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September 27, 2011

As was briefly discussed in the previous podcast, the FBPA contains very specific provisions and guidelines regarding promotions. According to the FBPA, a "promotion" means any procedure for the promotion of consumer transactions in which one or more prizes are distributed among consumers who are required to be present at the place of business or are required to participate in a sales presentation, or any other presentation, in order to receive the prize or to determine which, if any, prize they will receive.

A promotion must be an advertising and promotional undertaking, which is conducted for the purpose of advertising goods, services, or property of a sponsor. Notice of promotions should contain the name and address of the promoter and of the sponsor.

Where direct mail promotions are involved, each mailer must state on its face the geographic area covered by the promotion, that it is a "commercial solicitation," and the verifiable retail value of each prize which the participant has a chance of receiving. There must be information on the direct mail piece which states whether any of the prizes may be awarded to persons outside of the listed geographical area of the promotion.

The odds of a participant's receiving each prize must be stated if there is an element of chance involved. The odds must be clearly identified as "odds." The verifiable retail value and odds for each prize must be stated in immediate proximity with each listing of the prize in each place where it appears on the direct mailer and must be listed in the same size type and same boldness as the prize. At no time should the odds and verifiable retail values be listed in any manner that requires the participant to refer from one place in the direct mailer to another place in the mailer to determine the odds and verifiable retail value of the particular prize.

Remember, promotions must never entail any procedure where the receipt of the prize is conditioned upon the purchase of a specific item that the seller is trying to promote, even if such condition is clearly and conspicuously disclosed in the promotional advertising and the receipt of the prize does not involve an element of chance. Finally, you should know that under Georgia law, if the promoter fails to honor eligible participants' claims for the featured prizes or incentives, then the sponsor can be held responsible for fulfilling those obligations.

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