

The Swedish Consumer Agency's Code of Statutes

ISSN 0347-8041 (print), 2003-1068 (online)
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The Swedish Consumer Agency's general advice on the marketing of alcoholic beverages and preparations similar to alcoholic beverages to consumers;

**KOVFS
2023:1**
Published
on

adopted on 27 November 2023.¹

The Swedish Consumer Agency has adopted the following general advice. This advice relates to the provisions on marketing laid down in the Alcohol Act (2010:1622) and to the Marketing Act (2008:486).

Section 1 Introductory provisions

1.1 Introduction

General advice constitutes recommendations on the application of legislation, indicating how someone may or should act in a certain respect. General advice aims to promote uniform application of a particular piece of legislation, and to encourage the development of practices. It is not, however, formally binding on those to whom the advice is aimed.

The general advice includes what is known as a decision memorandum containing, among other things, comments on the general advice.

1.2 Application

This general advice concerns application of the rules on the marketing to consumers of alcoholic beverages and preparations similar to alcoholic beverages laid down in the Alcohol Act (2010:1622), hereinafter the Alcohol Act.

The general rule is that the provisions apply when the marketing has an impact on or targets the Swedish market. An overall assessment may be made on a case-by-case basis, where, for example, language, currency and other national attributes used are relevant.

This general advice does not cover TV broadcasts and websites etc. which, under the Radio and Television Act (2010:696) and the Act (2002:562) on Electronic Commerce and Other Information Society Services, are not subject to Swedish law.

Under the Acts specified, Swedish law can be applied to marketing aimed at other Member States by operators established in Sweden.

¹ See Directive (EU) 2015/1535 of the European Parliament and of the Council of 9 September 2015 laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services.

1.3 Definitions and concepts

Alcoholic beverages means beverages with an alcohol content exceeding 2.25 % by volume.

Light beverages means beverages that are alcohol-free or have an alcohol content not exceeding 2.25 % by volume.

Preparations similar to alcoholic beverages means a preparation containing alcohol which, from the point of view of consumption, are equivalent to alcoholic beverages or can otherwise be expected to be used as intoxicants.

Marketing means advertising and other measures in the course of business activities, which are intended to promote the sale of and access to products, including a trader's actions, omissions or other measures or behaviour before, during or after sale or delivery of products to consumers or traders.

The term *commercial advertisement* is a narrower concept than marketing and advertising. In order for a representation to be regarded as a commercial advertisement, the communication must be intended to promote sales and be purely commercially related to the object, that is to say, must refer to the business activity of a trader and, for example, to a product supplied in this respect. The assessment of what constitutes a commercial advertisement may be made on a case-by-case basis, taking into account the design, presentation and, in particular, the content (on a website, for example).

Direct advertising, for the purpose of this general advice, means letterbox advertising, telemarketing or other marketing directly addressing an individual consumer including such marketing on social media.

Outdoor advertising, for the purpose of this general advice, means marketing in places to which the public has access, for example, in or near public spaces, in public means of communication, in waiting rooms or similar for public means of transport, at public sports venues, in cinemas or the like.

Section 2 The requirement for particular moderation

2.1 General information on the requirement for particular moderation

The Alcohol Act requires the principle of particular moderation to be observed in all marketing to consumers of alcoholic beverages or preparations similar to alcoholic beverages. Advertising or other marketing measures that are intrusive, pushy or that encourage the use of alcohol are prohibited.

General advice

The requirement for particular moderation covers all marketing aimed at consumers and covers all aspects of the marketing, such as the content and design of the advertising, specific marketing practices and the choice of advertising means (including packaging and labels).

Marketing should be limited to relevant facts concerning the product and its characteristics, presented as objectively as possible and without any

irrelevant elements unrelated to the alcoholic beverage or the preparation similar to an alcoholic beverage. Marketing should avoid alluding to emotions or moods.

2.2 Ban on marketing aimed at children and young people

The Alcohol Act bans marketing specifically aimed at, or depicting, children or young people under the age of 25.

General advice

Symbols or phenomena that may be associated with or appeal to children or young people must be avoided, such as environments, music, games and characters.

In order to determine whether a marketing measure is considered to be specifically aimed at children or young people, an overall assessment needs to be carried out. Both the representation itself, the product in question, as well as the context in which the marketing takes place, should be taken into account.

Marketing of alcoholic beverages or preparations similar to alcoholic beverages, which does not merely constitute passive selling of such beverages or preparations, should only take place at events, such as festivals, where the target audience or at least 70 % of the participants are expected to be over 25 years of age.

See also Section 4.2 and 4.3 on websites, etc. containing alcohol advertising.

2.3 Ban on marketing that encourages use

General advice

Persuasive or particularly active marketing is deemed to encourage the use of alcohol and must not take place.

Promotional measures in the form of gifts, competitions and discounts, etc. are also considered an indication that use of alcohol is being encouraged; see Section 6.4.

Persuasive or particularly active marketing includes: prompts to buy and claims such as ‘*Try now*’, ‘*Hurry and order now*’ or ‘*A must for the weekend*’ and similar wording.

Other non-objective information and irrelevant elements of marketing may also be deemed to encourage use and thus to be incompatible with the requirement for particular moderation. See, in particular, Section 2.6 on representation in text.

2.4 Ban on intrusive and pushy marketing

General advice

Marketing should not attract particular attention. The rendering, typography, layout, size and placement of the marketing shall be assessed in the light of the requirement for moderation.

Marketing that is a predominant element in the environment, such as an eye-catching poster or extensive product display, may not take place.

Marketing must not be carried out in a way that can be considered intrusive and/or pushy. Please refer to Section 4.5 on certain advertisements on websites and Section 6.1 on direct advertising.

2.5 Specific situations and contexts

General advice

The marketing of alcoholic beverages or preparations similar to alcoholic beverages should not be associated with violence, weapons or drugs, or with situations in which, according to a generally accepted view, there should be no alcohol consumption, such as in relation to driving, sports, pregnancy, school or work. This applies to both the design of marketing and the context in which it takes place.

Marketing should not claim or give the impression that alcohol consumption enhances physical or mental ability, promotes education or social, sexual and professional success, or solves problems such as loneliness or boredom.

Alcohol consumption, alcoholic beverages or preparations similar to alcoholic beverages should not be represented in marketing to be of particular importance during holidays or certain seasons.

2.6 Specific information on representation in text

General advice

Representation in text must meet the requirement for particular moderation under the Alcohol Act. Text should focus on providing information about the product, for example by indicating its origin, raw materials, characteristics, use or description of taste.

Value judgements, which are superfluous to an objective presentation of the relevant facts concerning the product, are incompatible with the requirement for particular moderation.

Ratings and awards indicated in a way other than in text form may be compatible with the requirement for particular moderation depending, among other things, on the nature of the rating or award and the way in which they are presented.

2.7 Specific information on representation in images

Representation in images for commercial advertisements may, in accordance with the Alcohol Act, only include a reproduction of:

1. the product or raw materials contained therein;
2. single packages; or
3. trade marks or similar signs.

General advice

The above ('image rule') applies to commercial advertisements in all media, including moving images.

As a starting point, the image rule is taken to be exhaustive and mean that images in commercial advertisements may only reproduce the elements listed in that provision.

See Sections 1.3 and 4.6 for more on the concept of commercial advertisements.

2.8 Packaging and labels

General advice

Representations in images that do not constitute commercial advertisements, for example on a packaging or label, may have content other than that specified in the image rule, provided that the image meets the requirement for particular moderation.

In particular, the relevant content of points 2.1 to 2.6 should be taken into account when designing packaging and labels.

Section 3 Marketing in periodicals, etc.

The Alcohol Act lays down special provisions on commercial advertisements in periodicals or other publications to which the Freedom of the Press Regulations apply and which, in terms of publication arrangements, are comparable to periodicals ('newspaper advertisements').

General advice

See Section 1.3 for more on the concept of commercial advertisements.

3.1 Ban on certain newspaper advertisements

The Alcohol Act bans the use of newspaper advertisements for marketing alcoholic beverages containing more than 15 % alcohol by volume.

Publications made available only at the point of sale for alcoholic beverages exceeding 15 % alcohol by volume may, however, contain newspaper advertisements for such beverages.

General advice

Publications that only are made available at the retail outlet for an alcoholic beverage should also be allowed to be sent to the consumer after being expressly ordered by the consumer. The order should indicate that the consumer is aware that the publication contains such newspaper advertisements.

3.2 Requirements for permissible newspaper advertisements

The Alcohol Act requires a newspaper advertisement for an alcoholic beverage or a preparation similar to an alcoholic beverage to be no bigger than 2 100 column millimetres (tabloid format). The advertisement must clearly indicate the alcohol content of the drink or preparation being marketed, but may not represent a high alcohol content as a positive characteristic.

The Alcohol Act stipulates that such an advertisement must also not be contrary to good practice in the context in which it takes place. The method used in the advertising must not be inappropriate with regard to the consumer. The advertisement must not contain false or misleading information about alcohol, alcohol consumption, its effects or other characteristics.

General advice

See in particular Sections 2.6 and 2.7 for more on text and image design.

3.3 Requirement for information text

The Alcohol Act requires information text on the harmful effects of alcohol to be reproduced when using newspaper advertisements for alcoholic beverages and preparations similar to alcoholic beverages. The wording to be used, and its design, are set out in the Alcohol Ordinance (2010:1636).

General advice

See Section 4.5 for more on advertising on certain websites ('online editions').

Section 4 Online marketing

4.1 General information on online marketing

General advice

For online marketing, Section 2 shall be taken into account in terms of both the technical design and the content of the marketing. Online marketing also means marketing on social media, in apps and the like.

4.2 Websites, etc. containing alcohol advertising

General advice

The marketing of alcoholic beverages or preparations similar to alcoholic beverages should only take place on websites, including apps and social media accounts, where the target audience or at least 70 % of visitors are persons over the age of 25.

Marketing that links to other sites containing alcohol advertising is allowed only on such websites etc.

When using different advertising networks and the like, the advertiser cannot evade liability in the event that the marketing leads to sites other than those mentioned above.

4.3 Age check, etc.

General advice

For websites that sell, act as an intermediary for or are primarily aimed at the marketing of alcoholic beverages or preparations similar to alcoholic beverages, it should be clearly stated on the homepage of the website that it contains advertising of alcoholic beverages or preparations similar to alcoholic beverages.

The age limit applicable to the purchase of the marketed beverages or preparations should also be clearly stated on the website.

The age of the visitor should be checked before the visitor is able to access the website's content. This check should be carried out using the best-suited, available technology.

4.4 Grocery retailers' websites

General advice

Points 4.2 and 4.3 do not apply to grocery retailers' websites which, in addition to marketing for, among other things, food products, contain only marketing for folköl-strength beer (greater than 2.25 % ABV but not exceeding 3.5 %).

4.5 Specific information on certain advertisements on websites, etc.

General advice

Advertisements designed to attract particular attention, such as pop-up and take-over ads, may not be used.

Advertisements that are to be regarded as a supplement to a periodical under the Freedom of the Press Regulations ('online edition') should be designed in accordance with the provisions on newspaper advertisements; see Section 3.

4.6 Specific information on marketing on social media

General advice

Posts on social media, published for a commercial purpose by the trader or on behalf of a trader and relating to the trader's products or activities, are an indication that the post constitutes a commercial advertisement.

If such a post in image or text, or through, for example, links or hashtags, refers to alcoholic beverages or preparations similar to alcoholic beverages, the post is usually also considered marketing for such a product. See Section 1.3 for more on the concept of commercial advertisements in general.

Commercial advertisements published in the form of posts on social media, in addition to complying with the general rules laid down in the Marketing Act (2008:486) concerning, among other things, advertising identification, must be compatible with the requirement for particular moderation and comply with the image rule (see Section 2).

Section 5 Marketing in sound radio or television programmes, etc.

5.1 Ban on commercial advertisements

The Alcohol Act bans the use of commercial advertisements in sound radio broadcasts, television broadcasts or on-demand television for marketing alcoholic beverages or preparations similar to alcoholic beverages.

General advice

See Section 7 on the likelihood of confusion.

Section 6 Specific marketing practices

6.1 Direct advertising

General advice

The general rule is that marketing alcoholic beverages or preparations similar to alcoholic beverages by direct advertising is incompatible with the requirement for particular moderation. However, following the express request of the consumer, such marketing is deemed to be permitted.

Notwithstanding the above, addressed letterbox advertising should be allowed provided that:

1. the advertising is aimed at people over the age of 25;
2. the advertising is in closed and neutral envelopes;
3. it is clear that the mailing contains alcohol advertising; and
4. the content of the mailing meets the requirement for particular moderation.

Customary direct advertising from grocery retail covering a variety of different products, for example, weekly newsletters or similar, may include the marketing of folköl-strength beer, provided that the marketing is compatible with the requirement for particular moderation.

6.2 Outdoor advertising

General advice

The general rule is that outdoor advertising of alcoholic beverages and preparations similar to alcoholic beverages is incompatible with the requirement for particular moderation.

Outdoor advertising at or in direct relation to the place where alcoholic beverages or preparations similar to alcoholic beverages are manufactured or sold should be considered permitted provided that the design is particularly moderate.

‘In direct relation’ should be understood here, for example, as a sign, poster or similar mounted on the façade or standalone sign placed within a few metres from the entrance.

See also Section 2.4 on intrusive and pushy marketing.

6.3 Specific information on distribution vehicles and similar means of transport

General advice

Individual packages, including trade marks, may be reproduced on distribution vehicles and similar means of transport for alcoholic beverages and preparations similar to alcoholic beverages.

Under certain conditions, marketing in the form of trade marks for alcoholic beverages and preparations similar to alcoholic beverages may also take place on vehicles necessary for the business of the trader, as well as equipment related to such vehicles. An overall assessment on a case-by-case basis may determine whether the use of the trade mark is permissible.

When assessing whether the use of the trade mark is permissible, account shall be taken, among other things, of how the vehicle or equipment is used, in what context it takes place and the trader’s interest in using its trade mark, in relation to the Swedish public health policy.

6.4 Promotional measures

General advice

The general rule is that the promotional measures specified below (points 6.4.1 to 6.4.5) are incompatible with the requirement for particular

moderation. However, for different measures there are exceptions to the general rule set out below.

6.4.1 Giving of gifts

General advice

The giving of gifts in connection with the marketing of alcoholic beverages or preparations similar to alcoholic beverages is not permitted. However, at a manufacturing site, trade fair or the like, a gift of insignificant value may be provided. The gift should be naturally related to the alcoholic beverage or preparation.

6.4.2 Alcoholic beverages and preparations similar to alcoholic beverages as gifts

The Alcohol Act allows a person manufacturing, selling or acting as an intermediary for the sale of alcoholic beverages or preparations similar to alcoholic beverages in the course of their business to give such beverages or preparations as gifts only in the form of samples.

The Alcohol Act does not allow alcoholic beverages or preparations similar to alcoholic beverages to be given as gifts for the marketing of services or when selling goods other than alcoholic beverages or preparations similar to alcoholic beverages.

General advice

Alcoholic beverages or preparations similar to alcoholic beverages in the form of samples may only be provided to a licence holder in accordance with the requirements of the Alcohol Act.

The giving away or offering of alcoholic beverages or preparations similar to alcoholic beverages for advertising purposes, to create goodwill or to otherwise promote sales, is not permitted. However, at openings, previews and similar events, organisers may offer alcoholic beverages.

6.4.3 Competitions

General advice

Competitions which, for example, require a consumer to purchase an alcoholic beverage or a preparation similar to an alcoholic beverage in order to participate, or competitions with such products as prizes, are not permitted.

However, a competition that does not require a purchase or does not otherwise promote the consumption of alcoholic beverages or preparations similar to alcoholic beverages may take place.

6.4.4 Quantity discounts, coupon offers or comparable offers

General advice

Discounts and comparable special offers are not permitted. However, this does not cover the usual price difference between different pack sizes, such as smaller and larger bottles, bottles and bag-in boxes, single glasses and whole bottles.

The marketing of 'happy hours' and the corresponding sales arrangements at a serving outlet shall not be designed in such a way as to entice the consumer to buy or increase their purchase of alcoholic beverages. Such arrangements should also include food dishes and light beverages.

Customary offers from grocery retail for folköl-strength beer may take place. Customary offers from grocery retail means the marketing of a

temporarily reduced price. Such marketing shall be designed in a restrained and neutral manner and shall be limited to the relevant facts relating to the product and its characteristics, presented in the most objective form and without any irrelevant elements.

Offers may not be designed in a way that entices the consumer to buy or increase their purchase of alcoholic beverages, for example by specifying ‘*Two for the price of one*’ or ‘*Buy more, save more*’ or by using marketing material that attracts particular attention to its content or design.

6.4.5 Bundling

General advice

Bundling, where the additional product is of insignificant value in relation to the alcoholic beverage, is permitted in principle, provided that the marketing measure as a whole is compatible with the requirement for particular moderation.

Bundling should be used with care and may not be designed in such a way that the consumer is enticed to buy or increase their purchase of alcoholic beverages. For example, bundling must not be designed as ‘*two for the price of one*’, ‘*special offer*’ or the like.

Marketing in the form of bundling at places where alcoholic beverages are served as part of a meal or where light beverages are offered as an alternative at the same time should be deemed permitted, provided that discounts are also applied to the food dishes and light beverages.

Section 7 Likelihood of confusion

7.1 Marketing of light beverages containing alcohol and alcoholic beverages

The Alcohol Act stipulates that the marketing of light beverages containing alcohol in commercial advertisements may not be designed in such a way that they can be confused with alcoholic beverages. However, this ban does not apply if the marketing of alcoholic beverages containing no more than 15 % alcohol by volume is permitted where the marketing of the light beverage containing alcohol takes place, or in cases where a ban would be unreasonable.

Under the Alcohol Act, marketing of alcoholic beverages containing no more than 15 % alcohol by volume may not be designed in such a way that they can be confused with beverages with a higher percentage of alcohol by volume.

General advice

Although alcoholic strength must always be apparent from the marketing, such a statement is not in itself sufficient to exclude the likelihood of confusion. On the contrary, the crucial factor here is that the content and design of the marketing, on cursory observation, does not give rise to associations with stronger alcoholic beverages.

This general advice takes effect on 1st January 2024, when the Swedish Consumer Agency’s general advice on the marketing of alcoholic beverages to consumers, KOVFS 2016:1, shall cease to apply.

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