

# URUGUAY

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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?***

As a general principle promotions which provide cash prizes or in products to the consumers of those products are prohibited in Uruguay by Section 228 of Act N° 15.581.

However, it is permitted to have promotions in which luck does not intervene or that everyone wins (e.g. 2 products for the price of 1, or a free sample of a product with the purchase of another) and where luck intervenes, but the consumer is not obligated to purchase the product (e.g. can obtain a free coupon to participate in the draw at certain offices of the promoter), and which in Uruguay are known as “mixed promotions”. These mixed promotions are subject to authorization by the Area of Consumer Defense of the Ministry of Economy and regulated by Executive Power Decree N° 449/995, also a permit should be secured with the Municipal Authority, and some taxes should be paid.

In addition the Consumer Relations Act (N° 17.250) includes provisions on advertising, establishing that the supplier is bound to the consumer by all information disseminated in advertising and forbidding misleading advertising and, while authorizing comparative advertising, it places the burden of proof of truthfulness on the supplier.

***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.***

Yes, there are special regulations regarding advertising of alcoholic beverages (Parliament is going to issue a new Act), tobacco (Act N° 17.793, act N° 18.256), medications (Act N° 15.443 and Executive Power Decrees N° 521/984, 18/989, 568/989 and 493/990), and children (many references in different Acts and Executive Power Decrees) and the use of national distinctives (flag and other symbols).

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

The Association of Advertising Agencies has a Code of Conduct, but applies only to its members and it is still too soon to have a clear conclusion about its effects.

***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)?***

As a principle, presents or promotional incentives directed or which specifically target public employees is forbidden. However, providing token gifts to public employees on special occasions (e.g. Christmas) is an accepted practice.

***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)?***

Yes, the bases of all promotions carry prohibition for employees or close relatives of those, to participate in the promotion. Also as previously stated in the first question promotional incentives in order to be authorized, need to include a method of participation without obligation to purchase the product.