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Campaign promotion – lucky draw, competition for the prize, provision of giveaway item, and price discount

Many business operators are using sales promotion to acquire customers' attention and increase revenues. To make sure that the customers will not be misled by the sales promotion, the Office of the Consumer Protection Board (“**OCPB**”) issued various regulations which the business operators must comply with to avoid possible penalties. We summarize requirements for each sales promotion here below.

1. Lucky draw

The arrangement for lucky draw campaign promotion has to comply with two regulations including the Gambling Act 1935 and The Ministerial Regulation No. 3 and 5 issued under the Consumer Protection Act 1979.

1.1 Gambling Act 1935

Lucky draw is defined in the Gambling Act as the “arrangement for complimentary of gifts or prizes to be awarded through people trying their luck in any manner in the conduct of a business”. The lucky draw would include a



promotion campaign that requires customers to send a code or a part of the product or coupon via SMS or mail to try their luck for the prizes. The law requires a lucky draw administrator to obtain a permit before launching the campaign.

The lucky draw permit application can be submitted to the Department of Provincial Administration. The applicant must provide campaign conditions such as prizes, awarding method, and means to advertise the winner. The application must also be accompanied by supporting documents such as a copy of ID and house register of the applicant's director, evidence that the prizes are duly prepared, and a sample of advertising material.

Normally the official would take at least 20 days to issue the permit, therefore, the applicant should submit the application as soon as feasible to make sure that the campaign can be launched on time.

1.2 Consumer Protection Act 1979

The Ministerial Regulation No. 3 and 5 issued under the Consumer Protection Act 1979 (“**CPA**”) requires business operators who wish to launch a lucky draw campaign promotion to ensure that all campaign advertisement materials contain minimum details as follows:

- a. A wording that the operator arranges for the lucky draw event and the operator already received a permit from the registrar official under the gambling law;
- b. Method to join the campaign;
- c. Winner selection process;
- d. The first and the last day to join the campaign;
- e. Type and value of each prize;
- f. Date and place for winner selection; and
- g. Method for winner selection.

The operators do not have to file any application to the regulator of the CPA as it only requires the operator to specify minimum details in the campaign advertisement materials.

2. Competition for Prize

The competition for the prize is a skill-based activity, not a chance-based (lucky draw), whereby the participants have to use their skill to win the prize. The competition for prize does not have to obtain a permit under the gambling law, however, the operators still have to specify minimum details of the campaign advertisement as mentioned in item 1.2 above. except in item 1.2 (a) where there must be a wording that *the operator arranges for the competition for the prize*.

3. Provision of Giveaway Item

Provision of giveaway item is governed by the CPA, and the operator must specify minimum

details of the campaign advertisement as follows:

- a. Terms and conditions to receive the giveaway item;
- b. The first and the last day to join the campaign unless the giveaway items are attached to the products whereby the customer can easily know that he/she will receive the giveaway item once he/she bought the product;
- c. Type and value of the giveaway item; and
- d. Details of the place where customers can receive the giveaway item unless (1) the giveaway items are available at all shops and distributor stores or (2) the giveaway items are attached to the products.



4. Price Discount

Price discount is governed by the Announcement of the Consumer Protection Board Re: Price Discount which was issued under the Consumer Protection Act 1979 ("**Price Discount Regulation**"). Price Discount Regulation require that the price

discount advertisement material must contain minimum details as follows:

- a. Terms, conditions, start and end date of the price discount promotion campaign;
- b. The amount of products and services that are participated in the campaign. In case the operator has many shops, amount of the participated product/service in each branch must be indicated;
- c. Other important conditions such as *not including the amount of VAT, installation fee, and transportation fee*;
- d. Details in item a.- c. above must be clear and easy to understand for the general public (there are specific requirements for advertisement via television and radio that the administrator should pay attention);
- e. In case the product/service is sold out before the end date of the promotion campaign, the operator must immediately inform the customers;
- f. Not to use wording in a way like “*the seller reserves all rights to amend any details of the campaign promotion*”.
- g. The discounted price should be the price that is discounted from the normal price not a price that is higher than the normal price to gain customers’ attention.



Please note that the regulator normally imposes a financial penalty to the company and all its directors (some directors may be excused to the penalty if he/she can prove he/she was not involved in such campaign promotion). Therefore, it is highly recommended to make sure whether the campaign is complied with all requirements before launching it.

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