



Promotional Contests - Disclose or Suffer the Consequences

Businesses often advertise a promotional contest as a strategy for increasing sales and productivity. In order to make sure that the promotion of a supply or use of a product does not contravene the law, one must be aware of the rules and regulations that apply.

Although the Criminal Code, Regulations and the requirement of a gaming license should be considered, for the purposes of this article, I will only be detailing some of the important provisions of the Competition Act (the “Act”) that apply.

Section 74.06 of the Act prohibits any promotional contest that does not adequately disclose the rules of the contest. To satisfy section 74.06 of the Act, disclosure should be made in a reasonably conspicuous manner prior to the potential entrant being inconvenienced in some way or committed to the advertiser's product or to the contest. Therefore, "fair and adequate disclosure" is not met when the onus is put on consumers to obtain further details which, by statute, are required to be disclosed by the advertiser. Similarly, a contest advertised in the media should not require that a consumer visit or patronize any particular retail outlet of the advertiser, or one of its franchises, or a dealer handling only its product, in order to become adequately and fairly informed of the information required by the provision.

Proper disclosure of the contest rules is to be made wherever the contest flyer is available and a short list of the contest rules on the each flyer should be readily available to the consumer. This short list should contain: (i) the number and value of prizes; (ii) any regional allocation of prizes; (iii) the skill testing question requirement, if applicable; (iv) details as to the chances of winning; (v) the contest closing date, and; (vi) any other fact known to the advertiser that materially affects the chances to winning.

Failure to comply may result in a court ordering the entity and/or the individual to cease from engaging in the reviewable conduct, to publish a corrective notice and/or to pay an administrative monetary penalty.

If you require further details, or require a lawyer to review or draft your promotional rules, please contact Sarah Saad, Associate, Tierney Stauffer LLP at (613) 288-3221 or ssaad@tslawyers.ca.