

## Legal requirements for lucky draws

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Online lucky draw campaigns are becoming one of the more popular marketing tactics to promote brands and products, as consumers are attracted to the promise of free goods and services, and internet users can quickly pass along links to friends via social networking. Lucky draws or other sweepstakes-type contests have the added bonus of being easy and cheap for companies to arrange.

**THE COST OF LUCKY DRAWS**  
Permit fees vary by length of events

Licence validity	1 day	7 days	1 month	6 months	1 year
Fee (baht)	300	600	1,500	6,000	9,000

POSTgraphics

However, even though draw campaigns have become a common marketing approach, many people are unaware that if a prize draw is to be held in Thailand or if the participants are located in Thailand, it would require a licence, without which the party awarding the prize or gift could face criminal penalties.

Pursuant to Section 8 of the Gambling Act of 1935, a licence for a lucky draw is required for those who wish to arrange for complimentary gifts or prizes to be awarded, including a draw in any manner relating to business campaigns or occupations. The arrangement of a draw without a licence can result in imprisonment of up to one year and/or a fine of 2,000 baht.

In addition to the licence requirement, draw prizes must be given on a random basis and the draw must be held for business purposes. Even receiving an indirect benefit from holding a draw could be considered for commercial purposes, and the licence is still required.

The selection process for the winner must take place physically and publicly in Thailand and in the presence of witnesses; selection by a computer or other automated means is strictly forbidden. Prizes must not be illegal, be against good morals, or be harmful to the public or national security.

With these conditions as listed above, the question arises as to the practical arrangement of the draw, given that the process cannot be automated. For example, even if participants take part via Facebook or another social networking website, the organiser has to print out participants' information from the data system, put the information in a container, shuffle, and select the winner by hand.

Moreover, details of the prizes (such as the type of prize and value) must be provided to the public. Cash or cheques cannot be awarded as a substitute for the prize specified in the licence; and if the prize is valued at more than 1,000 baht, it is subject to 5% withholding tax, which will be deducted from the prize's value.

If the draw is held in Bangkok, the licence application must be submitted to the Provincial Administration Department, whereas if the activities are held outside Bangkok, the application must be submitted to the chief district officer of that locality.

The processing time for a licence application is at least 15 working days and the permit fee depends on the length of the event, as the table shows.

Once the winner has been chosen, a report specifying the details of the winner must be submitted to the department or the chief district officer of that locality, as the case may be.

In addition, advertisements for lucky draws must conform to the requirements under the Consumer Protection Act of 1979 and the ministerial regulations issued under the Act. The promotion organisers, for instance, are required to give clear information regarding the conditions of the offer, terms and conditions of the draw, entry period and ending dates of the offer, details of the prize and its value, date and time of the draw, advertising media to announce the name of the winner, etc.

Failure to include all of the above information in the advertisement will result in it being deemed as an unfair advertisement, which could be considered as violating the Consumer Protection Act, in which case the Advertising Board will take actions against the offending advertisers.

Any advertiser that does not comply with the laws and regulations mentioned above shall be liable to jail of up to six months and/or a fine of up to 50,000 baht.

Even though businesses have the freedom to carry out lucky draws, organisers should be aware that holding a draw campaign or other similar activities from which the organiser receives direct or indirect benefits, whereby the prizes will be given on a random basis without prior permission of the local authority, is illegal.

Realistically, some people break these rules as they (wrongly) believe lucky draws are unlegislated and the risk of arrest for offenders is minimal. However, if you are organising or thinking about organising a draw campaign, you should consider the above rules and regulations, as violators could be subject to criminal liabilities.