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Promotions in the Retail Sector – Notice to PROFECO or SEGOB Permit?

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Commercial promotions in the retail sector can be subject to regulations related to consumer protection, and in some cases, to those applicable to games and contests. In this section, we analyze some of the most common scenarios.

The Federal Consumer Protection Law defines promotions as commercial practices through which goods or services are offered to consumers with various incentives, such as providing another identical good or service for free or at a reduced price, or with the incentive to participate in drawings or contests.

In most cases, prior authorizations are not necessary to carry out promotions, with some relevant exceptions:

a. For promotions involving drawings, contests, or collectibles, it is necessary to submit a promotion notice to PROFECO (Procuraduría Federal del Consumidor) in accordance with NOM-028-SCFI-2007.

This Official Standard provides guidelines applicable to these promotions, focusing on the information that must be provided to consumers participating in the promotion.

b. In cases where **drawings** are held, broadly understood as activities for consumers where the distribution of prizes/ selection of winners depends on chance, a permit from the Ministry of the Interior is required.

c. For promotions involving **collectible** items, a notice to PROFECO is sufficient.

d. Regarding **contests**, broadly understood as promotions where prizes depend on the contestants' skill, there are contradictory interpretations regarding the need for a permit.

Regarding contests, the NOM can be interpreted to mean that a contest requires obtaining a permit issued by the Ministry of the Interior (SEGOB) under the Federal Law on Games and Contests.

On the other hand, SEGOB does not have explicit powers to issue permits in these cases. This ambiguity has led to situations where

the Federal Consumer Protection Agency (PROFECO) sometimes requires the submission of these permits in promotions where the determination of winners depends on contestants' skill rather than chance. In these cases, strictly speaking, it would only be necessary to submit a notice to PROFECO, which is free and does not require the promoter to wait for a response from the authority. In the absence of the corresponding permit, we have seen sanctions imposed on the responsible company.

In general, it is always advisable to thoroughly review the structure of promotions in the retail sector and identify possible risks arising from the authorities' criteria. We have developed solutions that allow our clients to conduct their commercial promotions in strict compliance with applicable legislation, reducing the risks of fines for not having a permit from SEGOB, while also ensuring a strong defense in case it is necessary to file an appeal.





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