

***CRTF V3 - NC/CO V3 DRAFT – March 2024***

**CHAPTER A: SALES PROMOTION**

This chapter is to be read in conjunction with the General Provisions and Definitions as well as the sections regarding Scope and application, Code responsibility, Interpretation, Cross-border communications, and the Code’s relationship with the law. The General Provisions apply to sales promotion, and this chapter is a subset and a further specification of those principles. Terms used here have the same meaning as in the General Definitions above, unless stated otherwise. Terms specific to sales promotion are defined below.

**Scope and application of chapter A**

This chapter applies to marketing devices and techniques which are used to make products more attractive by providing some additional benefit (promotional item), whatever its form, or the expectation of such a benefit. Promotional activities are covered whether a purchase is required for participation, or not. The chapter applies irrespective of the form of distribution or of media or technology used. It also applies to sales and trade incentive promotions by analogy, and to editorial promotional offers and to those made by any other forms of media.

This chapter applies to a sales promotion regardless who is producing it, or how it is produced and executed. Thus, the rules cover promotional practices where algorithms or other artificial intelligence instruments are being used. They also cover all the different ways a sales promotion may be brought to the market and advertised, including through social media or with the help of influencers and affiliate networks. In addition to Article 24 of the General Provisions, the responsibility falling on actors involved is regulated in Article A10.

For the purpose of this Code sales promotions are *per se* regarded as a means of marketing communication (see Definitions). They consist of various elements that are integral parts of the activity or campaign, advertising included.

Promotions are usually temporary activities, but the chapter also applies to the long-term and permanent use of promotional techniques.

The chapter covers all forms of sales promotion whether physical or digital, including:

* premium offers of all kinds
* reduced price and free offers, money back guarantee offers, as well as bonus schemes, loyalty programmes, and personalized price reductions; regarding free trials and similar offers, see Article 10 of the General Provisions
* the distribution of stamps, reduction codes, coupons, vouchers and samples, regardless of how that is being organized
* cross promotions and charity-linked promotions
* prize promotions of all kinds, including incentive programmes
* promotional elements used in connection with other marketing communications, such as direct marketing or sponsorships
* in-store promotions, physical or on-line
* event promotions
* sampling promotions

The chapter does not cover the routine distribution of product supplements or accessories of a non-promotional nature.

**Terms specific to sales promotion**

The following definitions relate specifically to this chapter and should be read in conjunction with the General Definitions. The term:

* "**consumer**" refers to any person, company or organisation to whom any sales promotion is directed or who receives a benefit from it, either financially or in kind.
* “**intermediary**” refers to any person, company, or organization, other than the promoter, engaged in the creation or implementation of any form of sales promotion.
* “**main product**” refers to the goods or services (or combination thereof) being promoted
* “**prize promotion**” refers to any skill contest, prize draw or any other winner selection mechanism used in conjunction with a sales promotion activity.
* “**promoter**” refers to any person, company or organisation by whom or on whose behalf a promotion is initiated.
* **“promotion”** means any commercial activity that by offering a promotional item encourages the purchase of a product or raises awareness.
* “**promotional item**” refers to any goods or services (or combination thereof, and including digital items and software) offered for a promotional purpose.

Depending on the circumstances, any producer, wholesaler, retailer or other person in the marketing process may be a promoter, intermediary and/or consumer for the purposes of a particular sales promotion.

**Article A1 – Principles governing sales promotions**

* All sales promotions should interact with consumers in a fair, respectful and honourable way while upholding the Code’s data protection and privacy principles.
* The design and implementation of sales promotions should align with the consumers’ reasonable expectations as set by the promotion.
* The administration of sales promotions and the fulfilment of any obligation arising from them should be prompt and efficient and consistent with the presentation of the promotion.
* The terms and conduct of all sales promotions should be transparent to all participants.
* All sales promotions should be framed in a way which is fair to competitors and others in the market.
* Sales promotions that primarily target children or teens should comply with Chapter XX – Children and Teens.
* No promoters, intermediaries or others involved should do anything likely to bring sales promotions into disrepute.

**Article A2 – Transparency and terms of the offer**

Sales promotions should be transparent. This means that the terms of the offer should be easily identifiable, accessible and straightforward for the consumer, inclusive of any restrictions and limitations. Measures should be taken to avoid exaggerating the value of any promotional item or obscuring or minimizing the price of the main product.

**Article A3 – Presentation**

Sales promotions should not be designed or presented in a manner that is likely to be misleading about value, nature or participation process.

**Article A4 – Administration of promotions**

Sales promotions should be administered using appropriate resources and supervision and should incorporate proper safeguards to ensure that the offer’s administration aligns with the reasonable expectations of consumers.

In particular:

Promotional items should be sufficient to meet anticipated demand consistent with the terms of the offer. If delay or any other change is unavoidable, consumers should be advised promptly, and necessary steps taken to adjust the promotion of the offer.

Promoters should be able to demonstrate that they have made a reasonable estimate of the expected response before the event. Phrases like “Subject to availability” and similar may be used when demand is significantly difficult to calculate, but not as a general means to relieve the promoter from the obligation to meet consumers’ legitimate expectations.

* When the acquisition of the promotional item is dependent on a purchase or multiple purchases, promoters should ensure promotional items are sufficiently available to match the number of purchases being made, also see Article A6 under Information requirements.
* Defective goods or inadequate services should be replaced, or appropriate financial compensation given. Any proven expenses reasonably incurred by consumers directly due to such deficiencies, should be refunded upon request as soon as possible.
* Complaints should be efficiently and properly handled.

**Article A5 – Safety and suitability**

Care should be taken to prevent promotional items, if used correctly, from exposing consumers, intermediaries, or any other persons or their property to any harm or danger. Where appropriate promotional items should be accompanied by any necessary warnings and safety advice. Promoters should ensure that their promotional activities are consistent with the principles of environmental and social responsibility and in particular take reasonable steps to prevent unsuitable, inappropriate or age-restricted materials from reaching children.

**Article A6 – Presentation to consumers**

Complex rules should be avoided. Rules should be drawn up in language that consumers can easily understand. The chances of winning prizes should not be overstated.

Where consumers are prompted to engage with content by clicking on a link, or using a similar mechanism, like voice or movement activation, it should be made clear beforehand what the outcome will be, e.g. by specifying the form and nature of the offer. Deceptive practices like “click to reveal code” only to present an offer, should not be used.

***Information requirements***

Sales promotions should be presented so that consumers are informed beforehand of any conditions likely to influence their decision to purchase. Consumers should be able to easily access the terms and other essential information, in particular when accepting the offer.

Information should include, where relevant and having regard to the medium used:

* Detailed and clear instructions on how to obtain or participate in the promotional offer, including the conditions for receiving promotional items, liability for associated costs, or taking part in prize promotions
* The main characteristics of the promotional items being offered
* Any time limit on taking advantage of the promotional offer
* Any restrictions on participation (e.g. geographical, employment in a particular company, sector or activity or age-related), availability of promotional items, or stock limitations In the case of limited availability, e.g. due to unexpectedly high demand or any other exceptional circumstance, the consumer should be informed about alternative arrangements or refunding policies.
* The value of any financial substitutes offered like vouchers, coupons, discount codes or stamps offered where a monetary alternative is available.
* Any requirements such as automatic renewals or subscriptions
* Any use of data and privacy clauses.
* Any costs e involved, including shipping and handling fees taxes, tariffs or duties and payment terms

The promotor’s full name and address along with information on how to ask questions or lodge complaints . Promotions claiming to support a charitable cause should not exaggerate the contribution derived from the campaign. Consumers should be informed, before purchasing the promoted product, how much of the price will be allocated for the cause or the total donation amount.

Free entry claims should be used only if the consumer’s path to access is charged at a standard rate, meaning the consumer will not incur any communication cost beyond the maximum of that rate. If a premium rate is applied, this should be clearly disclosed.

***Information in prize promotions***

Where a sales promotion includes a prize promotion, the following information should be given to consumers, and be available prior to participation and not conditional on purchasing the main product:

* An overview of the entry process.
* Any rules governing eligibility to participate in the prize promotion, as well as any use of data and privacy implications.
* Costs associated with participation, excluding communication costs at or below standard rate (mail, telephone and other devices)
* Restrictions or limitations on the number of entries
* The number, value and nature of prizes to be awarded. If a cash alternative is available instead of a prize, that should be communicated.
* For skills contests, the nature of the contest and the criteria for judging the entries.
* The procedure for selecting winners and awarding prizes.
* The starting and closing dates procedure of the competition.
* The timeline and procedure for notifying winners and publicizing results.
* Possible tax liabilities for winners.
* The procedure and time frame for collecting prizes.
* Where a jury is involved, the composition of the jury, or the criteria for selecting its members
* If winners’ images, quotes, audiovisual content or winning contributions will be used in post-event activities and the terms for their use.

**Article A7 – Presentation to intermediaries**

Sales promotions should be executed according to plan so as to meet consumers’ legitimate expectations. Promotions should be clearly presented so intermediaries involved can evaluate the services and commitments required of them. Detailed information should be provided on:

* The organisation, structure and scope of the promotion, including schedule and time constraints
* How the promotion will be presented to the trade and to the public
* The conditions for participation
* The financial implications for intermediaries
* Any special administrative duties required of intermediaries

**Article A8 – Particular obligations of promoters**

***Interests of intermediaries and employees***

Sales promotions should be devised and administered with due regard to the legitimate interests of intermediaries and should respect their freedom of decision. Promotions should not unfairly interfere with intermediaries’ other business activities, including any contractual relationship between an intermediary and consumers. Employees of intermediaries should not be invited to assist in any promotion without prior permission of their employer.

***Timely delivery of products and materials to intermediaries***

All products, including promotional items and other relevant material, should be delivered to intermediaries within a timeframe that aligns reasonably with any time restrictions placed on the promotional offer.

**Article A9 – Particular obligations of intermediaries**

***Honesty***

Sales promotions which have been accepted by the intermediaries should be fairly and honestly managed, and properly administered by them and their employees.

***Misrepresentation***

Sales promotions that place any specific responsibilities on the intermediaries should be managed by them in a way that avoids any potential misrepresentation of the offer’s terms, value, eligibility, limitations or availability.

Intermediaries should specifically adhere to the plan and conditions as outlined by the promoter. No changes to the agreed arrangements, such as modifying the time-limit, should be made by the intermediary without the prior consent by the promoter.

**Article A10 – Responsibility**

Promotors bear the primary responsibility for observing the Code, assuming the ultimate responsibility for all aspects of their sales promotions, of whatever kind, delivery or content.

Anyone taking part in the planning, creation, implementation or execution of any sales promotion has a degree of responsibility, as defined in Article 24 of the General Provisions.

This responsibility includes ensuring Code compliance towards intermediaries, consumers, and any other parties affected or likely to be affected by the promotion.