



EUROPEAN COMMISSION

Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Single Market Enforcement

Notification of Regulatory Barriers

Message 201

Communication from the Commission - TRIS/(2023) 2926

Directive (EU) 2015/1535

Notification: 2023/0233/S

Forwarding of the response of the Member State notifying a draft (Sweden) to comments (5.2) of European Commission.

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1. MSG 201 IND 2023 0233 S EN 14-08-2023 19-10-2023 SE ANSWER 14-08-2023

2. Sweden

3A. Kommerskollegium

3B. Regeringskansliet

4. 2023/0233/S - C50A - Foodstuffs

5.

6. Common to the points (exceptions) affected by the Commission's comment is that they regulate the marketing of folk beer by the grocery trade and deviate from what is recommended in the marketing of alcoholic beverages in general.

According to Chapter 1, Section 5 of the Alcohol Act (2010:1622), 'alcoholic beverage' means a drink with an alcoholic strength exceeding 2.25 % vol. The definition of alcoholic beverages is also set out in point 1.3 of the notified draft. According to Chapter 1, Section 8 of the Alcohol Act, beer means a beverage produced by fermentation with dried or roasted malt as the main extractive substance. For the purposes of that provision, 'folk beer' means beer with an alcoholic strength exceeding 2.25 % vol. but not exceeding 3.5 % vol.

According to Chapter 5, Sections 1 and 2 of the Alcohol Act, only the retail company, i.e. the state-owned Systembolaget Aktiebolag (Systembolaget), may engage in the retail trade of spirits, wine, strong beer and other fermented alcoholic beverages as well as alcoholic beverage-like preparations. The retail trade in folk beer may be carried out by persons other than Systembolaget under the conditions laid down in the Alcohol Act. Chapter 5, Section 5 (1)(2) states that a condition for such sale, for parties other than Systembolaget and folk beer manufacturers, is that the premises in which the sale takes place is intended for the permanent sale of food and that food is also sold there.

For the purposes of the notified draft, 'grocery trade' refers to operators that meet the requirements to trade in folk beer in connection with the sale of groceries, including food. Because, under the Alcohol Act, it is not allowed for anyone other than

Systembolaget to sell beverages with an alcoholic strength exceeding 2.25 % by volume in a form other than folk beer, the current exceptions are also limited to the marketing of specific folk beer.

Beverages of less than 2.25 % by volume are not covered by the definition of alcoholic beverages in the Alcohol Act and may therefore be sold by parties other than Systembolaget. Such beverages, including low-alcohol types of cider, are also not subject to specific marketing provisions for alcoholic beverages in the Alcohol Act, nor are they covered by the notified draft, apart from the rules on likelihood of confusion.



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