

# SalesAtWork : Trade promotions can trip the unwary

Running some sort of sweepstake or competition to promote your products might seem like an easy and effective way to raise awareness and generate sales leads, but it's a path with many pitfalls.

Any such promotion whether it be strictly a game of chance (put your business card in the bowl for a chance to win...) or a supposed game of skill (tell us in 25 words or less why you would like a...) is governed in every state and territory of Australia by strict laws that are specific to each government. An application must be made and a permit obtained before any such lottery can be held.

So anyone planning to conduct a trade promotion lottery nationwide would require a permit from every state and territory. And of course it must also comply with other legislation, particularly the Australian Competition and Consumer Act, which replaced the Trade Practices Act in 2010.

Failure to fully address all issues of a promotion well in advance can, at the very least, introduce unexpected delays and, in the worst case, seriously damage the brand of the promoting organisation should it fall foul of relevant legislation and attract the unwanted attention of regulators.

In NSW the basic guidelines run to six pages and there are a further five pages on certain types of lotteries to which special conditions apply. For example, it is not permitted to require entrants to use premium telephone numbers -- those beginning 190 that can incur very high per minute charges -- to gain information about a promotion. And if SMS or MMS are required to enter the competition, the cost must not exceed \$0.50.

In NSW at least you need to be very careful about promotions that can be construed as having the winner chosen on merit. The rules state that: "Unless qualified or expert judges are used and the winner is adjudged against set criteria, a competition is not based on skill -- it is based on chance." The situation is more precisely spelt out in the South Australian Government's guidelines. "In some instances, a competition may appear to be a skill-based competition (ie a tipping competition) but if there is more than one winner, the promoter allows for the conduct of a draw to allocate the prize. In this situation, it is considered that the competition is a trade promotion lottery as there is a possibility that the winner will be determined by an element of chance.

"Competitions in which entrants are required to complete a minor test of skill and then the first correct entry drawn is the winner, are considered to be trade promotion lotteries as they involve an element of chance in determining the winner.

The last word is perhaps best left to the lawyers. Jamie Nettleton of Sydney law firm Addisons - which has produced a checklist on trade promotions - says: "promoters should be aware of all the legal issues which may arise and should apply the same high level of diligence as they would apply when undertaking any other material marketing/advertising activities to ensure compliance with the law."

To find out more about mobile sales force management visit: [salesatwork.com](http://salesatwork.com)

From: Trade Promotion Management News

## Contacts

Paul Hosking

5426 4786

[mailto: paulhosking@mailcaster.com.au](mailto:paulhosking@mailcaster.com.au)