

## Running a competition

Marketing for many organisations can prove difficult and, for certain companies, large expensive advertising campaigns are replaced by simple competitions to attract the eye of customers and to tempt them with competition prizes. Whilst this is becoming an ever more popular marketing tool few are aware of the rules, regulations and procedures that are in place to govern such competitions.

The introduction of the new Gambling Act has tidied up some of the regulation as well as setting out key differences between types of competition such as the technical differences between lotteries, betting and gaming for prizes. Importantly, competitions that require skill and draws that require no financial input from the customer are exempt from the laws of the Gambling Act.

Companies need to be aware that small, but important details such as listing which time zone the closing date of a competition is in, make a large difference when it comes to ensuring regulations are adhered to.

### **Competitions: Is skill required?**

The Gambling Act 2005 sets out a test for determining whether a competition is regulated or not. To avoid regulation there must be a degree of skill involved in the competition such that the person promoting the competition has a reasonable expectation that the skill requirement would either deter a significant proportion of potential participants from entering or prevent a significant proportion of entrants from receiving a prize.

Competitions that genuinely depend on skill, judgment or knowledge can continue to operate outside Gambling Act regulatory controls. Where there are several stages of a competition, the key is whether the first round satisfies the skill test. If those who complete a crossword puzzle successfully are entered into a draw to pick the winner, this will still qualify as a skill competition.

### **Lotteries: Free to enter?**

A competition will not be considered a "lottery" if no payment is required to participate in the competition. It is deemed irrelevant whether the payment benefits the person running the competition or someone else.

The Gambling Act 2005 stipulates that payment can also include paying more for something to reflect the opportunity to enter the competition, for example by making entrants call a premium rate telephone number. However, simply paying for posting a letter or for making an ordinary telephone call does not amount to payment.

### **What if the competition is a lottery?**

It is illegal to run a lottery without a lottery operating licence unless the lottery is private (such as workplace lottery). If you want to run a lottery a licence must be obtained, but is only available to local authorities or non-commercial societies. Incidental non-commercial lotteries (for example, raffles at one-off charity fundraising events) are, on the whole, exempt under the Gambling Act.

### **Consequences of an illegal lottery**

Any individual or company involved in promoting or managing an illegal lottery, including a competition which is a lottery, can face a conviction and be liable for fine of up to £5,000 and/or imprisonment for up to 51 weeks.

### **Differentiating between gambling and competition**

A competition ceases to be a competition on occasions where the individual is asked to guess or predict the outcome of a race or similarly to guess the likelihood of something occurring and if payment is required. The Gambling Act now provides that paying the normal price for something does not amount to payment to participate in a competition. So where a guessing competition can be entered if you buy a promotional product at its normal price, there will be no betting.