

Impact assessment

Revised general advice on the marketing of alcoholic beverages to consumers

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

The purpose of the Swedish Consumer Agency's current general advice on the marketing of alcoholic beverages to consumers (KOVFS 2016:1) is to clarify how alcoholic beverages may be marketed and to promote uniform application of the rules on marketing alcoholic beverages. Bringing together into one document all legal sources such as the wording of the legislation, case law, explanations made in preparatory work for the legislation and, to some extent, the Consumer Agency/Consumer Ombudsman's own interpretation of the legislation, should make it easier for operators to access and understand the rules.

Since the last revision, new case-law precedents have been added in this area. The marketing provisions laid down in the Alcohol Act have been extended to include preparations similar to alcoholic beverages. In addition, it is the Swedish Consumer Agency's assessment that certain passages of the general advice need to be reworded and moved, primarily in order to make them clearer and increase accessibility for the reader. Furthermore, the structure of the general advice needs to be revised so as to follow the common structure that will be used by all general advice issued by the Agency in the future. The new structure includes the creation of what is known as a decision memorandum containing, among other things, comments on the general advice. The decision memorandum is not published in the Code of Statutes. The aim of introducing the decision memorandum is to provide further guidance and increase understanding of the general advice while refining the content of the general advice.

Against this background, it is the Swedish Consumer Agency's assessment that KOVFS 2016:1 needs to be revised.

2. Description of alternative solutions for the stated objectives and effects if no regulation is put in place

An alternative solution to general advice may be to have summary information on the Swedish Consumer Agency's website. However, it is the Swedish Consumer Agency's view that only providing information on a website or in the form of a guide does not have the same impact as collected general advice published in the Swedish Consumer Agency's Code of Statutes. Such a solution also risks creating uncertainty about the status and significance of the content.

3. Information on those affected by the regulation

Businesses and operators who market or participate in the marketing to consumers of alcoholic beverages and preparations similar to alcoholic beverages (including manufacturers, wholesalers and retailers) and local supervisory bodies (municipalities).

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

As is the case at present, the revised general advice ought to bring about savings, since simplified access to rules and information on the current legal situation should mean that businesses and supervisory bodies need to spend less time investigating the legal situation themselves and interpreting legislation.

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

The regulation goes beyond Sweden's obligations as a member of the European Union. The Swedish Consumer Agency's general advice relates to Swedish alcohol legislation. The purpose of the general advice is primarily to clarify what the principle of particular moderation means in the Alcohol Act and to promote uniform application of the rules on marketing alcoholic beverages and preparations similar to alcoholic beverages. Alcohol legislation is not harmonised in the EU and Sweden has more restrictive rules than many other Member States. However, the restrictive alcohol legislation is justified with regard to the protection of human health.

The general advice will, as a starting point, undergo the notification procedures under Directive (EU) 2015/1535 of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical regulations and of rules on Information Society services and under Directive 2006/123/EC of the European Parliament and of the Council on services in the internal market.

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 date of entry into force shall be subject to the notification procedure for technical regulations and rules on Information Society services as referred to in the preceding paragraph. Over and above this, it is not considered necessary to take particular account of the date of entry into force.

After completion, the Swedish Consumer Agency intends to provide information about and publish the revised advice on the Agency's website and to send information to trade associations and other interested parties.

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

The Swedish Consumer Agency has no information on the exact number of enterprises, but deems all manufacturers of alcoholic beverages and preparations similar to alcoholic beverages, as well as wholesalers, retailers and other licence holders under the Alcohol Act, to be affected. The scope of application and Swedish jurisdiction are set out in point 1.2 of the general advice.

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

As is the case at present, the revised advice ought to bring about time savings, since simplified access to rules and information on the current legal situation should mean that businesses and supervisory bodies need to spend less time investigating the legal situation themselves and interpreting legislation.

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 revision is not expected to entail any additional costs or require changes in operations compared to the previous situation.

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

Increased access to rules should result in fewer enterprises not complying with the regulations due to ignorance or the like, which in turn should lead to competition on a level playing field.

11. Description of how the regulation may impact enterprises 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 enterprises when drafting the regulations

The Swedish Consumer Agency does not believe it is necessary to give special consideration to small enterprises.

13. Contact persons

Emma Hedge: emma.hedge@konsumentverket.se, +46 (0)54-19 40 53

Linda Halvarsson: linda.halvarsson@konsumentverket.se, +46 (0)54-19 41 96