

Date 15.01.2025	Doc. No. 2023/565
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Impact assessment

General advice on the marketing of games to consumers

1. Description of the problem and what is to be achieved

The new Gambling Act (2018:1138), which entered into force on 1 January 2019, introduced a number of new rules on the marketing of games. It has emerged that the gambling industry considers that some aspects of the regulation are difficult to interpret. The Swedish Consumer Agency has therefore assessed that there is a need for guidance through general advice. Through general advice, the Swedish Consumer Agency can simplify the interpretation of the marketing rules in the field of gambling and promote a uniform application.

2. Description of alternative solutions for the stated objectives and effects if no changes are made

An alternative to general advice may be information addressed to the gambling industry, which is kept available on the Agency's website. However, the Swedish Consumer Agency considers that such information would not have the same status and weight as general advice. There is also a risk that information on the Swedish Consumer Agency's website may create ambiguities about the position the information has and its significance in relation to the laws and rules that exist in the area.

On this basis, the Swedish Consumer Agency considers that the information on the website would not provide sufficient guidance. There would probably continue to be difficulties for the industry to interpret the law.

Another alternative would have been to enter into an industry agreement with the industry. However, the gambling industry consists of a large number of operators and the Swedish Consumer Agency considers that it would be associated with major challenges to unite the parties.

3. Information concerning those affected by the regulation

The regulation will affect licence holders who offer games that are provided in Sweden.

4. Information on the costs and other impacts of the regulation and an impact comparison of the considered regulatory alternatives

Access to aggregated information and guidance should mean that the companies concerned do not have to spend as much time and resources on investigating the legal situation and interpreting the legislation. The Swedish Consumer Agency therefore considers that the production of general advice entails savings for the operators covered by the gambling regulation.

5. Assessment of whether the regulation is in line with or exceeds Sweden's obligations as a Member State of the European Union

The gambling legislation is not harmonised within the European Union, which means that the Swedish Gambling Act is not based on EU law. It is therefore for each Member State to lay down its own rules in the field of gambling, provided that its national legislation complies with the requirements of the FEU Treaty relating, inter alia, to freedom of movement. The Treaty provides for certain exceptions under which restrictions on freedom may be regarded as permissible, including restrictions imposed for the protection of public health.

The Swedish Consumer Agency's general advice relates to the Swedish gambling legislation. The Swedish gambling legislation is considered to comply with the obligations arising from Sweden's accession to the EU. Against this background, the Swedish Consumer Agency considers that the regulations are in line with the obligations arising from Sweden's accession to the EU.

6. Assessment as to whether special consideration must be given to the date of entry into force and whether special information initiatives are required

The Swedish Consumer Agency considers that it is not necessary to take any particular account of the date of entry into force of the general advice. When the general advice has been adopted and has entered into force, the Swedish Consumer Agency plans to provide information on the advice on the Agency's website and to send information to the operators affected by the advice.

7. Description of the number of enterprises affected, the sectors in which the enterprises operate and the size of the enterprises

Those affected by the advice are licensees who operate on the Swedish gambling market and target the marketing of games to Swedish consumers. The Gambling Act is based on a licensing system which means that everyone who operates on the Swedish gambling market must have a license and comply with the Gambling Act. This means that the number of licensed gambling companies operating on the Swedish market may vary¹.

8. Description of how much time the enterprises may need to adjust to the regulation and what the implications are in terms of the enterprises' administrative costs

The guidance that the advice will provide should lead to time savings for the licensees concerned. The advice should not lead to any increase in the administrative costs for companies as the regulation aims to make it easier for companies to understand and comply with the rules regarding the marketing of games. This, in turn, should mean that companies do not have to spend as much time investigating the legal situation themselves.

9. Description of any other costs the draft regulation may entail for enterprises and the operational changes enterprises may need to adopt as a result of the draft regulation

The Swedish Consumer Agency considers that the advice does not mean that companies need to make any specific changes to their operations. Moreover, the general advice is not considered to entail any specific additional costs for the enterprises concerned.

10. Description of the extent to which the regulation may affect businesses' competitive environment

In connection with the re-regulation of the gambling market, the previous monopoly model was replaced by a new system. The current regulation is based on a fragmented gambling market with one part subject to competition covering in particular commercial online gambling and betting, and another part reserved for gambling for public benefit purposes, covering in particular lotteries and bingo, as well as a part reserved for the State. Furthermore, the current gambling regulation is based on a licensing system which means that operators operating on the Swedish gambling market must have a licence issued by the Swedish

¹ <https://www.spelinspektionen.se/licensansokan/bolag-med-spellicens/>

Gambling Authority and comply with the laws and rules in this area. The purpose of the licensing system is, among other things, to channel gambling into legal alternatives where operators can operate on equal terms and are subject to the same rules. The content of the general advice now proposed makes no distinction between the competitive part versus games reserved for public benefit purposes and the State. All operators are therefore subject to the same requirements with regard to the marketing of games, unless there are express exceptions laid down by law. Against this background and in the light of the purpose of the advice - to simplify the interpretation of the rules and promote uniform application - the Swedish Consumer Agency considers that the advice should contribute to healthy competition in the Swedish gaming market.

11. Description of how the regulation may impact businesses in other respects

The Swedish Consumer Agency does not believe that the regulation will affect enterprises in other respects.

12. Description of whether special consideration should be given to small businesses when drafting the regulations

The Swedish Consumer Agency does not consider that special consideration needs to be given to small companies when drafting the advice.

13. Contact persons

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