

Draft legislative proposals

Regulations on the prohibition of marketing of certain foods and beverages aimed at children

§ 1 Object

The object of these regulations is to promote health through the prevention of diet-related diseases in the population, by protecting children from harmful marketing.

§ 2 Scope

These regulations apply to the marketing of foodstuffs as described in Annex I.

These regulations also apply to Svalbard.

§ 3 Definitions

For the purpose of these regulations, the following definitions shall apply:

- a) Children: People under 18 years of age.
- b) Marketing: Any form of communication or action for marketing purposes.
Marketing purpose exists if the aim of the communication or action is to promote sales to consumers.
- c) Sponsorship: Any form of public or private contribution to an event, an enterprise or person with the purpose or the direct or indirect effect of promoting the sale of products to consumers.

§ 4 Marketing prohibition

The marketing of products covered by Annex I, aimed at children, is prohibited.

The following marketing of products covered by Annex I shall always be considered to be aimed at children:

- a) Advertising in cinemas in connection with movies that are specifically aimed at children under the age of 13, and that start before 18:30.
- b) All forms of competitions with an age limit lower than 18 years.
- c) Distribution of tastings and samples to children.
- d) Special displays that have a form of presentation, content or design that may appeal to children, for example due to language, colours, effects, use of images, use of animation or drawn characters.

When assessing whether the marketing of products covered by Annex I is aimed at children, an overall assessment shall be made, in which the following components may be considered:

- a) Whether the product is primarily consumed by or particularly appeals to children
- b) Whether the marketing has a form of presentation, content or design that may appeal to children, for example due to language, colours, effects, use of imagery, use of animation or drawn characters
- c) Time and place of the marketing
- d) Whether children or persons who may particularly appeal to children, are involved
- e) The use of gifts, toys, coupons, discounts, collectibles, contests, or games that may particularly appeal to children

Regardless of whether the marketing is aimed at children, the marketing of products covered by Annex I must not occur in a way that encourages adults to buy the product for children.

It must be taken into account that all advertising may be seen or heard by children, and special caution should therefore be exercised when marketing products covered by Annex I.

§ 5 Restrictions on the display of products at the point of sale

Products covered by Annex I shall not be displayed at points of sale in connection with other products and services that appeal to children, such as toys, children's books, games etc.

§ 6 Exemptions from the marketing prohibition

The following marketing is permitted:

- a) Sponsorship that involves only the use of the sponsor's company name and logo.
- b) The design of the product.
- c) Packaging and wrapping, unless it uses luring effects as specified in Section 4(3)(e), to encourage children to purchase products covered by Annex I, or is of such a nature that the product is secondary.
- d) Ordinary display of products at the point of sale.
- e) Sober product information on websites and in connection with the point of sale.

§ 7 Supervision and appeals

The Directorate of Health supervises these regulations and may adopt necessary decisions, cf. Section 23 of the Food Act.

Such decisions may be appealed to the Market Council.

§ 8 Coercive fines

If an enterprise fails to comply with an individual decision within the stipulated deadline, the Directorate of Health may impose coercive fines in accordance with Section 26 of the Food Act.

§ 9 Infringement fines

If an enterprise with intent or negligently breaches Section 4(1) or 4(4) or Section 5 of these regulations, the Directorate of Health may, in accordance with the conditions in Section 26a of the Food Act, impose infringement fines of up to four per cent of the enterprise's annual turnover or up to 50 G, where the highest amount constitutes the upper limit.

When deciding whether an infringement fine is to be imposed and when determining the fine, emphasis may be placed on the following factors, among others:

- a) The seriousness and duration of the infringement
- b) Degree of guilt
- c) Any previous infringements of these regulations
- d) Whether multiple persons is affected by the infringement
- e) The factors mentioned in Section 44(3) and Section 46(2) of the Public Administration Act

§ 10 Transitional period

Until *(6 months after entry into force)*, marketing measures that are covered by the prohibitions in Sections 4 and 5, but which have been implemented before the regulations enter into force, are permitted.

§ 11 Entry into force

These regulations enter into force *(date)*.

Annex I to Regulations ... on the prohibition of the marketing of certain foods and beverages aimed at children

Food and beverage categories	Product types included in the different food categories and examples	Products covered/thresholds (stated per 100 g/100 ml ready-to-eat product)
<p>1. Chocolate and sugar confectionery, energy bars and sweet toppings/spreads and desserts</p>	<p>Chocolate and sugar confectionery, including</p> <ul style="list-style-type: none"> - chocolate and other chocolate items, including dark and white chocolate and confectionery - sugar confectionery without cocoa, including jellies, boiled sweets, chewing gum, lozenges, caramels, licorice, marzipan candy <p>Energy bars, including</p> <ul style="list-style-type: none"> - nut bars, protein bars and granola and cereal-type bars <p>Sweet toppings/spreads, including</p> <ul style="list-style-type: none"> - honey and chocolate spreads, sweet nut-based spreads/butters, and other similarly sweet toppings/spreads - jam/marmalades, “prim” (soft and sweet whey-cheese) and brown cheese with added sugars or (artificial) sweeteners <p>Sweet desserts, including</p> <ul style="list-style-type: none"> - puddings, cream desserts, dessert jellies, compotes and chocolate mousse 	<p>All products are covered</p>
<p>2. Cakes, biscuits and other sweet and/or fatty pastries</p>	<p>Cakes, biscuits, and other sweet and/or fatty pastries, including</p> <ul style="list-style-type: none"> - cakes, cookies, biscuits, and baked goods such as buns, muffins, pies, pastries, croissants, donuts, sweet waffles and pancakes - dry mixes for making cakes, flour mix, batter and doughs for such products 	<p>All products are covered</p>
<p>3. Snacks</p>	<p>Popcorn Salted nuts and salted nut mixtures, also those containing fruit</p>	<p>All products are covered</p>

	<p>Savory crackers/biscuits and pretzels</p> <p>Other snacks, included</p> <ul style="list-style-type: none"> - snacks of rice or corn - snacks made from dough - snacks made of potatoes, vegetables, fruits, berries or grains, which include chips/crisps and similar products, as well as dried fruits and berries - extruded snacks 	
4. Edible ices	<p>Edible ices, also those containing cocoa, including</p> <ul style="list-style-type: none"> - cream and milk-based ice creams and plant-based substitutes, water-based ices, fruit ice creams, sorbets and frozen yoghurts. 	All products are covered
5. Energy drinks	<p>Energy drinks</p> <p>Non-alcoholic beverages containing at least 150 mg. caffeine per litre, alone or in combination with one or more other substances or plant extracts</p>	All products are covered
6. Soft drinks, cordial/squash and the like	<p>Soft drinks, cordial/squash and similar, including</p> <ul style="list-style-type: none"> - soft drinks and other similar sweet soft drinks such as fruit and berry beverages (carbonated and non-carbonated) if not covered by beverage category 7 - cordial/squash - iced tea 	All products are covered
7. Juices and similar	<p>Juices and similar, including</p> <ul style="list-style-type: none"> - juices, nectars and similar products, including smoothies (from fruit, berries or vegetables), also those reconstituted from concentrate (includes smoothies with yoghurt/milk if yoghurt/milk is not the main ingredient) - fruit and vegetable nectars 	<ul style="list-style-type: none"> - Added sugars > 0 g - Sweeteners > 0
8. Milk and plant-based	Milk and plant-based milk/beverages, including	<ul style="list-style-type: none"> - Added sugars > 0 g

beverages	<ul style="list-style-type: none"> - all types of milk and plant-based milks/beverages except fermented varieties, cf. food category 10 - milkshakes - coffee and coffee drinks containing milk or plant-based milk/beverages (in which milk or plant-based milk/beverages are the main ingredient), iced coffee 	<ul style="list-style-type: none"> - Sweeteners > 0
9. Breakfast cereals	<p>Breakfast cereals and other cereals, including</p> <ul style="list-style-type: none"> - grains, granola, muesli, dry porridge mixtures 	<ul style="list-style-type: none"> - Sugars > 12,5 g - Dietary fibre < 6 g
10. Yoghurt and similar products	<p>Yoghurt and products of fermented milk, including</p> <ul style="list-style-type: none"> - yogurt, fermented flavored milk and drinking yogurt, cheese-based yogurt imitations <p>Fermented, thickened plant-based products and other yogurt imitations</p> <ul style="list-style-type: none"> - also includes composite products, such as yoghurts with muesli 	<ul style="list-style-type: none"> - Fat > 3 g - Sugars > 10 g - Sweeteners > 0
11. Fast food and composite dishes	<p>Fast food and composite dishes</p> <ul style="list-style-type: none"> - Fast food: readily available food that is sold fully prepared, possibly heated and wrapped. Includes pizza and pizza snacks; sandwiches and wraps/rolls; hamburgers in bread; dishes with sausages; French fries; pasta dishes, prepared salads; ready meals composed of a combination of carbohydrates and either vegetables or meat/fish/legumes, or all three combined; soups; porridges (fully prepared). Includes individual components of fast food (e.g. French fries and chicken nuggets) and each product included in a fast-food menu shall meet the criteria for the relevant food/beverage category in this table. - Composite dishes: composite dishes that are ready-to-eat, frozen, refrigerated or canned (e.g. sold in grocery stores). Includes pizza, pizza snacks, sandwiches and wraps/rolls; prepared pasta dishes, stews, soups, porridges and salads; Ready meals composed of a combination of carbohydrates and 	<ul style="list-style-type: none"> - Energy > 950 kJ (225 kcal) - Saturated fat > 4 g - Salt > 1 g

	either vegetables or meat/fish/legumes, or all three combined.	
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Draft amendments to the Food Act

In Act No. 124 of 19 December 2003 on food production and food safety etc. (the Food Act), a new section 26a shall read:

§ 26 a. *Infringement fines*

The supervisory authority may impose infringement fines on enterprises that with intent or negligently violate regulations issued pursuant to Section 10(3) of the Food Act, if it is stipulated in the regulations that a violation may result in such a sanction.

If the violator is an enterprise that is part of a group, the enterprise's parent company and the parent company of the group of which the company is a part of, are liable as alternatives for the amount. The parent company's payment obligation is the basis for enforcement.

The Ministry may in regulations stipulate which considerations may or shall be taken into account when assessing whether an infringement fine shall be imposed.

The Ministry determines provisions on assessment in regulations. The Ministry may issue regulatory provisions on the payment of the infringement fine, including time limits for payment, interest rates and additional fees if the infringement fine is not paid by the time limit.

The supervisory authority's right to impose infringement fines is time-barred after 2 years. The time limit is calculated from the time the violation took place. The limitation period is suspended when the supervisory authority gives advance notice or adopts a decision of an infringement fine. The Ministry may issue further provisions in regulations on limitation periods, including derogations from the provisions on limitation periods and suspension of limitation periods for certain types of violations.