

Recommendation regarding advertising for alcoholic beverages and alcoholic light drinks

(Jointly approved by Sveriges Annonsörer, Sveriges Bryggerier, Sprit & Vinleverantörsföreningen and Sveriges Marknadsförbund)

1. Scope

This recommendation follows up on and represents an interpretation of Chapter 7 of the Swedish Alcohol Act (2010:1622) and the Swedish Marketing Act (2008:486).

The recommendation also follows up on §§ 27 and 28 of the Swedish Alcohol Statute (1994:2046).

The recommendation covers manufacturers' marketing of alcoholic drinks to consumers, with the exception of marketing that is directed directly to consumers outside Sweden or marketing that falls outside Swedish jurisdiction.

With the exception of section 9 regarding a ban on gifts, the recommendation does not cover marketing measures directed towards businesses in their capacity as producers, wholesale traders and other vendors of alcoholic drinks, for example advertising in trade journals.

Sections 12 and 13 in the recommendation also include the marketing of alcoholic light drinks.

2. Purpose

The purpose of this recommendation is to provide guidelines for the marketing of alcoholic drinks based on the Swedish Alcohol Act's requirements for special moderation with regard to the marketing of alcoholic drinks, in terms of promoting a uniform application of the regulations for the marketing of alcoholic drinks in the Swedish Alcohol Act and providing guidelines for the marketing of alcoholic light drinks so that the latter cannot be regarded as promoting the marketing of alcoholic drinks.

To a large extent, there is a lack of legal precedent with regard to both the Swedish Alcohol Act's current marketing regulations and also its predecessors. This recommendation is the industry's assessment of how the law should be interpreted, while the supervisory authorities, the Swedish Consumer Agency and the Swedish Market Court respectively, can be seen to have a different viewpoint. This is especially true for those sections where it is emphasised that the situation is unclear.

The recommendation is also applied by the Swedish Alcohol Suppliers' Inspectorate (AGM). The AGM was set up by Sveriges Bryggerier [Swedish brewers] and the Sprit & Vinleverantörsföreningen [spirit and wine suppliers' association] and its task is to monitor the marketing of alcoholic drinks.

3. Definitions

In this recommendation, the various terms - such as alcoholic drink and alcoholic light drink - have the same meaning as they have in the Swedish Alcohol Act.

Alcoholic drink means a drink with an alcohol content that exceeds 2.25 percent by volume. The alcoholic drinks beer, strong beer, wine and spirits all have the same meaning as in the Swedish Alcohol Act.

Alcoholic light drink means a drink with an alcohol content of up to 2.25 percent by volume.

The term marketing has the same meaning as in the Swedish Marketing Act. It includes, for example, all statements, regardless of medium, that have a commercial purpose and which are subject to purely commercial circumstances. Purpose and circumstances generally refer to statements regarding the manufacturers' business activities or products supplied in that respect.

4. Fundamental principles for the marketing of alcoholic drinks

In accordance with Section 7 (1) of the Swedish Alcohol Act, particular moderation should be applied with regard to the marketing of alcoholic drinks to consumers. Advertising and other marketing measures may not be insistent, intrusive or encourage the use of alcohol.

Marketing may not be directed towards or depict children or young people who have not yet reached the age of 25.

4.1 Marketing content and design

The requirement for the use of particular moderation applies to all marketing of alcoholic drinks aimed at consumers. As far as the stipulations below are concerned, for example restrictions on images or text, they also apply to all such marketing regardless of where it happens.

The requirement for particular moderation also covers the choice of advertising carrier (media), the content and design of the specific marketing methods.

Certain types of advertising carrier (media) and marketing methods can be perceived as insistent or intrusive and thus infringe the regulations in the Swedish Alcohol Act. However, legal precedent is lacking to a certain extent and the assessment is therefore unclear – see the following sections 5 – 7.

Marketing may not, through its design, or the context in which it occurs, be associated with situations where alcohol consumption should not occur according to generally accepted views.

The assessment of whether marketing is designed in such a way as to attract children or young people shall be based on an overall assessment. This means that the actual products being marketed, the manufacturer's design in its entirety and, not least, the context in which the marketing occurs shall be taken into consideration. Symbols or facts that can be connected especially with or which attract children or young people under the age of 25 may not be used. This may have particular significance with marketing on the internet for example, where visitors in their turn can distribute links further. The owners of sites have a

degree of responsibility for downstream dissemination of marketing.

The marketing of alcoholic drinks in periodicals and newspapers, on the internet (incl. social media) and in other digital media as well as on radio and TV channels (where this is permitted) may only occur in cases where at least 70% of the recipients of the information are 25 or over.

The alcoholic strength of the product should always be indicated.

4.2 Advertising images

According to the Swedish Alcohol Act, images in commercial advertisements for alcohol may only show the product, or the raw materials included in the product, individual packaging or trademarks and other comparable distinctive marks.

The restrictions regarding descriptions in images apply to all commercial advertisements for alcohol regardless of the media, for example flyers, newspaper advertisements, posters and on the internet (incl. social media sites). Advertising images that are not (part of) commercial advertisements for alcoholic drinks should not be included, see section 5 for more details.

.

4.3 Advertising text

The text must give a factual, balanced and reliable portrayal of the marketed alcoholic drink – for example its origins, raw materials, characteristics and use.

Value statements, assessments and testimonials shall be used with caution and in accordance with the Swedish Marketing Act's and the ICC's basic regulations for advertisements. Information from reviews shall be meaningful, balanced and up to date.

The text may not describe situations where it is dangerous or inappropriate to use alcohol.

5. Advertising on the internet

Particular moderation in accordance with section 4 above shall also be applied with regard to marketing on the internet. This applies, for example, to the technical wording and the content of the advertisement in terms of text and images.

There is a lack of legal precedent as to whether image limitations always apply to a company's entire website or not. However, general opinion suggests that this isn't the case but this should be clarified further in each individual case with regard to the wording, presentation and, in particular, the entire content of the respective pages. Otherwise, there is relatively little material available regarding the internet and alcohol advertisements in practice or in the Act's preparatory work. The recommendation in this section is therefore not comprehensive but provides some important aspects that should be taken into consideration.

5.1 Marketing on own website (homepage)

On the first page of the website, it shall be clearly indicated that the website includes the marketing of alcoholic drinks. On those pages containing the marketing of alcoholic drinks, the age limit applicable for the purchase of the marketed drinks shall be clearly indicated. Prior to entering the website, active age verification shall be required.

Products and trademarks should be kept separate from images that contain more than the product etc. This applies in particular to the page visitors are taken to directly after the registration page and to target pages from banners or similar.

It can be assumed that pages that are solely about the company and which contain no marketing for individual alcoholic drinks are not covered by the image limitations as there is no marketing of alcoholic drinks on these pages. However, this assessment is uncertain.

On individual pages of the website that do not contain any marketing for alcoholic drinks, except for advertisements for water and soft drinks, there may be links leading to pages containing marketing for alcoholic drinks. It must also be clearly indicated that the link leads to such marketing.

5.2 Marketing on other websites (homepage)

The following also applies in addition to the statements in section 5.1.

In the case of advertisements on or via a website other than the advertiser's website, account should be taken of the website's main target group and especially of the ages of people in this group.

Marketing shall not be included on websites where less than 70% of the actual visitors are aged 25 or older. Nor shall there be marketing on such websites by means of links to websites with advertisements for alcohol.

When using advertising networks and similar, it is the responsibility of the advertiser to ensure that marketing does not end up on websites falling under the preceding sections.

In terms of the design of marketing, particular attention should be paid to the website's target group and main emphasis. For example, pop-up advertisements or similar advertisements should only appear on websites where the target group actively seeks or can be expected to find alcohol advertising.

5.3 Marketing on websites covered by the Swedish Freedom of the Press Act (for example, daily newspapers, websites etc.)

In addition to the above, such advertisements may only refer to alcoholic drinks with a maximum alcohol content of 15% and there must also be a warning text (information text), as is the case with printed advertisements (see section 11 below).

5.4 Social media etc.

All the regulations that apply in general also apply to social media. Note in this respect the requirement to identify advertisements and state the transmitter in the ICC's basic regulations for advertising and in the Swedish Marketing Act and that those who advertise also have a responsibility regarding how the advertisement is disseminated.

6. Direct advertising

In many cases, direct advertising can be regarded as intrusive and insistent and therefore contravenes the principal regulations contained in section 4 above. However, legal precedent is completely lacking and there is considerable uncertainty as to how to apply the Swedish Alcohol Act's marketing regulations to direct advertising. Under the conditions indicated here, however, direct advertising is most likely acceptable. At the same time, it should also be highlighted that the supervisory authority will most likely hold a different opinion.

The content of the advertisement shall be designed in accordance with the requirement for particular moderation stated in section 4 above.

6.1 Unaddressed direct mail (ODR)

The only acceptable unaddressed direct mail in this context is standard advertising from food retailers. If such advertising includes a number of different goods, it may contain the marketing of beer and alcoholic light drinks

6.2 Addressed direct mail (ADR)

Addressed direct mail that is not expressly requested by the recipient shall fulfil the following requirements.

- The advertising may only be sent to people who have reached the age of 25.
- The advertising shall be distributed in such a way that active participation of the recipient is required to study its contents. It shall therefore be distributed in a sealed envelope and opaque outer packaging.
- It must be clear from the outer packaging that the letter contains alcohol advertising.
- Before using the direct mail method, the NIX register and other relevant blocks to advertising must be respected. The same applies to the provisions of the Swedish Marketing Act regarded unsolicited mail. This means that direct mailings sent by e-mail, SMS, MMS and other similar methods require the prior approval of the individual recipient.

Direct mail expressly requested by the recipient may be sent on the condition that at the time of the order the latter declares he/she has reached the age at which he/she can buy the advertised alcoholic drinks.

7. Advertising in the public domain – outdoor advertising, advertisements on and in connection with sales outlets, distribution vehicles and similar

7.1 Outdoor advertising

The Swedish Alcohol Act contains no explicit prohibition of outdoor advertising. But alcohol advertising in public places can on many occasions be regarded as intrusive and insistent and in contravention of the principal regulations contained in section 4 above. Most recent practice shows that the space available for such outdoor advertising that is not in direct connection with sales or manufacturing outlets can be regarded as very limited.

The content of advertisements shall be designed with consideration given to the requirement for particular moderation as stated in section 4 above. However, particular moderation in connection with outdoor advertising and similar acquires a more rigid interpretation than in many other contexts. The assessment must take into account all the circumstances – for example

- the location of the advertising (see details regarding certain locations below)
- the design and wording of the advertising
- the type of alcoholic drink being advertised.

The placement of advertising for alcoholic drinks with regard to the following generally risks infringing on the requirement for particular moderation and should therefore not occur

- on public transport or where public transport picks up passengers,
- at hospitals or other care institutions,
- at public sports grounds and other public arenas, or
- in or around premises primarily intended for or frequented by young people under the age of 25.

Advertising may be located on vehicles used for sales or distribution of alcoholic drinks.

7.2 Advertising at sales outlets, production outlets etc.

The placement of advertising for alcoholic drinks in connection with production or sales outlets for alcoholic drinks should be acceptable. Advertising shall be placed in or in the immediate vicinity of the premises. The fundamental requirement for particular moderation as stated in section 4 must always be taken into consideration. The advertising must not be designed in such a way that it forms a dominant element of the environment.

In the case of advertising for service outlets where alcoholic drinks are marketed without a trademark being specified, for example by means of expressions such as “a pint” or “drink of the week” with price information, the special regulations contained in sections 11.1 and 11.2. below do not apply. However, the basic requirement for particular moderation in accordance with section 4 shall be taken into account.

In the case of advertising for service outlets where alcoholic drinks are marketed together with the stating of one or more trademarks for alcoholic drinks, the special regulations contained in sections 11.1 and 11.2 below shall be taken into consideration as well as the basic requirement for particular moderation as stated in section 4 above.

8. Special marketing methods

Some marketing methods (sales promotion) can in many cases be regarded as insistent and intrusive and urge purchasing. For this reason they risk violating the marketing regulations contained in the Swedish Alcohol Act. Legal precedent is lacking to a large extent and some types of special marketing methods have been accepted under certain circumstances.

All the prevailing circumstances must be taken into account in the assessment – for example, the target group the offer is directed towards, in what context it occurs, and the design and presentation of the offer. The presentation must be worded with regard to the fundamental requirement for particular moderation as stated in section 4 above. Both the design and the content of an offer can in certain cases be regarded as especially enticing to people under the age of 25 or as constituting an incentive to increase purchasing and consumption of alcoholic drinks. The same applies to the presentation. This may not occur.

Taking into account the previous section, the following special marketing methods can be used if the conditions indicated are observed.

- Competition:

- There shall be no obligation for participants to purchase
- Winnings cannot be in the form of alcoholic drinks.

- Gifts:

- Can be distributed at trade fairs, visits to production sites for alcoholic drinks or similar
- The value of the gifts shall be low and may not be in the form of alcoholic drinks.

- Combination offer:

- Alcoholic drinks can be accepted as additional products if the drink represents a part of the meal and alcohol-free alternatives are offered at the same time.
- In conjunction with the purchase of alcoholic drinks, additional products can be offered at no extra cost or at a special price if the value is in reasonable proportion to the price of the alcoholic drink. Additional products which are obviously valuable and luxurious risk neglecting the requirement for particular moderation.
- Sports-related additional products risk being in contravention of the moderation requirement

Volume discounts, trading stamps and similar can be accepted only in the following context

- Happy hour or similar at restaurants with a serving permit for the alcoholic drink in question
- The sale of medium-strong beer within the framework of standard pricing activity in the food industry.

9. Ban on gifts etc.

In accordance with section 7 (2) of the Swedish Alcohol Act, it is not permitted to provide alcoholic drinks as gifts in conjunction with the marketing of services or other goods. However, anyone who produces, sells, or arranges the sale of alcoholic drinks in his/her business may provide such drinks as gifts only in the form of samples.

Samples may only be given to licence holders (restaurant owners, wholesalers etc.) who are entitled to purchase the product directly from the person who provides the sample and only with a view to the recipient assessing the product in question. Samples may also be given to drinks journalists as part of their journalistic activity.

10. Commercial advertisements on the radio or TV programmes

In accordance with section 7 (2) of the Swedish Alcohol Act, it is forbidden with regard to the marketing of alcoholic drinks to use commercial advertisements on the radio or TV programmes, including such TV broadcasts via satellites covered by the Radio and TV Act (2010:696).

11. Commercial advertisements in periodicals (newspaper advertisements)

11.1 Design and wording of advertisements

In accordance with section 7 (4) and (5) of the Swedish Alcohol Act, alcoholic drinks with a maximum alcohol percentage by volume of 15 may be marketed, under certain conditions, to consumers through commercial advertisements in periodicals or other publications for which the Freedom of the Press Act is applicable and which are comparable with periodicals with respect to the system of publication.

The requirement for particular moderation as stated in section 4 applies as a fundamental principle even here.

It is also the case that

- only alcoholic drinks with a maximum alcohol percentage by 15 may be advertised
- the advertisement may be no bigger than 2,100 column millimetres – i.e. tabloid format
- the announcement may not contravene good practice in terms of the context in which it appears, or use methods that are unsuitable in terms of the intended consumers.

Marketing shall not appear in periodicals where less than 70% of the actual readership is 25 years or older.

11.2 Information texts

In accordance with section 7 (7) of the Swedish Alcohol Act, such advertisements as indicated in 11.1 above shall include a stipulated “information text”. With recurring advertisements, different information texts shall be used alternately and if possible of a similar size.

The information texts to be used are defined in the Swedish Alcohol Statute (1994:2046). Different texts must be used in the advertisements over time. This applies to both repeated campaigns for a certain product, as well as advertisements issued by a specific advertiser. Information texts shall also be included in newspapers distributed at sales outlets for alcoholic drinks if it is a periodical publication or one comparable with such.

The following information texts have been stipulated in accordance with section 27 of the Swedish Alcohol Statute:

- Alcohol can damage your health.
- Alcohol is addictive.
- Alcohol can cause nerve and brain damage.
- Alcohol can cause liver and pancreas damage.
 - Alcohol can cause cerebral haemorrhaging and cancer.
- Every second driver who dies in single-car accidents is intoxicated.
- Half of all victims of drowning have alcohol in their blood.
- Drinking alcohol and working at the same time increases the risk of accidents.

- Alcohol consumption during pregnancy can damage your unborn child.
- Children who are given alcohol at home get drunk more often than other children.
- Starting to drink at an early age increases the risk of alcohol problems.

In accordance with section 28 of the Swedish Alcohol Statute, the information text shall

- be printed in Helvetica font and in bold type,
- be printed with a font size which means that the text covers the largest possible proportion of the area reserved for it,
- be depicted in black on a white background,
- be centred in the area where the text is to be printed,
- be surrounded by a black border that does not encroach on the area reserved for the information text,
- cover at least 20% of the advertisement's area, and
- be placed horizontally and in a way that makes it easy to read.

12. Indirect advertising

In accordance with section 7 (3) of the Swedish Alcohol Act, marketing in commercial advertisements directed towards consumers and which concern alcoholic light drinks may not be confused with the marketing of alcoholic drinks.

In accordance with the same regulation, marketing in commercial advertisements directed towards consumers and which concern alcoholic drinks containing a maximum alcohol content by volume of 15 percent may not be confused with marketing for alcoholic drinks containing more than 15 percent alcohol by volume.

However, the regulation above regarding the marketing of alcoholic light drinks does not apply in the event of this being unreasonable.

There are no legal precedents and the regulation is rather unclear and therefore difficult to interpret. However, the following can be stated about its content.

According to the regulation, the marketing of alcoholic light drinks may not be worded in such a way that it constitutes advertising for alcoholic drinks (indirect advertising for alcoholic drinks). The same applies to the marketing of alcoholic drinks containing a maximum alcohol content by volume of 15 percent, which may not be worded so that the advertisement constitutes an advertisement for alcoholic drinks with a higher alcohol content. Information regarding the alcohol strength is not in itself sufficient to eliminate the risk of confusion. Instead, the decisive factor is that a cursory reading of the content and wording of the marketing does not indicate association with drinks with a higher alcohol content.

13. Alcoholic light drinks

The marketing of alcoholic light drinks may not be directed specifically towards or depict children or young people who have not yet reached the age of 25.

An overall assessment is crucial as to whether the marketing shall be considered to be specifically directed at children or young people. Symbols or facts that can be especially enticing for children or young people shall be avoided in particular. When assessing whether

the marketing is worded to attract children or young people, the description itself, the product in question and the context in which it appears shall all be taken into consideration.

The marketing must not, through its wording or the context in which it appears, be connected with situations where alcohol consumption must not occur in accordance with general conventions.

It must be clear from the advertisement that it concerns alcoholic light drinks.

In all advertisements, the drink's alcohol content and designation, for example low-alcohol beer, class I, low-alcohol cider or light drink, must occur at least once and in such a way that the whole message can easily be read/perceived. The trademark, in the case of a spoken message or a message in the form of a song, must be immediately followed by clarification that an alcoholic light drink is being referred to by stating the name, for example the drink's alcohol content, the name low-alcohol beer, class I, low-alcohol cider or light drink.

The advertisement must not:

- create associations between consumption of drinks with a higher alcohol content or their intoxicating effect.
- include words, jokes, images etc. that associate the drinks with higher strengths of alcohol.
- include a disparaging assessment of alcohol-free drinks.
- imply that sexual prowess is stimulated by the consumption of alcohol.

As indicated in section 12 above, the advertisement may not be confused with an advertisement for alcoholic drinks.

Adopted in 2011 by:

Anders Ericson
Sveriges Annonserer

Cecilia Giertha
Sveriges Bryggerier

Erika Nylander
Sprit- och Vinleverantörsföreningen

Jan Fager
Sveriges Marknadsförbund