

PRACTICAL GUIDE BEFORE YOU OFFER PRIZE DRAWS TO YOUR FRENCH CUSTOMERS... A FEW THINGS YOU SHOULD KNOW

If your company is interested in offering a survey “sweepstakes” to French customers, you should be aware that the French Consumer Code strictly regulates lottery prize draws. This article will guide you through the legal requirements for lotteries in France, so you can ensure that your next prize draw runs smoothly.

➤ WHAT IS A PRIZE DRAW, ANYWAY?

Under French law, a lottery prize draw is any written sales promotion which causes the participant to anticipate a prize. For example, if you wish collect certain information from your customers, you may offer them the opportunity to win a prize in exchange for filling out a written or online survey.

➤ DOES FRENCH LAW PREVENT ME FROM RUNNING A PAN-EUROPEAN PRIZE DRAW THAT IS SUBJECT TO THE RULES OF ANOTHER COUNTRY?

French law does not prevent you from running a pan-European prize draw. Nor does it prevent you from offering French residents a lottery that is subject to the laws of Germany, for example. However, any lottery may only be open to French residents if it abides by the public order provisions below.

➤ CAN I OFFER PRIZE DRAWS ON THE CONDITION THAT THE CUSTOMER PURCHASES AN ITEM?

The French Consumer Code requires that all prize draws be totally free to participants. This means that you cannot receive any financial consideration from your customers. The lottery entry form must also be completely separate from any purchase orders for services.

If your participants do incur costs, your company must reimburse them upon request. For example, if your participants incur postage costs to mail your survey, you must reimburse those costs. Similarly, if your participants incur costs to access your survey over the internet, you must reimburse those costs as well.

For example, Internet costs shall be computed based on the price of a two-minute connection usually charged based on the tariff of the participant’s national service provider. High-speed internet connections are usually reimbursed at a predetermined, fixed amount.

➤ DO I HAVE TO REGISTER MY LOTTERY IN FRANCE IF THE ACTUAL PRIZE DRAW IS CONDUCTED IN ANOTHER COUNTRY?

You must register the terms and conditions of your prize draw with a French bailiff. The bailiff is responsible for reviewing the compliance of all documents related to the lottery with applicable regulations. The bailiff must also send copies of the lottery rules to any person who requests them.

➤ DO I HAVE TO INCLUDE ANY SPECIFIC INFORMATION IN THE TERMS AND CONDITIONS?

Your promotional documents must clearly describe the prizes a customer may win, including what they are, the exact number of prizes available, and the commercial value of each prize.

You must provide information about your organisation, including name, type of company, main office, etc. You should state who may participate, in what manner, and until what date. Your documents must state how the winners are chosen, the manner in which the winners will be notified, and how the prizes will be awarded.

You always want to make sure that the language and presentation of the documents is clear. For example, the documents must not cause customers to confuse them with administrative or banking documents, or with informative press articles.

The documents must also reproduce the following words: “Rules governing the promotion will be sent, free of charge, to anyone who asks for them.” You must specify the name and address of the French bailiff who can provide copies of the rules.

➤ WHAT ARE THE PENALTIES FOR NON-COMPLIANCE?

In the event that French consumer protection authorities find:

- 1) that the terms and conditions of your prize draw are subject to French law, and
- 2) that you have failed to comply with said laws, the DGCCRF can punish your company with a fine of 37,500 Euros.

In the event of a particularly serious breach, a court may order its decision to be published at your expense. The court may also order copies of the decision to be sent to all customers you solicited with the lottery promotions.

Lastly, any and all ambiguous language or omission in the rules will be decided in the favour of the contestant.

➤ SPECIAL ISSUES

Remember that any information collected from your customers is subject to French data protection laws. Additionally, you may trigger copyright laws in cases where seek to re-distribute or re-publish some of the information collected in the lottery.

When drafting a lottery survey or prize draw that is open to residents of multiple jurisdictions including France, it is advisable to consult an attorney who is well-versed in French lottery protocol.

We hope this general information has been helpful to you. We are happy to assist you if you need help with this or any other related service.

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