

## **Bilge Saltan**

### **Promotion Campaigns With Prize Draws**

One of the most common mechanisms preferred in promotion campaigns in Turkey is prize draws. The promotion campaigns including prize draws aims to increase the sales by pushing the consumer to purchase as more purchase gives more chance to win the prize. Because of its nature of pushing the consumer more to consume, under Turkish practice, the promotion campaigns with prize draws are strictly governed and scrutinized by the National Lottery Administration (NLA). NLA performs its control generally pursuing the Regulation pertaining to National Lottery Administration, Lotteries and Drawings without a Cash Prize and the Regulation on the Principals of Commercial Advertisements.

Pursuant to the above mentioned regulations, NLA is the sole authority to evaluate the permission requests for prize draws, to accept the appropriate ones and to control whether the promotion campaigns are in line with the given permission. NLA while doing its examinations acts with the aim of protecting the consumers from the deceptive acts of the promoters.

In this context, it is important to be aware that the legislation giving the authority to NLA has a pretty vague wording. Due to this fact, NLA benefits from a large discretion power while examining the permission requests.

Some prize draws, however, may be organized without being subject to the permission of NLA. In this respect if the value of the prize to be distributed to the consumer is less than 49,62 TL (approximately 23,07 Euro), such prize draws are not subject to the permission of NLA. Again, if under the promotion campaign, the prizes are distributed without the organization of a draw but for instance through a contest, since there does not exist any factor of chance, such promotion campaign shall not be subject to the authority of NLA.

Despite some of the promotion mechanisms are determined as being outside of the authority of NLA, under Regulation pertaining to National Lottery Administration, Lotteries and Drawings Without a Cash Prize, it is still NLA which would determine whether the promotion including prize draw is subject to the permission of the administration or not. Due to this provision, even if the value of prize is less than 49,62 TL, promotion campaigns should be submitted to NLA.

The Administration while examining the promotion campaigns pays attention to some important points. However, it seems that the main focus of the Administration is the prevention of the prize draws with cash prize as NLA is the only entity under Turkish law which is permitted to organize prize draws with cash prize. In this respect, it is understandable that the prize draws with cash prize which may be organized by third parties other than NLA is not permissible. In this context the Administration considers that the goods such as gold, platinum, precious stones, bonds or similar things which can be converted into cash also are not permitted to be distributed as a prize in a draw.

With the consideration of preventing cash prize, the Administration also prevents the distribution of more than one prizes of the same kind. The reason behind this prohibition is that under such circumstances, the winner may use one of the prizes and sell the other thus convert the prize into cash. Actually in one of the cases, the promoter would like to launch a promotion campaign, in which there would be three winners and all the winners would get the same prize but the third winner would get only one prize, the second one would get two prizes and the first one would get three prizes of the same type. However, the Administration interpreted the situation as that a standard person in Turkey would not need three units of the same item, giving three prizes of the same type would lead the winner to sell the other two thus convert the prize into cash.

In addition to the above stated provisions, different from some of the countries, under Turkish law, it is prohibited for the ones under the age of 18 to participate any game of chance including prize draws even these may be organized for promotional purposes. Therefore, NLA while evaluating the promotion campaign, requires that the terms and conditions of the promotion should include the prohibition that the ones under age of 18 are not permitted to enter the drawing and even if they enter, they cannot win any prize.

Above some important principles of the Turkish practice in relation to promotion campaigns with prize draws are mentioned. However, as mentioned previously, due to the vague wording of the relevant legislation and the

large scope of discretion of the executives evaluating the promotion campaigns, before filing any official application, it would be safer to get a preliminary approval of the NLA