



GUIDE ON TRADE PROMOTIONS IN AUSTRALIA

This Guide provides information and links to resources about trade promotions in Australia.

If you need legal advice on trade promotions, contact us by:

- emailing us at enquiry@prosperlaw.com.au
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CONTENTS

GUIDE ON TRADE PROMOTIONS IN AUSTRALIA	1
This Guide provides information and links to resources about trade promotions in Australia.	1
CONTENTS	1
Other Important Considerations	5
Legislation, regulations and gaming authorities	6
Games of Chance Overview.....	7
What are games of chance?	7
How do people enter a game of chance?	7
How are winners chosen for a game of chance?	7
What regulations apply for games of chance?	7
Game of chance examples	7
Games of Chance – Permit Requirements.....	8
Games of Chance – Permit fees (as at May 2024)	9
Games of Chance - New South Wales	10
Notification	10
Amendments to a competition.....	10
Renewal of NSW Authority	11
Terms and Conditions Requirements.....	11
Advertising Requirements.....	11
Results	12
Scrutineer	12
Unclaimed Prize Draw	12
Prize Conditions.....	12
Changes to Prizes	13
Record Keeping.....	13
Games of Chance - South Australia.....	13
Permits.....	13
Amendments to a competition.....	13
Terms and Conditions Requirements.....	14
Advertising Requirements.....	14



Prize Draws.....	15
Scrutineer	15
Results.....	15
Unclaimed Prize Draw	15
Prize Conditions.....	16
Changes to Prizes	16
Record Keeping.....	16
Games of Chance - Australian Capital Territory	16
Permits.....	16
Amendments to a competition.....	17
Terms and Conditions Requirements.....	17
Advertising Requirements.....	17
Prize Draws.....	17
Scrutineer	18
Results.....	18
Unclaimed Prize Draw	18
Prize Conditions.....	18
Changes to Prizes	18
Record Keeping.....	18
Games of Chance - Northern Territory	18
Permits.....	19
Amendments to a competition.....	19
Terms and Conditions Requirements.....	19
Advertising Requirements.....	20
Prize Draws.....	20
Scrutineer	20
Results.....	20
Unclaimed Prize Draw	20
Prize Conditions.....	20
Changes to Prizes	20
Record Keeping.....	20
Games of Chance - Western Australia	21
Permits.....	21
Amendments to a competition.....	21
Terms and Conditions Requirements.....	21
Advertising Requirements.....	22
Prize Draws.....	22
Scrutineer	22
Results.....	22



Unclaimed Prize Draw	22
Prize Conditions.....	22
Changes to Prizes	23
Record Keeping.....	23
Games of Chance - Victoria	23
Permits.....	23
Amendments to a competition.....	23
Terms and Conditions Requirements.....	23
Advertising Requirements.....	24
Prize Draws.....	24
Scrutineer	24
Results	24
Unclaimed Prize Draw	25
Prize Conditions.....	25
Changes to Prizes	25
Record Keeping.....	25
Games of Chance - Queensland	25
Permits.....	25
Amendments to a competition.....	25
Terms and Conditions Requirements.....	25
Advertising Requirements.....	26
Prize Draws.....	26
Scrutineer	26
Results	26
Unclaimed Prize Draw	26
Prize Conditions.....	26
Changes to Prizes	26
Record Keeping.....	26
Games of Chance - Tasmania	26
Permits.....	26
Amendments to a competition.....	26
Terms and Conditions Requirements.....	27
Advertising Requirements.....	27
Prize Draws.....	27
Scrutineer	27
Results	27
Unclaimed Prize Draw	27
Prize Conditions.....	27
Changes to Prizes	27



Record Keeping.....	27
Games of Chance - Penalties.....	27
Games of Skill Overview.....	28
How do people enter a game of skill?	28
How are winners chosen for a game of skill?	28
What regulations apply for games of chance?	28
Do I need terms and conditions for my game of skill?	28
Game of skill examples	28
Gift with Purchase Overview.....	29
What is a gift with purchase promotions?	29
How do people enter gift with purchase promotions?	29
How are winners chosen for gift with purchase promotions?.....	29
What regulations apply to gift with purchase promotions?	29
Gift with purchase examples.....	29
Hybrid Promotions Overview.....	30
What are hybrid promotions?.....	30
How do people enter hybrid promotions?	30
How are winners chosen for hybrid promotions?.....	30
What regulations apply to hybrid promotions?	30
Hybrid promotion examples.....	30
Other Promotion Types.....	30
Global Competition Considerations.....	31
Social Media Platform Requirements.....	31
Privacy and Data Protection.....	31
Intellectual Property Rights.....	31
How to run a trade promotion.....	32
Step 1.....	32
Step 2.....	32
Step 3.....	32
Step 4.....	32
Step 6.....	32
Step 7.....	33
Step 8.....	33
Step 9.....	33
Step 10.....	33
Step 11.....	33
Step 12.....	33
Step 13.....	33
Step 14.....	33



Frequently Asked Questions 33

 What is a trade promotion?..... 33

 What are the biggest advantages of trade promotions and why?..... 33

 How do I know where my promotion is conducted for the purposes of the above? 33

 How do I apply for a trade promotion permit?..... 34

 How long does it take to get a permit and how long do they last?..... 34

 Where do I need to display my permit number?..... 34

 Do I need a permit for every competition I run? 34

 Can I make people pay or buy a product or service to participate?..... 34

 Do I need an ABN to run a competition or contest?..... 34

 Are there any prizes that are not allowed?..... 34

Overview

Trade promotions are a free-to-enter competition that is conducted by brands and businesses to promote products and services and to gain a wider exposure of their brand.

Conducting trade promotions in Australia requires compliance with various laws and regulations, which can vary between each State and Territory. Regardless of the State and Territory the business resides in, businesses must ensure compliance with laws and regulations for each State and Territory the competition will be available in.

Businesses must also run competitions ethically, as well as complying with Australian consumer protection and privacy laws.

There are various types of competitions that can be classified as a trade promotion, including:

1. Games of chance;
2. Games of skill;
3. Gift with purchase; or
4. Hybrid.

There are other forms of gaming that are not classified as ‘trade promotions’, such as raffles, lotteries or sweepstakes. Further rules apply to other gaming activities.

The main two types of trade promotions common in businesses, they are Games of Skill and Games of Chance. Games of Chance involve a winner being selected at random (e.g. random electronic draw). Games of Skill involve a winner being determined by merit (e.g. judged by the promoter).

There are also set parameters and requirements for unique competition features. For example, competitions that involve entry by minors, alcohol, car or travel prizes, entry on social media and more can have additional restrictions and requirements that need to be considered.

Other Important Considerations

- **While it is only mandatory for games of chance promotions to have terms and conditions, we strongly recommend that all trade promotions have a set of terms and conditions to govern the conduct of the promotion and protect businesses and their customers.** Clear terms and conditions should be provided to participants, outlining the rules of the competition, eligibility criteria, entry methods, prize details, and any other relevant information.
- When planning competitions, it's essential for businesses to clearly define the details of the competitions to determine whether the promotion is a game of chance, a game of skill, or other type of promotion.
- Businesses must ensure compliance with relevant laws and regulations governing trade promotions in their jurisdiction, including obtaining necessary permits and adhering to disclosure requirements in other jurisdictions that the competition applies to.



- Most social media platforms have their own policies for running trade promotions.
- Business must be particularly careful when collecting personal information or signing entrants up to a database/marketing pool.
- Fairness, transparency, and integrity are key principles in conducting trade promotions, regardless of the type. Promoters should implement measures to prevent fraud, manipulation, or unfair advantage where possible.

Legislation, regulations and gaming authorities

State or Territory	Regulator	Legislation	Regulations
New South Wales	NSW Fair Trading Community gaming	Community Gaming Act (2018)	Community Gaming Regulation (2020)
South Australia	Consumer and Business Services	Lotteries Act 2019	Lotteries Regulations 2021
Australian Capital Territory	The ACT Gambling and Racing Commission	Lotteries Act 1964 Gambling and Racing Control Act 1999	Gambling and Racing Control (Code of Practice) Regulation 2002
Northern Territory	Department of Industry, Tourism and Trade	Gaming Control Act 1993	Gaming Control (Community Gaming) Regulations 2006 NT Code of Practice for Responsible Gambling 2016
Queensland	Business Queensland	Charitable and Non-Profit Gaming Act 1999	Charitable and Non-Profit Gaming Regulation 1999
Victoria	Victorian Gambling and Casino Control Commission	Gambling Regulation Act 2003	Gambling Regulations 2015
Western Australia	Gaming and Wagering Commission of Western Australia	Gaming and Wagering Commission Act 1987	Gaming and Wagering Commission Regulations 1988
Tasmania	Tasmanian Liquor and Gaming Commission	Gaming Control Act 1993	Gaming Control Regulations 2014



Games of Chance Overview

Games of chance are regulated on a state-by-state basis. Different states and territories have different laws and regulations for running a trade promotion.

These rules may apply to some gift with purchase competitions. These specific requirements do not apply to a games of skill.

It's important to ensure our clients are compliant with these rules and regulations, as they could face harsh penalties and fines for any errors. The same rules apply to online competitions as well as traditional (i.e. non-online) competitions.

State by state breakdowns are provided on the next page.

What are games of chance?

Games of chance are trade promotions that are free to enter, and where the outcome is determined by luck or random selection, rather than skill. Common examples include prize draws and instant win promotions.

How do people enter a game of chance?

Participants typically enter by purchasing a product or service, completing an online or physical entry form, or engaging with the promoter's brand in some way (such as liking a Facebook post).

How are winners chosen for a game of chance?

Winners are chosen randomly through methods such as barrel draws, computer-generated selections, or scratch cards.

What regulations apply for games of chance?

Games of chance are subject to strict and specific State regulations. Regulations regarding games of chance often involve obtaining permits and ensuring fairness in prize distribution.

The main States and or Territories that regulate games of chance are NSW, ACT and SA (where permits are required).

Generally, any national game of chance with a prize pool over \$3,000 will require permits. Anything under \$3,000 does not require a permit in any State or Territory, but will still need to comply with the requirements.

Are there penalties?

There are penalties for non-compliance that can be given by the State gaming authorities. Plus, penalties may be imposed by the ACCC if a business is found to be misleading, deceptive or unconscionable in their promotions.

Game of chance examples

Examples of games of chance include:

- Buy these biscuits, scan the QR code and go into the draw to win an Xbox.
- Spin the wheel to win a prize.
- Follow our Instagram page and we will draw from all new followers, 10 people to receive \$100 cash.

Note: While trade promotions need to be 'free to enter', there can be confusion for competitions where you need to purchase a product to enter. Importantly, entrants are not purchasing an entry into the competition, and instead are paying for a product that comes with a bonus/free entry into a competition. If entrants are purchasing an entry into a competition, like a lottery, there are further restrictions that apply.



Games of Chance – Permit Requirements

Whether a permit is required depends on the type of competition, the total prize value, the type of prize and the State or Territory the competition is taking place in.

These apply to games of chance and some gift with purchase promotions.

Location	Permit required?	Details
New South Wales	Yes	<p>An Authority (i.e. permit) is required for competition prize pools over \$10,000 in NSW.</p> <p>A business can apply for a 1, 3 or 5 year authority, which will cover all promotions with a prize pool over \$10K. There is no maximum prize pool limit.</p> <p>The promotion and terms must also be compliant with the trade promotion legislation in the States or Territories the promotion is available in.</p>
South Australia	Yes	<p>Permits are required for competition prize pools over \$5,000 OR where competition involves a printed scratch and win mechanic (regardless of the prize pool) in SA.</p> <p>For example, if you are providing printed scratch cards for the chance to win a t-shirt in venue, then a permit will be required in SA, even if the prize pool is only \$50.</p> <p>The promotion and terms must also be compliant with the trade promotion legislation in the States or Territories the promotion is available in.</p>
Australian Capital Territory	Yes	<p>Permits are required where competition prize pool over \$3,000 in ACT.</p> <p>The promotion and terms must also be compliant with the trade promotion legislation in the States or Territories the promotion is available in.</p>
Northern Territory	Yes (but not really)	<p>A permit is only required in NT if the prize pool over \$5,000 AND a permit is not being obtained in another State or Territory.</p> <p>For example, if you run a promotion nationally with a prize pool of \$50,000, and obtain permits in NSW, ACT and SA, then a permit in NT will not be required.</p> <p>However, if you are running a promotion in QLD and NT with a prize pool of \$10,000 then an NT permit will be required.</p> <p>The promotion and terms must be compliant with the trade promotion legislation in the States or Territories the promotion is available in.</p>
Victoria	No	<p>Permits are not required in VIC.</p> <p>However, you must still ensure your promotion and terms are compliant with the trade promotion legislation in the States or Territories the promotion is available in.</p>
Western Australia	No	<p>Permits are not required in WA, but the WA gaming authority must be notified by email if the promotions is running online.</p>



		However, you must still ensure your promotion and terms are compliant with the trade promotion legislation in the States or Territories the promotion is available in.
Tasmania	No	Permits are not required in TAS. However, you must still ensure your promotion and terms are compliant with the trade promotion legislation in the States or Territories the promotion is available in.
Queensland	No	Permits are not required in QLD. However, you must still ensure your promotion and terms are compliant with the trade promotion legislation in the States or Territories the promotion is available in.

For example, for national (Australia-wide) competitions:

Prize Pool	State Permit/s Required
\$0.01 - \$3,000	No permits + SA Permit (if printed scratch and win mechanic)
\$3,001 - \$5,000	ACT Permit + SA Permit (if printed scratch and win mechanic)
\$5,001 - \$10,000	ACT + SA Permits
\$10,000 or more	ACT + SA Permits + NSW authority

Games of Chance – Permit fees (as at May 2024)

	Permit Category	Application Fee	Lead time (Bus. Days)
NSW <i>If paying online with a credit card, a 10% surcharge applies to these fees.</i>	1 year (Prize >\$10k only)	\$441	5
	3 years (Prize >\$10k only)	\$679	5
	5 years (Prize >\$10k only)	\$918	5
	Notification fees & Amendments fees	Free	10
ACT <i>Only required for promotions valued >\$3,000</i>	Permit Category (total prize value)	Application Fee	Lead time (Bus. Days)
	\$3,001 - \$5,000	\$238	7
	\$5,001 - \$10,000	\$348	^
	\$10,001 - \$50,000	\$671	^
	\$50,001 - \$100,000	\$959	^
	\$100,001 - \$200,000	\$1,915	^
	>\$200,000	\$3,840	^



	Amendment fees	\$70 - \$134, + difference in Permit Fees if prize pool increases		^
SA <i>No permit is required if value of prizes is <\$5,000 for a game of chance, unless it is an instant win competition which always requires a permit (regardless of prize value).</i>	Permit Category (total prize value)	Application Fee	Premium offer	Lead time (Bus. Days)
	\$5,001 - \$10,000	\$238	\$477	14 for Standard or 5 for Premium
	\$10,001 - \$50,000	\$874	\$1,751	^
	\$50,001 - \$100,000	\$1,529	\$3,052	^
	\$100,001 - \$200,000	\$2,622	\$5,242	^
	>\$200,000	\$4,808	\$9,617	^
	Amendment fee	\$78.50, + difference in Permit Fees if prize pool increases		5
NT <i>Only required for promotions valued >\$5,000 and if no permit in another State/Territory.</i>	Permit Category (total prize value)	Application Fee		Lead time (Bus. Days)
	\$5,001+	Free		10
	Amendments	Free		N/A

Notes:

- These fees are generally updated on 1 July each year.
- All permit fees are exempt from GST.

Games of Chance - New South Wales

In NSW, competitions and games of chance are regulated by [NSW Fair Trading](#).

Notification	<p>Duration based authorities are used for trade promotion permits in NSW. A business can apply for a 1, 3 or 5 year authority using the Authority Portal, which will cover all promotions the business runs with a prize pool over \$10K during that time.</p> <p>Authorities are time based, meaning that businesses can conduct a number of different promotions under the same Authority for its duration.</p> <p>To run a promotion with a prize pool over \$10K under an Authority, the promotion terms and conditions must be submitted to NSW Fair Trading via the Notification Portal, at least 10 days before the start date of the competition.</p> <p>No formal approval is granted by the NSW Fair Trading, they will simply reach out if they have any concerns with the submitted Notification.</p>
Amendments to a competition	<p>If a business has submitted the terms in the Notification Portal, substantial changes must be reported to NSW Fair Trading. This is done by filling out a Changes to Gaming Activity notification form.</p> <p>This is not required for minor changes (such as fixing grammatical errors).</p> <p>Under the regulations, ‘substantial changes’ include (but are not limited to):</p> <ul style="list-style-type: none"> • a change to the prizes or the value of the prizes; • a change in the date on which prize winners are to be determined or the method for determining prize winners;



	<ul style="list-style-type: none"> • a change in the details of the authority holder; and • a significant change in the number of tickets.
Renewal of NSW Authority	An application to renew the Authority can be made, and generally must be done so within 3 months of the expiry of the current Authority period.
Terms and Conditions Requirements	<p>A copy of the terms and conditions of the lottery must accompany your Notification.</p> <p>The terms and conditions for the promotion must be made available by displaying them on a website or at the place in which the promotion is conducted.</p> <p>Any terms and conditions for a trade promotion in NSW must contain the following information:</p> <ul style="list-style-type: none"> • The NSW Authority number granted to the business. • The manner in which disputes regarding promotion or claiming a prize will be resolved. • A prohibition on persons involved in the conduct of the competition or determining the winner from entering the competition, or any person involved in managing a benefiting business. • If applicable, require that, if there is no prize winner or the prize winner cannot be found, that information must be published. • Costs of claiming a prize (if any). • Entry start and close date. • Entry Limits (e.g. one per person). • Entry age limits. • Prize details & values. • Cost to enter via phone/electronic application (cost must not exceed cost for standard local call/standard use of the electronic app). • Limits on number of prizes permitted per person (if applicable). • Bonus prizes (if applicable). • Details of the promoted business and any benefiting organisation. • If applicable (including dates and times these take place): <ul style="list-style-type: none"> ○ How winners are determined ○ Winner notification details ○ Where winners are announced ○ Period for claiming a prize ○ The circumstances in which a redetermination of prize winners may occur
Advertising Requirements	<p>If an Authority number is required, then it must be clearly displayed on all promotional and advertising materials.</p> <p>Businesses may seek to include ‘minimal terms and conditions’ on advertising that include the authority number and a URL link to the full terms and conditions so as not to mislead or deceive entrants.</p> <p>Minimal terms and conditions usually include:</p> <ul style="list-style-type: none"> • The NSW Authority number granted to the business.



	<ul style="list-style-type: none">• Entry start and close date.• Entry limits (e.g. one per person).• Entry age limits.• Prize details & values.• Details of the promoted business and any benefiting organisation.• If applicable (including dates and times these take place):<ul style="list-style-type: none">○ Where winners are announced. <p>Business must not cause to be published an advertisement promoting a gaming activity that</p> <ul style="list-style-type: none">• encourages a breach of the law, or• depicts children participating in a gaming activity, or• suggests that winning will be a definite outcome of entering or participating in the gaming activity, or• suggests that entering or participating in the gaming activity will definitely improve a person's financial prospects.
Prize Draws	Where the prize winner is determined by a draw (however made) and is not awarded on the basis of a specific outcome, the prize winner should be determined randomly so that each ticket has a fair and equal chance of being drawn.
Results	If stipulated in the terms and conditions, if there is no prize winner or the prize winner cannot be found, that information must be published.
Scrutineer	Scrutineers are no longer required in NSW.
Unclaimed Prize Draw	<p>The period for conducting an unclaimed prize draw may be specified in the rules of the gaming activity or, if no time is specified, it must occur at least 3 months after the prize winner was previously determined.</p> <p>NSW Fair Trading is currently accepting a redraw 1 month after the original draw.</p> <p>However, if the promotion is also run in South Australia, please be aware that generally the redraw will need to be 2 months after the original draw given the recent legislative changes in South Australia.</p>
Prize Conditions	<ul style="list-style-type: none">• There is no maximum prize limit for trade promotions.• Prizes may consist of anything except a prohibited prize.• Monetary prizes that exceed \$5,000 must be paid by electronic fund transfer (EFT), if the winner requests, or in any other case as agreed between the prize winner and the person paying the prize.• Prohibited Prizes include:<ul style="list-style-type: none">○ a firearm, ammunition, an imitation firearm or other prohibited weapons as defined by the Weapons Prohibition Act 1998;○ a tobacco, smoking or vaping product;○ Alcohol prizes prohibited from exceeding:<ul style="list-style-type: none">▪ 20 litres of liquor with an alcohol content not exceeding 20% by volume, or



	<ul style="list-style-type: none"> ▪ 5 litres of liquor with an alcohol content exceeding 20% by volume. ○ the provision of cosmetic surgery (cosmetic surgery and other procedures falling under Division 1A of Part 3 of the Poisons and Therapeutic Goods Act 1966); ○ a prize that, if offered, contravenes a provision of any other law of NSW or the Commonwealth.
Changes to Prizes	<p>If there any changes to the prizes for a game of chance, you must:</p> <ul style="list-style-type: none"> • take all reasonable steps to notify the participants, or • make the information publicly available within a reasonable time before the change starts. <p>If an Authority was required for the game of chance, any substantial change must be reported to NSW Fair Trading. You can do this by filling out a Changes to Gaming Activity notification form and sending it to CElottery@customerservice.nsw.gov.au.</p> <p>Notification of an amendment to the competition is required prior to any amendments being advertised or made effective.</p> <p>Prize substitution is permitted if the prize is not available due to unforeseeable circumstances. Prize substituted must be similar to the original prize AND of equal or greater value.</p> <p>If the prize is valued at over \$100,000 though, a substitute prize cannot be awarded, unless prior to the time winners are determined, entrants are notified of the change and are provided with the opportunity to choose to stay in or opt out of the competition.</p>
Record Keeping	<p>Maintaining records is recommended by the Department, as this will help properly manage activities. No set time period is legislated for games of chance or trade promotions lotteries.</p>

Games of Chance - South Australia

In South Australia, competitions are regulated by the [South Australian Government Consumer and Business Services \(CBS\)](#).

Permits	<p>You do not need a license or permit if your promotion has a total prize amount under \$5,000 and you aren't using instant scratch or break-open tickets. This is because you are running a 'minor trade promotion'.</p> <p>You need to apply for a major trade promotions license if your promotion has a total prize of over \$5,000.</p> <p>The application process takes 14 business days to be assessed. However, SA is the only State that offers a 'premium' service, to which (if you pay the premium fee), you can receive your licence within 5 business days.</p> <p>If your promotion is using break-open or instant scratch tickets with hidden numbers, letters, or symbols, you must apply for an 'instant prize trade promotion' license as your promotion will be an instant prize trade promotion. This requirement applies regardless of the value of the prize. So, even where the prize is valued at less than \$5,000, an organiser must obtain a permit in SA for a competition using instant scratch tickets.</p>
Amendments to a competition	<p>CBS must approve any changes to a lottery permit in SA. You must complete the application to amend a trade promotion form with the reasons for the change.</p>



	<p>A licence won't be amended if the promotion has started or if the change is unfair to entrants.</p> <p>In special circumstances, you can ask that a lottery rule be left out. It will only be allowed if it's fair to all participants.</p>
Terms and Conditions Requirements	<p>A copy of the terms and conditions of the lottery must accompany your permit application.</p> <p>CBS states that the promotion terms and conditions must state:</p> <ul style="list-style-type: none">• that the competition is free to enter (However, there can be instances where those wishing to enter the competition are required to purchase a service or good to enter as a condition of the competition).• If there is a phone cost to enter the competition, it can't be more than 50 cents (plus GST and any mobile charges).• That the competition outline the length of the promotions. CBS requires it runs for a maximum period of up to 12 months (can be less, but must not be longer than this).• The manner in which prizes are dealt with, and reasonable time should be given to the winner to claim their prize (14 days).• The SA permit number granted to the business.• A prohibition on persons involved in the conduct of the competition or determining the winner from entering the competition, or any person involved in managing a benefiting business.• Entry start and close date.• Entry limits (e.g. one per person).• Entry age limits.• Prize details & values.• Limits on number of prizes permitted per person (if applicable).• Bonus prizes (if applicable).• Details of the business.• If applicable (including dates and times these take place):<ul style="list-style-type: none">○ How winners are determined○ Winner notification details○ Where winners are announced○ Period for claiming a prize○ The circumstances in which a redetermination of prize winners may occur
Advertising Requirements	<p>All advertisements of a major trade promotion lottery must contain:</p> <ul style="list-style-type: none">• the permit number;• how to enter;• the nature and value of the prizes; and• how and where the full terms and conditions can be accessed if they aren't included in the advertisement. <p>Advertising or promoting of any lottery must not:</p>



	<ul style="list-style-type: none"> • suggest that the lottery can fix personal or financial problems or cover expenses; • imply that the lottery can increase social, sexual or employment opportunities; • exaggerate the prizes or suggest the chance of winning is better than it really is; • suggest that someone’s skill means a better chance of winning; • link the lottery with drinking too much alcohol; or • exaggerate the connection between the lottery and how the proceeds will be used. <p>Advertising for a major trade promotion lottery can't begin until a permit has been granted.</p>
Prize Draws	<p>The draws must take place:</p> <ul style="list-style-type: none"> • on the day, time and place stated in the terms and conditions; • under the supervision of the promoter or trader; • in front of an independent scrutineer, if the total prize value is over \$30,000. <p>Participants don't have to be present when the lottery is drawn to win a prize. A prize can't 'jackpot' or a new ticket drawn if the winner isn't there.</p>
Scrutineer	<p>A scrutineer is required to witness the prize draw if the total prize value is over \$30,000. This is regardless of where the draw is being conducted. For example, if the competition is open to SA entrants, and the prize draw is conducted in QLD, a scrutineer must witness the draw (either electronically or in person).</p> <p>The scrutineer can be either:</p> <ul style="list-style-type: none"> • a commissioner for taking affidavits in the Supreme Court; • a justice of the peace; • a notary public; • any other person authorised to take declarations under the Oaths Act 1936; • a person authorised by the minister to be a scrutineer; or • on the Australian Government's list of approved witnesses.
Results	<p>If the winner isn't present when the lottery is drawn, notify them in writing within 7 days and tell them how the prize can be delivered or collected.</p> <p>For each prize valued at over \$250, the initial of the first name, last name and the postcode of each winner must be published within 30 days of the draw (e.g. on a website or social media page).</p> <p>For major trade promotions, publication should occur in the location specified in the terms and conditions.</p>
Unclaimed Prize Draw	<p>Winners must be given a minimum of 2 months to claim the prize in SA.</p> <p>If a prize—</p> <ul style="list-style-type: none"> • remains unclaimed at the expiry of the 2 month period (or as specified in the terms and conditions); or • is perishable and has not been delivered to or claimed by its winner within a reasonable time before it is likely to deteriorate; or • is a ticket or tickets for an event and has not been delivered to or claimed by its winner within a reasonable time before the event is due to take place,



	<p>the person who conducted the lottery must redraw the lottery, and the original winner will be taken to have forfeited any right to the prize.</p> <p>The unclaimed prize draw must be conducted in the same manner as the original draw (e.g. random draw including all entrants) and distributed in the same way (allowing a further 2 months for the second prize winner to claim) and so on until the prize is successfully claimed.</p>
Prize Conditions	<p>The goods and services being promoted must be your normal business products.</p> <p>Trade promotion lotteries can't promote or have as prizes:</p> <ul style="list-style-type: none"> • tobacco products; • firearms, antique firearms and ammunition; • dangerous articles and prohibited weapons; • cosmetic surgery or other similar medical or surgical procedures where the main purpose is improving personal appearance; or • goods or services that are illegal to sell in South Australia. <p>The value of the prize advertised must be the retail value.</p> <p>If the item is an antique or a piece of artwork, craftwork, collectable bric-a-brac or is second-hand, the value must be whatever the price is likely to be paid for the item if sold at auction.</p>
Changes to Prizes	<p>Prize substitutions or changes are not permitted where a permit has been issued for a competition and the competition has already commenced or if the change would be unfair to entrants.</p> <p>CBS must approve any changes to a lottery permit in SA. You must complete the application to amend a trade promotion form with the reasons for the change.</p>
Record Keeping	<p>Ticket butts, entry forms and other records relating to the lottery must be kept for at least 3 months after the draw.</p>

Games of Chance - Australian Capital Territory

In the Australian Capital Territory (**ACT**), competitions are regulated by the [ACT Government's Gambling & Racing Commission](#) (**Commission**).

Permits	<p>If the prize is over \$3,000, you will be required to obtain a Permit for Trade Promotion Lottery.</p> <p>Agencies (such as Prosper Law) acting on behalf of an applicant must include a signed 'letter of authority' from the promoter conducting the lottery, this is attached to the permit application.</p> <p>A permit must be approved before a trade promotion can be advertised or conducted in the ACT.</p> <p>A permit is not required for an "exempt" lottery. Exempt lotteries include:</p> <ul style="list-style-type: none"> • a promotion where the total prize value is less than \$3,000. • a promotion where "prizes" or rewards consist totally of the granting of rebates, discounts or other allowances in respect of amounts payable, or the granting of refunds of amounts paid for goods sold or services performed in the course of carrying on that trade or business which are equally available to all customers; or • a promotion which comes within the definition of a "private lottery" as defined in the Lotteries Act 1964 (where participation is restricted to members of the same association
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	or who work or reside in the same premises and where there is no external advertising of the promotion – e.g. employees only).
Amendments to a competition	Any major change to an approved promotion must be submitted through an Application for an Amendment . The Commission must approve the change to the promotion before any amendment can be implemented or advertised.
Terms and Conditions Requirements	<p>A copy of the terms and conditions of the lottery must accompany your permit application.</p> <p>The terms and conditions must be shown at the point of entry (e.g. printed on the entry form or advertising of the lottery). If the terms and conditions cannot be placed on the entry form and advertising media, reference (such as a URL) must be made to a place where the full terms and conditions are available.</p> <p>The terms and conditions must include:</p> <ul style="list-style-type: none"> • the ACT permit number issued for that promotion; • how to enter the promotion; • who may enter the promotion; • the full prize details and their values; • the start date of the promotion; • the closing date of the promotion; • the time and date of the draw and if multiple draw will occur; • the address/location where the draw will take place; • the manner in which winners will be notified including the name of the publication (if applicable) and the date of the notification; • full details of the name of the promoter and their ABN/ACN; and • the redraw arrangements, including the method, date, time and place of the redraw. <p>The Commission may impose conditions on an approval of a permit in order to protect the interests of subscribers to the promotion. In our experience, this can include permits being conditions on:</p> <ul style="list-style-type: none"> • providing evidence of a prize RRP (usually for a car), such as a sales docket or quote form from the prize supplier; • providing further detailed information to the Commission for complex promotions.
Advertising Requirements	<p>All trade promotion lottery tickets, entry forms and advertising must include:</p> <ul style="list-style-type: none"> • the ACT permit number issued for that promotion; • full details of the manner in which the results of the lottery will be made known to entrants; and • a URL to the full terms and conditions.
Prize Draws	<p>The determination of the winner must be undertaken in a fair and transparent manner with each participant having an equal chance of winning the lottery.</p> <p>If more than one prize is being determined at a draw, the major prize must be drawn first (to ensure that all entries have a chance of winning that prize) unless winning entries are eligible to be redrawn.</p> <p>Winning must not be contingent on the participant being present at the drawing of the lottery except for lucky-badge draws. It is acceptable to offer bonus prizes if the winner is present as long as the bonus prize does not exceed the value of the base or initial prize.</p>



	<p>Unless otherwise approved by the Commission, the drawing of a Trade Promotion lottery must occur within 12 months of the issue date of the permit.</p> <p>Multiple draws may be conducted in one lottery, as long as the method of entry and prize</p>
Scrutineer	Scrutineers are not required in the ACT.
Results	<p>The results must be available to the ACT authority within 7 days of the determination of the prize winners, if requested.</p> <p>All winners must be notified directly, by written means (email, mail, fax or SMS) within 21 days of the determination of the results.</p> <p>Winners of prizes valued at \$1,000 or more must be published in a newspaper or other publication approved by the ACT lottery department (such as on the client website).</p> <p>The person conducting the promotion must make the results of the lottery available to entrants. The method of advertising the results of the promotion must be congruent with the type of lottery conducted (eg. it would be appropriate to publish the results of the lottery on a website if the promotion was conducted via a website).</p>
Unclaimed Prize Draw	<p>All prizes in the lottery must be distributed or allocated as approved. If a prize is not claimed within a reasonable period, taking into account the nature of the prize, the person conducting the promotion must draw another winning ticket or entry.</p> <p>The unclaimed prize draw must be conducted in the same manner as the original draw (e.g. random draw including all entrants) and distributed in the same way (allowing a further reasonable period for the second prize winner to claim) and so on until the prize is successfully claimed.</p>
Prize Conditions	<p>Where participants are (or could be) under the age of 18 years the Commission will refuse to approve an application where the Commission considers the prizes to be unlawful or inappropriate eg. liquor products, tobacco products or dangerous goods.</p> <p>Where prizes include alcohol, entrants must be aged eighteen (18) years or older. The Liquor Act 2010 and the Liquor Regulation 2010 will be taken into consideration when assessing your application if your lottery involves the awarding of alcohol as a prize.</p> <p>The winner of a prize must not be charged an administrative or delivery fee upon receipt of their prize.</p> <p>If a prize involves travel all relevant information must be included in the terms and conditions of the lottery. Details of departure point and destination, the number of people included in the fare, class of travel, inclusion of transfers, name and location of accommodation, duration of stay, inclusions, date by which travel must be taken, availability, transferability, restrictions and spending money must be listed if applicable.</p>
Changes to Prizes	<p>Approval of an amendment to the permit is required prior to any amendments being advertised or made effective.</p> <p>If an amendment results in the value of the total prize pool increasing to a higher lottery permit fee, the difference between the new fee and the original fee paid, plus the amendment fee is required prior to processing.</p>
Record Keeping	All records concerning the promotion, including entries, must be kept for a minimum period of 12 months after the determination of the results.

Games of Chance - Northern Territory

In the Northern Territory (NT), the [Northern Territory Government](#) regulates game of chance competitions (called a 'trade lottery').



Permits	<p>Permits are only required for a competition in the NT where the prize pool value exceeds \$5,000, and no other permit exists in Australia.</p> <p>You don't need a permit for a minor trade lottery which has prizes to the value of \$5,000 or less.</p> <p>NT is the only State/Territory where, if you're an interstate business or association that has a lottery permit in another state or territory, you can also run the lottery in the NT without a local permit.</p> <p>To obtain a permit in the NT, you must first become an approved association.</p> <p>Once an approved association, the business can apply to run a trade lottery using the application form, then submit your application in person, email or post it to a Territory Business Centre.</p> <p>Businesses should allow at least 10 days for the application to be processed.</p>
Amendments to a competition	<p>You can apply in writing to the Director-General of Licensing to vary a permit.</p> <p>You must outline the change requested and reasons for it. You will be notified in writing if your request has been granted.</p>
Terms and Conditions Requirements	<p>A copy of the terms and conditions of the lottery must be made available to entrants and include:</p> <ul style="list-style-type: none">• how to enter the promotion;• who may enter the promotion;• the full prize details and their values;• if prizes are subject to restrictions and conditions, such as travel prizes, you must clearly display the term 'conditions apply' on the ticket and any promotion• the start date of the promotion;• the closing date of the promotion;• the time and date of the draw and if multiple draw will occur;• the manner in which winners will be notified including the name of the publication (if applicable) and the date of the notification;• full details of the name of the promoter; and• the redraw arrangements, including the method, date, time and place of the redraw. <p>Additionally, both major and minor trade lotteries must meet all of the following standard conditions:</p> <ul style="list-style-type: none">• you must run a trade lottery in accordance with the Gaming Control (Community Gaming) Regulations 2006• you must run it in a way that complies with the NT Code of Practice for Responsible Gambling• you must not include a prohibited game• entry must be free but can be conditional on buying goods or services• each entry must have an equal chance of winning the major prize• no employees of the business or their family members may participate



	<ul style="list-style-type: none"> the lottery must be drawn on the date specified, and prizes awarded to the winners as set out in the lottery's terms and conditions if there is a dispute, complaint or investigation about the conduct or outcome of a lottery, the business conducting the lottery must demonstrate to the reasonable satisfaction of the Director-General of Licensing that it has complied with these conditions you must publish the names of the major prize winners in a local or a national newspaper.
Advertising Requirements	<p>In the NT, you must clearly state all of the following on entry forms and promotional material:</p> <ul style="list-style-type: none"> the lottery terms and conditions - terms and conditions must be fair and equitable; the permit number - if applicable; the period in which it is being run; the draw date; details of how the winners are determined; and how winners will be notified. <p>Any lottery publicity must not be misleading and must show the permit number (if applicable) and the rules and conditions.</p> <p>If you publicise a major trade lottery before you have been granted a permit, the promotional material must state it is subject to approval and will not proceed if the permit is not granted.</p>
Prize Draws	The determination of the winner must be undertaken in a fair and transparent manner with each participant having an equal chance of winning the lottery.
Scrutineer	Scrutineers are not required in the NT.
Results	You must publish the results of the draw in a local newspaper or the specific publication stated in the lottery terms and conditions.
Unclaimed Prize Draw	<p>If prizes are unclaimed after 3 months from the draw date, you must surrender them to the Director-General of Licensing if they do not contain perishable goods.</p> <p>You can sell unclaimed prizes containing perishable goods for a reasonable price and use the money to support the approved association.</p>
Prize Conditions	<p>Liquor must not be a principal prize, this includes prizes consisting solely of money and liquor.</p> <p>You cannot offer firearms, weapons, ammunition, explosives or tobacco products as prizes.</p> <p>You must not award a prize to a person under 18 years old - includes liquor, goods or services that are restricted by law to people over 18 years old.</p>
Changes to Prizes	Changes to prizes are permitted through the amendment process.
Record Keeping	<p>The person running the trade lottery must keep full records for at least 2 years.</p> <p>These must include:</p>



	<ul style="list-style-type: none"> entries; prizes; publication of winners; and evidence of prizes being awarded. <p>You must make records available in the event of an investigation.</p>
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Games of Chance - Western Australia

In Western Australia (WA), the department of [Local Government, Sport and Cultural Industries](#) governs games of chance and promotions.

Permits	<p>No permits are required in WA.</p> <p>However, if the lottery is to be conducted by audio, visual or other electronic media, a copy of the lottery terms and conditions must be emailed to the Commission at rgl@dlgsc.wa.gov.au before commencement of the lottery.</p>
Amendments to a competition	<p>Amendments to terms and conditions requested can also be emailed to the same email address: rgl@dlgsc.wa.gov.au.</p> <p>If the lottery has commenced, the lottery terms and conditions cannot be amended without the prior written approval of the Commission.</p>
Terms and Conditions Requirements	<p>A copy of the terms and conditions of the lottery must be made available to entrants and include:</p> <ul style="list-style-type: none"> how to enter the promotion; who may enter the promotion; the full prize details and their values; if prizes are subject to restrictions and conditions, such as travel prizes, you must clearly display the term 'conditions apply' on the ticket and any promotion the start date of the promotion; the closing date of the promotion; the time and date of the draw and if multiple draw will occur; the manner in which winners will be notified including the name of the publication (if applicable) and the date of the notification; full details of the name of the promoter; and the redraw arrangements, including the method, date, time and place of the redraw. <p>The WA gaming authority also stipulates that:</p> <ul style="list-style-type: none"> There must be no cost to enter the lottery, but can be conditional on the participant having to buy goods or services which are the subject of the promotion. The lottery must not be conducted for more than 12 months. If entry to the lottery is made using a telephone or other electronic medium: <ul style="list-style-type: none"> the cost of using the telephone or other medium to make the entry must not exceed 55 cents. If entry to the lottery is made using the internet:



	<ul style="list-style-type: none"> ○ there must be no cost to the participant to register the participant's name other than the cost paid by the participant to access the website via the internet service provider. ○ a description of the prize or prizes must be printed on the entry form; and ○ the lottery terms and conditions must be published on the internet.
Advertising Requirements	<p>There are requirements attached to advertising of trade promotion lotteries depending on whether:</p> <ul style="list-style-type: none"> ● entry is by entry form or coupon ● if the lottery is conducted by audio or visual media ● if the lottery is conducted by electronic media (other than audio or visual), or ● if the lottery is conducted in any other way <p>In any case, there must at least be a description of the prize or prizes included in the form of advertising chosen, and there must at least be a direction to participants to where the terms and conditions of the lottery are located.</p> <p><u>Example:</u></p> <p>If the lottery is conducted by electronic media (other than audio or visual), all advertising of the lottery must include a description of the prize or prizes and direct participants to where the lottery terms and conditions can be found.</p> <p>If the lottery is conducted in any other way, all advertising of the lottery must include a description of the prize or prizes and the lottery terms and conditions.</p>
Prize Draws	<p>The draw must be conducted within one month after closure of the lottery.</p> <p>If practicable, members of the public must be given the opportunity to witness the prize draw. If that is not practicable, audit records confirming the prize draw must be made available to an authorised officer or member of the Police Force on request.</p>
Scrutineer	<p>Scrutineers are not required in WA.</p>
Results	<p>You must publish the results of the draw in the same medium that the competition is conducted (e.g. if it's online, publish online, if it's via radio, on radio etc).</p>
Unclaimed Prize Draw	<p>An organisation that conducts a lottery, including a trade promotion lottery, must award the winner of each prize with the prize concerned, unless, after making all reasonable enquiries, the prize winner can't be located.</p> <p>The organisation must then inform the Commission that the winner can't be located, who may give directions as to how to dispose of the prize.</p>
Prize Conditions	<p>A prize in the lottery must not consist of or include cosmetic surgical or medical procedures.</p> <p>Liquor may be offered as a prize, provided that:</p> <ul style="list-style-type: none"> ● – the retail value of the liquor is less than \$1,000 per prize ● – details of the product, quantity and method of delivery are available, and ● – written confirmation is provided that no-one under 18 years of age will sell tickets



	Cars may be offered as a prize. The vehicle must be new (unless veteran, vintage or post-vintage), and must be accompanied by a valuation certificate and letter stating that the vehicle is unencumbered.
Changes to Prizes	If the lottery has commenced, the lottery terms and conditions cannot be amended without the prior written approval of the Commission.
Record Keeping	Records relating to the lottery must be kept for 12 months and must be made available to an authorised officer or member of the Police Force on request.

Games of Chance - Victoria

Games of chance and trade promotions in Victoria (**VIC**) are regulated by the [Victorian Gambling and Casino Control Commission](#).

Permits	While a permit isn't required, all trade promotion lotteries conducted in VIC must comply with the conditions in the Gambling Regulation Act 2003 and Gambling Regulations 2015.
Amendments to a competition	N/A
Terms and Conditions Requirements	<p>A copy of the terms and conditions of the lottery must be made available to entrants and include:</p> <ul style="list-style-type: none"> • how to enter the promotion; • who may enter the promotion; • the full prize details and their values; • if prizes are subject to restrictions and conditions, such as travel prizes, you must clearly display the term 'conditions apply' on the ticket and any promotion • the start date of the promotion; • the closing date of the promotion; • the time and date of the draw and if multiple draw will occur; • the manner in which winners will be notified including the name of the publication (if applicable) and the date of the notification; • full details of the name of the promoter; and • the redraw arrangements, including the method, date, time and place of the redraw. <p>VIC authority applies conditions for the conduct of trade promotion lotteries including:</p> <ul style="list-style-type: none"> • The expense per entry must not exceed the gazetted amount (currently \$1) • It must not be a precondition for entry that an entrant has played a gaming machine, or participated in a loyalty scheme that requires an entrant to play a gaming machine • Written consent must be obtained from the person whose trade or business is to be promoted by the lottery



	<ul style="list-style-type: none">• The lottery must be conducted to benefit primarily the trade or business being promoted• If information about entrants is to be used for a purpose other than the conduct of the lottery, this must be stated in the conditions of entry• A person who conducts a trade promotion must not use entrants' information except in accordance with the purposes stated in the condition of entry• A person who conducts a trade promotion lottery must obtain written agreement from the business, that the business will not use the entrants' information except in accordance with the purposes stated in the conditions of entry• If a trade promotion lottery is conducted with scratch and win cards, the conditions of entry must disclose the maximum number of scratch and win cards to be distributed and the total number and individual value of the prizes. There must also be a condition that printing errors and other quality control matters are not to be used as a reason for refusing payment of prizes
Advertising Requirements	<p>Information used to promote the lottery and any scratch and win cards must include:</p> <ul style="list-style-type: none">• the closing date of the lottery;• if applicable, where and when the lottery will be drawn;• the name and date of the publication in which winners' names will be published; and• the entry requirements, if any. <p>A trade promotion lottery must be conducted in a manner that is not offensive and that is not contrary to the public interest</p>
Prize Draws	<p>If the trade promotion lottery is to be drawn, the method of the draw must allow each ticket in the draw a random and equal chance of being drawn</p> <p>An entrant is not required to be present at the drawing of the lottery to be eligible to win a prize (unless the entry and draw are to occur on the same day and in the same place)</p> <p>The prize must be paid or transferred to the winner within 28 days after the draw.</p>
Scrutineer	<p>Scrutineers are not required in VIC.</p>
Results	<p>The winners of prizes must be advised in writing of the prize.</p> <p>The names of winners of all prizes over \$1,000 must be published by one of the following methods:</p> <ul style="list-style-type: none">• in a newspaper circulating generally in Victoria;• on the internet, for a minimum period of 28 days; or• if the lottery was advertised solely through a trade journal, promotional magazine or similar publication, in that publication.



Unclaimed Prize Draw	The winner of a prize may only be substituted via a second draw, and only if the conditions of entry allow it and if reasonable efforts were made to identify the winner that were unsuccessful.
Prize Conditions	The winner of a prize must not incur a cost to accept a prize (other than a trivial cost)
Changes to Prizes	A prize may only be substituted if the substituted prize is of the same or greater value than the original prize and the winner either agrees in writing, or the original prize is unavailable due to circumstances beyond the control of the person conducting the trade promotion lottery and reasonable attempts are made to reach agreement with the winner that are unsuccessful.
Record Keeping	Certain records must be kept for a period of three years after finalisation of the lottery that provide an: <ul style="list-style-type: none"> • accurate financial accounting of the lottery • accurate accounting for all entries • accurate report of the distribution of prizes.

Games of Chance - Queensland

[Business Queensland](#) regulates games of chance and trade promotions in Queensland (QLD).

Permits	While a permit isn't required, all trade promotion lotteries conducted in QLD must comply with the conditions in the Charitable and Non-Profit Gaming Act 1999.
Amendments to a competition	N/A
Terms and Conditions Requirements	The terms and conditions governing the promotion must include: <ul style="list-style-type: none"> • the name of the person conducting it • eligibility requirements for players • a description and the retail value of each of the prizes • the closing and drawing dates • the order in which prizes will be drawn (if not drawn in descending order of value) • how prize winners will be notified • whether results will be published and, if so, the way in which they will be published • whether the prize will jackpot or be redrawn if the winning player is not present; and • whether the game involves a round in which players are eliminated. <p>Entry into a game of chance promotion must be free. In the instance that an entrant is required to buy goods or services to enter, the costs of the goods or services must be no more than its market value.</p>



Advertising Requirements	<p>The advertisement of a promotional game must include:</p> <ul style="list-style-type: none"> • basic information on how to enter, dates etc; • URL to the full terms and conditions; and • the cost of the phone call to enter the promotional game.
Prize Draws	<p>Prize Draws must occur within 12 months of the start date of the promotion.</p> <p>When more than one prize is being offered the major prize must be drawn first and other prizes drawn in descending order of number and value.</p> <p>Each player must have a fair and equal chance of winning the major prize in the game.</p>
Scrutineer	Scrutineers are not required in QLD.
Results	There are no specific requirements in QLD for when or how winners must be notified. If this is included in the terms and conditions, the business must follow that.
Unclaimed Prize Draw	<p>A person conducting a promotional game must make every reasonable effort to locate the prize winner for the game and deliver the prizes to the winners.</p> <p>A prize must be kept for three months from the day the winner is decided (unless a different period is specified in the terms and conditions). If the prize is not claimed within three months, a redraw must occur.</p>
Prize Conditions	<p>Prizes must be delivered within 1 month of when winners are decided. Exceptions apply where the winner cannot be contacted or if a longer period of time is agreed to in writing by the winner.</p> <p>Prizes that are prohibited include:</p> <ul style="list-style-type: none"> • tobacco product/s • surgery • a weapon or ammunition • any other item by which the sale or acquisition is restricted by legislation of the State or Commonwealth • a ticket or other chance in a game that is not approved under a gaming act.
Changes to Prizes	The promoter is allowed to substitute a prize if the alternate prize is of equal or greater value and similar to the original prize.
Record Keeping	General gaming records must be kept for five years. This includes draw details, prize details and names of winners. Entries are not required to be kept.

Games of Chance - Tasmania

The [Department of Treasury and Finance in Tasmania](#) (TAS) regulates games of chance and trade promotions.

Permits	While a permit isn't required, all trade promotion lotteries conducted in TAS must comply with the conditions in the Gaming Control Act 1993.
Amendments to a competition	N/A



Terms and Conditions Requirements	<p>Provided that a trade promotion complies with the following conditions, a permit is not required to conduct a trade promotion in Tasmania:</p> <ul style="list-style-type: none"> • an entrant may enter the trade promotion only by purchasing specified goods or services (the trade promotion operator may determine what goods or services entitle people to enter) • the goods or services that are part of the promotion must be sold at the regular retail price (there should be no other cost to enter the trade promotion), and • the winner of the promotion must be determined by chance • If these conditions are not followed, the promotion may actually be a lottery, which is subject to different rules.
Advertising Requirements	N/A
Prize Draws	N/A
Scrutineer	N/A
Results	N/A
Unclaimed Prize Draw	N/A
Prize Conditions	N/A
Changes to Prizes	N/A
Record Keeping	N/A

Games of Chance - Penalties

Penalties differ across each State and Territory. If a trade promotion does not comply with the relevant rules and regulations of the State or Territory, there is risk of significant fines and other penalties. Gaming authorities also have investigative powers and can issue compliance notices or ban businesses from conducting gaming activities.

Non-compliance with trade promotion regulations can severely damage your business's reputation. Negative publicity and customer backlash can be hard to recover from, making it crucial to follow the rules meticulously.

If a business is found to be engaging in misleading or deceptive conduct, they could receive penalties under the Australian Consumer Law. Misleading and deceptive conduct could include any advertisements, actions or imagery which may cause a false representation about the competition.

Offender	Penalties
Corporations	<p>The greater of:</p> <ul style="list-style-type: none"> • \$50,000,000 • if the Court can determine the value of the 'reasonably attributable' benefit obtained, 3 times that value, or • if the Court cannot determine the value of the 'reasonably attributable' benefit, 30% of the corporation's adjusted turnover during the breach turnover period for the contravention.
Individuals	\$2,500,000.



Games of Skill Overview

What are games of skill?	Games of skill are trade promotions where the outcome is primarily determined by merit, skill or ability of the participants, rather than luck. Common examples include answering a question or creating an art piece.
How do people enter a game of skill?	Participants are typically required to demonstrate their skill or creativity through a specific task or activity, such as submitting original content or solving a puzzle.
How are winners chosen for a game of skill?	Winners are chosen by the promoter based on predetermined criteria, such as creativity, originality, or adherence to specific guidelines (e.g. a photo that a business's shop shown in the background).
What regulations apply for games of chance?	Games of skill are less regulated than games of chance by State gaming authorities. This is because permits are not required for games of skill. Regulations for games of skill often focus on ensuring transparency, fairness, and adherence to judging criteria.
Are there penalties?	There are no specific penalties for non-compliance for the gaming authorities. However, compliance with the Australian Consumer Law, privacy and spam regulations is the main priority for Games of Skill. Penalties may be imposed by the ACCC if a business is found to be misleading, deceptive or unconscionable in their promotions.
Do I need terms and conditions for my game of skill?	<p>While it is only mandatory for games of chance promotions to have terms and conditions, we should strongly recommend that all trade promotions have a set of terms and conditions to govern the conduct of the promotion and protect businesses and their customers.</p> <p>The advantage of including terms and conditions for your game of skill promotion include your ability to clearly outline:</p> <ul style="list-style-type: none"> • Where you want the right to use any photos/comments submitted by an entrant in marketing; • If you will be collecting personal data from entrant (and to also protect the promoter from a liability perspective); and • Any strict conditions/limits that apply to the promotion.
Game of skill examples	<p>Examples of games of skill include:</p> <ul style="list-style-type: none"> • Comment on this Instagram post and describe in 25 words or less why you should win this prize, best answer wins. • Post a photo of yourself on Instagram at the Lego Exhibition and tag #Legogirls to enter, best photo wins. • Answer these 10 trivia questions, entrant with the most correct answers wins.

NOTE

- Care should be taken to ensure that the 'game' or test of 'skill' for the promotion is one that is a true test of skill so that participants can't potentially enter the same answer.
- For example – a question that participants could give the same answer to is a factual question such as 'Who is the prime minister of Australia?'
- If any prize is given after a draw from the participants who had provided the correct answer to the factual question, that would be a game of chance and therefore subject to the laws applying to games of chance.



Gift with Purchase Overview

What is a gift with purchase promotions?	Gift with purchase promotions are trade promotions where the outcome is primarily pre-determined and involves a customer purchasing a product or service and receiving a free item, product or service in return.
How do people enter gift with purchase promotions?	Generally, a customer purchases a product or service (in-store or online) and receives a free product or service in return. The free product or service can be provided at the check out or entrants may be required to go online and fill in a claim form to receive the free product or service.
How are winners chosen for gift with purchase promotions?	There are no chosen winners for gift with purchase promotions. Ideally, all customers will receive a gift.
What regulations apply to gift with purchase promotions?	<p>Gifts with Purchase competitions are somewhat tricky. Sometimes, having a limited value of gifts can mean this type of competition may be a game of chance (which may need permits depending on the total value of the gifts/prizes).</p> <p>The way a customer claims their gift and whether or not there are a limited number of gifts available will affect whether or not trade promotion permits or an authority is required. This varies by state.</p> <p>Generally, if the gifts are guaranteed and all customers will receive a gift, this would not be considered a game of chance and a permit/authority would not be required. However, if the gifts are capped or limited (e.g. "First 10 people who enter receive gift"), then this may be considered a game of chance in some states. As such, a permit may be required here.</p> <p>Further, if a gift is provided at point of purchase (e.g. at a register in store or at the checkout online), and all advertising of the gift with purchase is removed once stock runs out, this would not be a game of chance. As such, no permit would be required here.</p> <p>However, if there is an element of chance in claiming or ordering the gift with the purchase, then a permit is likely to be required. This generally occurs if there are limited number of gifts to claim, and a business accepts gift claims by mail. This is because, if claims are accepted via mail, the business could receive 100s of claims by mail delivered at the one time, making it impossible to pinpoint the order of receipt. Alternatively, online claims can be time stamped, making it possible to determine which are the first X claims to be received, in which case no permits would be required.</p>
Are there penalties?	<p>If permits do apply, there are penalties for non-compliance that can be given by the State gaming authorities. Penalties may also be imposed by the ACCC if a business is found to be misleading, deceptive or unconscionable in their promotions.</p> <p>See this page by the ACCC for further information on its role for gift with purchase promotions.</p>
Gift with purchase examples	<p>Examples of gift with purchase promotions include:</p> <ul style="list-style-type: none"> • Purchase a product from these participating brands (e.g. Peters ice cream tubs) and receive a free merchandise product at the checkout (Peter's T-shirt). • Spend over \$50 online and receive a free facewash valued at \$10 (applied to cart at checkout).



Hybrid Promotions Overview

What are hybrid promotions?	<p>Hybrid promotions combine elements of both games of chance and skill, offering participants multiple ways to enter and win prizes.</p> <p>Hybrid promotions can provide opportunities for engagement from a diverse range of participants, appealing to both those who enjoy games of chance and those who prefer skill-based challenges.</p>
How do people enter hybrid promotions?	<p>These promotions often include an initial element of skill to enter the promotion followed by a chance to determine the winner. However, this can be reversed or include another mechanism entirely.</p>
How are winners chosen for hybrid promotions?	<p>As above, these promotions often include an element of chance to determine the winner. However, this is not always the case (which makes it a 'hybrid').</p>
What regulations apply to hybrid promotions?	<p>Regulations for hybrid promotions may vary depending on the specific elements involved, requiring compliance with both games of chance and skill requirements.</p> <p>As the requirements for games of skill are generally lesser than those of game of chance requirements, we hold the competition to the higher standard of game of chance requirements.</p> <p>We should (anonymously) check with the gaming authorities if we are unsure of the classification of a competition.</p>
Are there penalties?	<p>If permits do apply, there are penalties for non-compliance that can be given by the State gaming authorities. Penalties may also be imposed by the ACCC if a business is found to be misleading, deceptive or unconscionable in their promotions.</p>
Hybrid promotion examples	<p>Examples of hybrid promotions are:</p> <ul style="list-style-type: none"> • Tipping competitions. These require both skill and chance elements to win. • Entrants might be asked to submit an art piece to enter the competition (skill element), the top 10 artworks will go in a random draw to win a prize (chance element).

NOTE

- Tipping competitions are not always held to the higher standard of games of chance requirements and are classified differently in each State and Territory.

Other Promotion Types

Promotions can be offered in other various forms, like:

- Lotteries;
- Bingo;
- Housie;
- Trade incentives;
- Charitable Fundraising;
- Employee only or internal company competitions; and



- Raffles.

However, these are **not** classified as true 'trade promotions' (like games of chance) and further legislative rules may apply.

Global Competition Considerations

While there are many benefits to engaging with consumers using an international prize promotion, the challenge for marketers is to do so without breaking the law in each jurisdiction the competition is offered in.

If a business seeks to run a competition from Australia and offer entry to other jurisdictions, we should seek external legal counsel from that jurisdiction to ensure compliance with the relevant countries gaming laws.

Certain requirements must be met in order for overseas businesses to offer trade promotions to Australian residents, including:

1. There must be an AU entity responsible for game of chance competitions requiring permits in Australia. Either acting on behalf of an overseas business or running the promotion internationally from Australia. Permits cannot be obtained without an ABN/ACN.
2. Compliance with the Australian Consumer Law, privacy and spam regulations will be at the forefront for overseas businesses. As well as social media platform laws, which can differ between countries.
3. Prizes must be delivered within a reasonable time to AU winners. The promoter must be able to achieve this and offer adequate tracking and time estimates to winners.
4. Ensure any privacy policy or data collection practices are in line with AU laws.
5. If there is a dispute, how will the overseas entity resolve the problem.

Social Media Platform Requirements

Social media platforms usually provide set terms for conducting a promotion via their platform. While the specific requirements may vary, here are some general guidelines to consider:

1. Comply with each platforms promotion guidelines;
2. Include a release in the terms that releases the platform from any association with the promotion;
3. Discourage spam activities / refer a friend promotions;
4. Prohibit participants from creating multiple alias' or accounts to increase their chances of winning;
5. Entrants generally need a public profile for businesses to engage with them;
6. Create awareness to your audience of spam accounts claiming they've won (and to only reply to specific accounts etc)

Privacy and Data Protection

Having a well-drafted privacy policy available to entrants is important for businesses planning to run a competition.

Here are some considerations:

1. Detail in the terms how entrant data like will be collected, used, and protected during the competition.
2. Ensure the competition terms specify that the business will use entrants information for the purpose of the competition and clearly state if any third parties will have access to the data.
3. Ensure compliance with applicable privacy laws and regulations, such as obtaining consent from minors or adhering to data protection regulations.
4. Implement security measures to safeguard entrant information and prevent unknown access.

Intellectual Property Rights

If requesting IP materials from entrants, it's important to include specific clauses in the terms and conditions addressing intellectual property rights, copyrights, trademarks, and user-generated content. Here are some key considerations:

- **Original Content:** Entrants should submit only original content that they have created themselves or have proper permission to use. Clearly state in the competition terms and conditions that participants are responsible for any intellectual property infringement resulting from their submissions.



- **Copyrighted Material:** Entrants must not use copyrighted material without proper authorisation or permission. This includes images, music, videos, or any other copyrighted content.
- **User-Generated Content Rights:** Consider if your business will obtain a licence to use and display the entrant's content, and if so, how and where it will be used. Seek consent to use their content for promotional purposes related to the competition in the terms.
- **Intellectual Property Disputes:** Consider how you will deal with intellectual property disputes that may arise during or after the competition, such as removing infringing content or disqualifying participants.
- **Trademarks:** Entrants must not use trademarks, logos, or brand names in a way that could create confusion or infringe on intellectual property rights.
- **Sound Recordings:** Entrants must only use sound recordings/songs which they have a licence to use or own. Will your business seek consent to use the sound/recording for its own purposes?
- **Clearance and Permissions:** If the competition involves using third-party content or collaborating with influencers or partners, ensure that proper clearances, licences, or permissions are obtained.

How to run a trade promotion

The type of trade promotion should depend on what the business wants to achieve, the time frame, and the budget. Here is a rough guide on the steps to run a trade promotion in Australia

Step 1	Decide on a concept for your trade promotion.	<ol style="list-style-type: none"> 1. What type of promotion do you wish to run? 2. Where do you want to run it?
Step 2	Map out the trade promotion from start to finish.	<ol style="list-style-type: none"> 1. Determine if it is a game of skill or game of chance?
Step 3	Determine what regulations your trade promotion will need to adhere to.	<ol style="list-style-type: none"> 1. What regulations apply? 2. Will I be using social media? 3. Am I collecting personal information or adding entrants to a marketing database?
Step 4	Prepare the terms and conditions.	<ol style="list-style-type: none"> 1. Do the terms match the original plan and regulations? 2. Are they clear and fair?
Step 5	Apply for permits (if required)	<ol style="list-style-type: none"> 1. Gather relevant documents (e.g. ACT authority / Prize RRP evidence)
Step 6	Advertise or 'launch' the promotion	<ol style="list-style-type: none"> 1. Have I added permit numbers to the terms and advertising collateral? (if permits are required) 2. Does my content match the terms, is clear and fair? 3. Does my advertising link to the terms page / URL? 4. Am I following social media platform rules?



Step 7	Monitor the promotion	<ol style="list-style-type: none"> 1. Are any changes needed? If so, can I amend the permits or does it have to stay as is? 2. Am I being fair and transparent? 3. Are there any complaints or poor engagement?
Step 8	Draw or choose a winner	<ol style="list-style-type: none"> 1. Is the winner drawn or selected in accordance with the criteria/terms?
Step 9	Notify and publish the winner	<ol style="list-style-type: none"> 1. Is this done in accordance with the terms?
Step 10	Conduct the unclaimed prize draw if the first winner is not contactable	<ol style="list-style-type: none"> 1. Have I exhausted all contact options? 2. Given original winner period of time to claim in accordance with the terms?
Step 11	Notify and publish the unclaimed winner in accordance with the terms	<ol style="list-style-type: none"> 1. Is this done in accordance with the terms?
Step 12	Deliver the prize in accordance with the terms	<ol style="list-style-type: none"> 1. Is this done in accordance with the terms (e.g. timing, tracking, method etc)?
Step 13	Maintain accurate records in accordance with the terms	<ol style="list-style-type: none"> 1. Is this done in accordance with the regulations?
Step 14	Remove entrant data from your database as necessary	<ol style="list-style-type: none"> 1. Do I have permission to keep this data for longer than necessary? 2. Do I need to return anything to entrants (such as physical art entry submissions etc)? 3. What did my terms say?

Frequently Asked Questions

What is a trade promotion?

Trade promotions are a free-to-enter competition that is conducted by brands and businesses to promote products and services and to gain a wider exposure of their brand.

What are the biggest advantages of trade promotions and why?

Trade promotions are an efficient and effective way to drive sales, generate brand awareness and promote brand loyalty.

Trade promotions can help drive consumer demand by giving customers a push to buy. Trade promotions are also a trusted way to gain a broader reach and build loyalty from your customer base.

How do I know where my promotion is conducted for the purposes of the above?

If you are limiting entry to residents of a certain State or States, this is generally where you would say the promotion is conducted. E.g. if entry is open to NSW residents, the promotion would be considered to run in NSW.

If entry only occurs in a certain State, then you can argue that the promotion is only conducted in that particular State (regardless of where the entrant resides). A common example is where an entrant attends a conference event and places



their business card in a bowl at the event, and winner is drawn at the event. If this event took place in Victoria, we can argue no permit would be needed (even if the winner was from NSW).

How do I apply for a trade promotion permit?

You will need to apply to the relevant authority in your State or Territory. Applications are either online or in PDF forms that need to be sent or emailed to the relevant department. Links to the relevant authorities are provided at the end of this article.

How long does it take to get a permit and how long do they last?

From the time that you submit your application, allow up to two weeks to receive your permit. Permits usually last for 12 months – but this can also vary between States and Territories, so check with your relevant authority.

Where do I need to display my permit number?

You must display the permit number in any printed material which is used for promoting or advertising the competition. In addition, you should display the permit number in the competition terms and conditions.

Do I need a permit for every competition I run?

No. As discussed above, you may require a permit for a Game of Chance, but not for a Game of Skill (and depending on the value of the prize and the State or Territory where the competition is taking place).

In most States and Territories, you will also need a new permit for each competition.

Can I make people pay or buy a product or service to participate?

Generally, you can require people to buy a product (at a normal retail price) in order to enter the competition. However, you will not be able to make people pay to participate in the competition itself. This requirement is similar from one State or Territory to the next but there are small differences, for example, restrictions on telephone costs that participants may incur in order to participate.

Make sure you check to ensure you comply with the laws of each State and Territory in which you are offering your competition.

Do I need an ABN to run a competition or contest?

Generally, yes, you will need an ABN to run a competition. Again, this can vary between States and Territories, so check with your relevant authority.

Are there any prizes that are not allowed?

In general, the following types of prizes are prohibited or discouraged:

- Firearms (including imitation) and ammunition
- Tobacco and vaping products
- Cosmetic surgery, and
- Large amounts of alcohol (more than 20 litres with an alcohol content less than 20% by volume or more than 5 litres with an alcohol content greater than 20% by volume)

These rules vary from one State or Territory to the next and are subject to change, so check the rules with the relevant authority in your State or Territory.