permitted in a public institution (p. ex. school), besides the above Laws, the provisions of the relevant Regulations of Supplies are also applicable.

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 formal disclosure requirements for promotional incentives (i.e., rule of separation of procurement from personal dealings etc). Greek Courts, have, nevertheless, adopted, in several promotion and advertising cases, the rules of "separation" and "transparency" of promotional incentives.