

# Integrated Marketing Communications

## Code of Ethics

As part of its work to improve the quality of promotional activities in Europe, all member organisations of the EACA Integrated Marketing Communications Council have agreed a Code of Ethics for their agency members to adopt.

This Code regulates the nature and administration of those marketing techniques that involve the provision of direct or indirect additional benefits designed to make goods or services more attractive to potential purchasers.

The code covers, amongst others, such forms of promotion as:

- **Premium Offers**
- **Reduced price**
- **Free offers**
- **The distribution of vouchers, coupons and samples**
- **Personality promotions**
- **Charity-linked promotions**
- **Prize draw promotions and competitions**

The Code operates regardless of the method of communication or media used.

The Code does not deal with contractual relationships between promoters and consumers. It does not presume to judge whether a product represents good value for money nor does it seek to regulate terms of business.

The Code is designed primarily to protect the public, but it also applies to trade promotions and inventive schemes and to the promotional elements of sponsorship.

Agreement to, and application of, the Code are recommended requirement for all current and future members of the national body representing sales promotion.

Breaches of the Code will be dealt with under the relevant disciplinary procedures of each National Association.

## General Principles:

- All promotions should deal fairly and honourably with consumers and other beneficiaries.
- All promotions should be so designed and conducted as to avoid causing justifiable disappointment or giving any other grounds for reasonable complaint.
- The administration of promotions and the fulfilment of any obligation arising from them should be prompt and efficient.
- The terms and conduct of all promotions should be equitable to all participants.
- All promotions should be framed in a way which is fair to competitors and other traders in the market.
- No promoters, intermediaries or others involved should do anything likely to bring marketing promotions into disrepute
- The term “promoter” refers to any person, company or organisation by whom or on whose behalf a promotion is initiated. Depending on the circumstances, any producer, wholesaler, retailer or other person in the marketing process may be a promoter, intermediary and/or beneficiary for the purposes of a particular marketing promotion

## Terms specific to Marketing Promotion

- the term “*additional benefit*” refers to any goods or services (or combination thereof) offered for a promotional purpose;
- the term “*beneficiary*” refers to any person, company or organisation to whom any sales promotion is directed or who receives a benefit from it, either financially or in kind;
- the term “*prize promotion*” refers to any skill contest or prize draw used in conjunction with a sales promotion activity;
- the term “*intermediary*” refers to any person, company or organisation, other than the promoter, engaged in the implementation of any form of sales promotion;
- the term “*main product*” refers to the goods or services (or combination thereof) being promoted;

### *Terms of the offer*

Marketing promotions should be so devised as to enable the beneficiary to identify the terms of the offer easily and clearly. Care should be taken not to exaggerate the value of the additional benefit or to obscure or conceal the price of the main product.

### *Presentation*

A promotion should not be presented in a way likely to mislead those to whom it is addressed about its value or nature. Any marketing communication regarding the promotion, including activities at the point of sale, should be in strict accordance with the General Provisions of the Code.

### *Administration of promotions*

Promotions should be administered with adequate resources and supervision, including appropriate precautions to ensure that the administration of the offer meets the beneficiaries' reasonable expectations.

In particular:

- the availability of additional benefits should be sufficient to meet anticipated demand within a reasonable period of time. If delay is unavoidable, beneficiaries should be advised promptly and necessary steps taken to adjust the promotion of the offer;
- defective goods or inadequate services should be replaced or appropriate financial compensation given. Any costs incurred by beneficiaries as a direct result of any such shortcoming should be reimbursed immediately on request;
- complaints should be efficiently and properly handled.

### *Safety*

Care should be taken to ensure that additional benefits, provided they are properly used, do not expose beneficiaries, intermediaries, or any other persons to any harm or danger.

## **Presentation to beneficiaries**

### *Information to participants*

Promotions should be presented in such a way as to ensure that beneficiaries are made aware, before making a purchase, of any conditions likely to affect their decision to purchase.

Information should include, where relevant:

- clear instructions on the method of obtaining or participating in the promotional offer, e.g. conditions for obtaining additional benefits, or taking part in prize promotions;
- main characteristics of the additional benefits offered;
- any time limit on taking advantage of the promotional offer;
- any restrictions on participation (e.g. geographical or age-related), availability of additional benefits, or any other limitations on stocks. In the case of limited availability, beneficiaries should be properly informed of any arrangements for substituting alternative items or refunding money;
- the value of any voucher or stamp offered where a monetary alternative is available;
- any expenditure involved, including costs of shipping and handling and terms of payment;
- the full name and address of the promoter and an address to which complaints can be directed (if different from the address of the promoter).

### *Information in prize promotions*

Where a marketing promotion includes a prize promotion, the following information should be given to beneficiaries, or at least made available on request, prior to participation and not conditional on purchasing the main product:

- any rules governing eligibility to participate in the prize promotion;
- any costs associated with participation, other than for communication at or below standard rate (mail, telephone etc.);
- the number, value and nature of prizes to be awarded and whether a cash alternative may be substituted for a prize;
- in the case of a skill contest, the nature of the contest and the criteria for judging the entries;
- the selection procedure for the award of prizes;
- the closing date of the competition;
- when and how the results will be made available;
- whether the beneficiary may be liable to pay tax as a result of winning a prize;
- the time period during which prizes may be collected;
- where a jury is involved, the composition of the jury;
- any intention to use winners or winning contributions in post-event activities.

## **Presentation to intermediaries**

### *Information for intermediaries*

Promotions should be so presented to intermediaries that they are able to evaluate the services and commitments required of them. In particular, there should be adequate details as to:

- the organisation and scope of the promotion, including the timing and any time-limit;
- the ways in which the promotion will be presented to the trade and to the public;
- the conditions for participation;
- the financial implications for intermediaries;
- any special administrative task required of intermediaries.

### *Information on outer packing*

Where appropriate, relevant information for intermediaries such as any closing date or time-limit should appear on the outer packing of products bearing promotional offers, so that the intermediary is able to carry out the necessary stock control.

## **Particular obligations of promoters**

### *Interests of intermediaries*

Promotions should be devised and administered with due regard to the legitimate interests of intermediaries and should respect their freedom of decision.

### *Interests of employees, employers and consumer relations*

The terms of marketing promotions should be so designed as to respect the bond of loyalty between employees and their employers. Promotion and incentive schemes should be designed and implemented to take account of the interests of everyone involved and should not conflict with the duty of employees to their employer or their obligation to give honest advice to consumers.

### *Rights of intermediaries' employees*

The prior agreement of the intermediary or his/her responsible manager should always be sought if the proposed promotion involves:

- inviting the employees of the intermediary to assist in any promotional activity;
- offering any inducement or reward, financial or otherwise, to such employees for their assistance or for any sales achievements in connection with any promotion.

In the case of an offer addressed openly through public media, for which such prior permission cannot be obtained, it should be made clear that employees must obtain their employer's permission before participating.

*Timely delivery of goods and materials to intermediaries*

All goods, including additional benefits and other relevant material, should be delivered to the intermediary within a period which is reasonable in terms of any time limitation on the promotional offer.

*Contractual relationships between intermediaries and beneficiaries*

Promotions involving active co-operation by the intermediary or his/her employees should be so devised as not to prejudice any contractual relationship which may exist between the intermediary and the beneficiaries.

**Particular obligations of intermediaries**

*Honesty*

Sales promotions which have been accepted by the intermediary should be fairly and honestly handled, and properly administered by him/her and his/her employees.

*Misrepresentation*

Promotions involving any specific responsibility on the part of the intermediary should be so handled by him/her that no misinterpretation is likely to arise as to the terms, value, limitations or availability of the offer. In particular, the intermediary should adhere to the plan and conditions of the promotion as laid down by the promoter. No changes to the agreed arrangements, e.g. alteration of the time-limit, should be made by the intermediary without the prior agreement of the promoter.

*Responsibility*

The onus for observing the Code falls on the promoter, who has the ultimate responsibility for all aspects of promotions, whatever their kind or content.

Anyone taking part in the planning, creation or execution of any sales promotion has responsibility, as defined in Article 23 of the General Provisions, for ensuring the observance of the Code towards intermediaries, beneficiaries, and other parties affected or likely to be affected by the promotion.

## **Public Interest**

- Marketing promotions should not be designed or conducted in a way which conflicts with the public interest or could reasonably be deemed to be socially undesirable or cause offence. They should contain nothing that condones or is likely to provoke violent or anti-social behaviour, nuisance, personal injury or damage to property. Neither should promotions contain anything that breaks the law or invites anyone to break it, nor omit anything that the law requires.
- Promoters should not offer promotional products that are of a nature likely to cause offence, or products that may be deemed to be socially unacceptable.

## **Consumer Protection**

- Sales promotions and the communication of such promotions to the public should not abuse the trust of consumers or exploit their credulity, inexperience or lack of knowledge or mislead by inaccuracy, ambiguity, exaggeration, omission or otherwise.
- The terms in which a promotion is presented should be clear, complete and easy for the consumer to understand. Any terms or conditions, the effect of which is either to exclude some consumers from the opportunity to participate or to impose requirements that are likely to affect a consumer's decision whether or not to participate, should be clearly and prominently stated so as to be clear to the consumer before any commitment is made.
- Promotions should be designed and conducted in a way that respects the right of consumers to a high degree of privacy and freedom of annoyance. They should conform to all the relevant aspects of the local Data Protection laws. Specifically, Consumers should be informed before entry if participants may be required to become involved in any of the promoters' publicity or advertising, whether it is connected with the sales promotion or not.

## **Administration**

- Promotions should be conducted under proper supervision and with adequate resources.
- Promoters should allow ample time for each phase of a promotion: notifying the trade, distributing the goods, issuing rules where appropriate, collecting the proofs of purchase etc, judging and announcing the results.
- Promoters should ensure that damaged or faulty goods are either replaced without delay or that a refund is sent immediately. If any applicant does not receive goods, promoters should replace them free of charge.

- Promotions should not seek to disappoint. Promoters should be able to demonstrate that they have made a reasonable estimate of the likely response and that they are capable of meeting that response. In the event of excessive demand or some other unanticipated factor outside their control, products of a similar or greater quality and value or a cash payment should be distributed.

### **Quality**

- Promoters should ensure that promotional products meet the highest standards of safety, durability and performance in use.

### **Target Group restrictions**

- Promotion should not be addressed or provided to people unable or not allowed to take their own decisions, due to legal restrictions, age or psychological handicaps.
- Promoters should have proper regard for the highest safety precautions in order to avoid the risk of harm to consumers and in particular to children.
- Promotions addressed to, or likely to attract, children should be designed and conducted in a way that will not cause physical, mental or moral harm to children. They should not exploit the loyalty, vulnerability or lack of experience of children.

### **Free Offers**

- An offer should only be described as free if consumers pay no more than the current public rate of postage, the actual cost of freight or delivery, the cost of any travel involved if consumers collect the offer. In all cases consumers' liability for such costs should be made clear. There should be no additional charges for packaging or handling.
- A trial offer should not be described as free if the consumer is expected to pay the cost of returning any goods, unless this requirement is made clear to the consumer when the offer is made.
- Where an offer appears on a product, and when benefiting from that offer requires several purchases of the product, the need to make additional purchases should be clearly indicated.
- Where an offer covers two or more items of which only one is free, it should be made clear to the consumer what is offered free and what they must pay for.
- Where unsolicited samples or gifts are distributed through a promotion, it should be made clear that the consumer is under no obligation to buy or return the items.



## **Promotions with Prizes**

- Promotions involving prizes should be clearly worded and contain all necessary information relevant to the consumer's interest. If further rules cannot be avoided participants should be informed how to obtain them.
- Promotions should either publish or make available on request details of the name and region of major prize winners. Promoters should bear in mind the risk of theft or harassment that may arise if the details given are sufficient to allow the address of a winner of a prize of substantial value to be identified. Prize winners should receive their prizes in a reasonable period after the promotion has ended.
- If the selection of winning entries is open to subjective interpretation, an independent judge or a competent panel including one member who is independent of the competition's promoters and intermediaries should be appointed.
- The distinction between a prize and a gift should always be clear to consumers and the likelihood of consumers winning a prize should not be exaggerated.

## **Media-led Promotions**

- Media-led promotions - such as those run jointly with newspapers - should be designed and presented in such a way that they can easily be distinguished from editorial material.
- Where necessary, all communications of such promotions should ensure that consumers know whether they will be expected to buy subsequent editions of the publication.

## **Charity-linked promotions**

- Promotions claiming that participation will benefit a charity or good cause should name the charity or good cause that will benefit, the value or nature of the benefit and be able to demonstrate that the charity or causes consents to the advertising or promotion. Promoters should make available on request a current or final total of contributions made.

## **Promotions and the Trade**

- Promotions and incentive schemes should be designed and implemented to take account of the interests of everyone involved and should not conflict with the duty of employees to their employer or their obligation to give honest advice to consumers.

## Disputes

- The EACA Integrated Marketing Communications Council recommends that National Associations create an Arbitration Panel to mediate in the event of any disputes arising from promotions run by its members, whether raised by the general public, suppliers or other relevant parties.

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