

ISRAEL

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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?

The Consumer Protection Law - 1981 ("CPL") and its Regulations, *inter alia*, govern advertising and promotion incentives. The Minister of Industry and Commerce, empowered by the CPL, may set regulations related to consumer protection. With these statutory powers, the Minister has enacted several regulations, such as Consumer Protection Regulations (Advertisements Targeted at Minors) - 1991.

A large percentage of advertising is broadcasted on television. The Second Television and Radio Authority Rules (Television Advertising Ethics) - 1994 and the Communication Rules (Bezek and Broadcasting) (Advertisements, Services and Sponsorship Broadcasting on Designated Channels)-2004, set specific rules and guidelines on advertising and various types of promotion incentives.

Free gifts, tie-in offers, rebates and other benefits are generally allowed, subject to qualifications and restrictions. Sweepstakes, unauthorized games and Gambling are generally outlawed by the Israel Penal Law - 1977. However the Minister of Finance is empowered to authorize certain types of sweepstakes/draws. In accordance to these powers, he permitted certain types of draws, via an "Announcement of a General License to Conduct Draws for Commercial Advertising/Promotion".

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.

Some sectors such as financial service providers (namely banks), tobacco and alcohol advertisers, lawyers, doctors and pharmaceutical companies, are subject to specific laws and regulations or specific obligations/restrictions within general laws, such as the Consumer Protection Law - 1981 ("CPL").

Obligations by banks towards consumers and codes of conduct are governed by the Banking Law (Licensing) - 1981 and rules derived from this law. The Banking Rules (Customer Service) (Advertisements Targeted at Minors) - 1995 set a detailed list of restrictions relating to bank advertisements and incentives.

Advertising of medicinal products in Israel is governed by a combination of laws, regulations and ethical codes. Though the CPL and some of its regulations do not specifically mention pharmaceutical advertisements, they outline general consumer protection restrictions which include restrictions relating to the sale and advertisement of pharmaceuticals. The CPL prohibits misleading consumers as to the quality and substance of goods and services, which is often the case with "miracle" beauty and health products. The Pharmacists Ordinance - 1981 and its derived Pharmacists Regulations - 1986, *inter alia*, set regulations relating to pharmaceuticals, their production, marketing, advertising and promotional incentives.

Tobacco advertisements are governed by The Restriction of Advertising Tobacco for Smoking Law - 1983 and alcohol advertisements are, *inter alia*, governed by the Consumer Protection Regulations (Advertisements Targeted at Minors) - 1991, which prohibit encouraging minors to drink intoxicating beverages.

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

The major self regulating bodies in the fields of advertising and promotion incentives are the Second Television and Radio Authority and the Cable and Satellite Counsel. The former body relates to advertisements on private television and radio stations (in contrast to state/national stations) and the latter body relates to advertisements on private television broadcasted through cable and satellite. However, these bodies are not industry self regulating bodies. Industry self regulating bodies do not play a significant role in the fields of advertising and promotion incentives and by no means replace government and legislative regulation. Though to a certain extent, they may supplement legislative and regulatory rules.

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)?

Promotional incentives to staff at public institutions, though not specifically outlawed and existent in Israel, may be problematic in certain situations. In this context, it should be noted that according to Section 290(a) of the Israel Penal Law - 1977, "a public servant who accepts a bribe in return for an action related to his position, shall be liable to seven years imprisonment or seven years and a fine of ten thousand Liras". Section 293 states that a bribe need not be in the form of money, rather, may also take the form of money equivalent or a benefit, if the bribe was given to induce or to result in favouritism or prejudice. Pursuant to Section 291, the bribe provider is also liable to penalties prescribed by the Penal Law. The above sections demonstrate that incentives targeted at staff in public institutions, in certain circumstances, may be problematic to both the incentive provider and receiver.

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)?

The Consumer Protection Law - 1981 ("CPL") sets general rules designed to protect consumers against misrepresentation and deception, which are relevant to promotional incentives. Additionally the CPL has specific rules which demand full disclosure of the goods within the promotion. Promotional incentives via draws, are governed by the "General License to Conduct Draws for Commercial Advertising/Promotion". The General Licence sets strict disclosure demands relating to, *inter alia*, the promotion organizer(s), the promotion framework, rules and prizes.