

IRELAND

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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?

Advertising and Sales Promotions are generally governed by the Consumer Protection Act, 2007 which deals with misleading or fraudulent advertising and consumer protection issues. In addition there are a number of self regulatory codes such as the Advertising Standards Authority of Ireland (ASAI) Code on advertising and marketing practices and the Broadcasting Commission of Ireland Code on broadcast advertising and code on advertising to children. The ASAI Code is followed by the majority of advertisers and would also deal with free gift promotions or other offers. 'Sweepstakes' often fall within the definition of a lottery under Irish law and can be governed by the Gaming and Lotteries Acts, 1956-1986.

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.

Aside from the legislation detailed above there are various industry specific codes and legislation. For example:

- Financial Products and Services are governed by the Irish Financial Services Regulatory Authority's Code of Practice and separately by the Consumer Credit Act, 1995.
- Pharmaceutical Products (including health and beauty products) are governed by the Medical Preparations (Advertising) Regulations 1993 regulated by the Irish Medicines Board.
- Alcohol advertising is regulated by a voluntary code of practice monitored by the Alcohol Marketing Monitoring Body which commenced in 2006.
- Tobacco advertising is governed by the Public Health (Tobacco) Amendment Act, 2003

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

It supplements it. For example the ASAI self regulatory code would be seen as an effective tool as it is adhered to by the majority of the advertising and promotions industry and the Consumer Protection Act, 2007 allows Judges to have regard to voluntary codes of practice which might be relevant when hearing a case.

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)?

This would not be a common problem in Ireland although some bodies such as the Irish Heart Foundation has voiced concerns in the past about promotions of certain snacks for children in schools. There is no current legislation governing the issue.

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)?

No there are no formal disclosure requirements or registration requirements for promotions.