

CONDUCTING A TRADE PROMOTION IN TASMANIA

A trade promotion is a mechanism used mainly to promote a business, where a prize is offered as an incentive for customers to buy goods and/or services. A trade promotion sometimes appears to be similar to a lottery, or a raffle. However, the *Gaming Control Act 1993* makes it clear that a trade promotion is not a lottery or a raffle.

Unlike a lottery or raffle, **a trade promotion cannot have a cost of entry** (except for the ordinary cost of purchasing the goods or services, which should be the normal retail price). For example, if you decided to conduct a trade promotion on beer, you would give the customer an entry into the trade promotion prize draw each time the customer bought a beer. You cannot raise the price of beer, or any other good or service, to cover the costs of running the trade promotion.

To conduct a legal trade promotion you must offer to sell goods and/or services at the **regular price**. What goods and/or services you wish to include as part of the trade promotion is up to you.

A customer cannot simply pay to enter the draw for a prize. The customer must buy goods and/or services to enter the trade promotion. If you let a customer enter the trade promotion by any other means, such as paying to enter without buying goods and/or services, or by buying a raffle ticket, then the promotion is in all likelihood, **a lottery**.

Lotteries are illegal unless they are specifically authorised by the Tasmanian Liquor and Gaming Commission. Under section 5A of the *Gaming Control Act 1993*, the penalty for conducting an unauthorised lottery is a **fine of up to 600 penalty units** for a first offence, and a **fine of up to 1000 penalty units, or imprisonment for a term of up to 2 years or both**, for a second or subsequent offence.

The value of a penalty unit can be located at: -

https://www.justice.tas.gov.au/about/legislation/value_of_indexed_units_in_legislation

A LEGITIMATE TRADE PROMOTION MUST FOLLOW THESE STEPS:

1. A customer may enter a trade promotion only by purchasing specified goods and/or services. The person conducting the trade promotion may determine what goods and/or services entitle customers to enter.
2. The goods and/or services must be sold at the regular retail price. There should be no cost to enter the trade promotion EXCEPT the regular purchase price of goods and/or services that are part of the promotion; and
3. The winner of the promotion must be determined by chance.

If any of these rules are broken, the trade promotion may actually be an unauthorised lottery.

IT IS NOT A TRADE PROMOTION IF THERE IS A COST TO ENTER THAT IS SEPARATE FROM, OR IN ADDITION TO, PURCHASING GOODS AND/OR SERVICE.

JOKER'S JACKPOT OR JOKER POKER

A Joker's Jackpot (or Joker Poker) is a form of trade promotion. A Joker's Jackpot is where a customer purchases goods and/or services that are part of the trade promotion. By making the purchase, the customer may enter into a *primary draw*. The winner of the primary draw is determined by chance. The winner of the primary draw may then participate in the major draw.

The major draw consists of the winner of the primary draw being offered a selection of playing cards. There is only one joker included in the deck, and this is the winning card. If the participant chooses the joker, they have won the major prize. If they do not choose the joker, the losing card is permanently removed from the selection of cards offered next time the major prize draw is conducted. If a losing card is selected, then **at the end of the draw the joker should be displayed to show that the draw was fair**. Once shown, it is suggested you reshuffle the cards so that the joker is placed randomly in the selection of cards.

As cards are removed from the selection, the odds of choosing the joker increases, which serves as an incentive for people to participate in the trade promotion. In addition, the major prize may jackpot every time the joker is not picked. A Joker's Jackpot trade promotion **is legal** if it is conducted in this way. If a Joker's Jackpot is not conducted in this way, it may constitute an unauthorised lottery.

CONDUCTING A LEGAL JOKER'S JACKPOT:

1. A customer may enter a Joker's Jackpot trade promotion upon buying any specified goods and/or services. The person conducting the Joker's Jackpot trade promotion may determine what goods and/or services entitle customers to enter.
2. The goods and/or services must be sold at the regular retail price. There should be no cost to enter the trade promotion **EXCEPT** the regular purchase price of goods and/or services that are part of the promotion;
3. A Joker's Jackpot must not use a form of minor gaming (bingo, raffles etc) as a way of **entering** the promotion (for example, it is illegal to conduct a meat tray raffle, or any other raffle, as a means of entering the Joker's Jackpot);
4. The winner of the primary draw of the Joker's Jackpot trade promotion should be determined by chance; and
5. Whether or not the contestant wins the major prize draw should also be determined by chance.

WHEN DOES A JOKER'S JACKPOT BREAK THE RULES OF A TRADE PROMOTION?

If you do any of the following things when conducting a Joker's Jackpot you may be breaking the rules.

1. Charging a customer to enter the promotion. The customer can only enter the promotion by purchasing goods and/or services at the regular retail price. It is illegal to simply sell entry by itself.
2. Conducting a raffle (or other form of minor gaming) as a way of entering the Joker's Jackpot. A form of minor gaming (such as bingo, or a raffle) **cannot** be used as a way to enter the trade promotion, because it is not a good or a service in itself. A trade promotion only applies to goods and/or services not forms of minor gaming, like raffles.
3. **It is legal** to use a form of minor gaming (like bingo for example) as a trade promotion in itself, such as allowing a person to enter into a promotional game of bingo, so long as entering into the promotional game is the *result* of buying goods and/or services at the regular retail price.
4. Conducting a major draw without a joker in the selection of cards. If the contestant chooses a losing card, they should be shown that there was a joker in the selection.

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