

Full title of regulation	<p><b>KOVFS 2023:1</b></p> <p>Published December 5, 2023</p> <p>The Swedish Consumer Agency's general guidelines on the marketing of alcoholic beverages and alcohol-like preparations to consumers; KOVFS 2016:1. Issued on November 27, 2023.</p> <p>The Swedish Consumer Agency issues the following general guidelines. These are in line with the marketing provisions in the Alcohol Act (2010:1622) &amp; the Marketing Act (2008:486).</p>
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Title of section	All: 1 to 7 inclusive
<b>Section 1 Introductory provisions</b>	
Introductory provisions	<p><b>1.1. Introduction</b></p> <p>General guidelines is a recommendation on the application of a statute that sets out how someone can or should act in a particular respect. General guidelines aim to promote uniform application of a particular statute and is intended to contribute to the development of practice, but is not formally binding on the person to whom the advice is addressed.</p> <p>General guidelines incorporate a 'decision memorandum' that includes, among other things, general advice comments.</p> <p><b>1.2 Application</b></p> <p>These general guidelines pertain when applying the rules on marketing alcoholic beverages and alcoholic beverage-like preparations to consumers in the Alcohol Act (2010:1622), hereinafter referred to as the Alcohol Act.</p> <p>The provisions apply as a general rule when the marketing impacts, or is aimed at, the Swedish market. An overall assessment may be made in individual cases, where, for example, language, currency and other national characteristics used are important.</p> <p>The general guidelines do not cover television broadcasts and websites etc., which, according to the Radio and Television Act (2010:696) and the Act on Electronic Commerce and Other Information Society Services (2002:562), are not subject to Swedish law.</p> <p>Provisions in the specified laws means that Swedish law can be applied to marketing that actors established in Sweden direct to other member states.</p> <p><b>1.3 Definitions and concepts</b></p> <p><i>Alcoholic beverage</i> refers to a beverage with an alcohol content exceeding 2.25 percent by volume.</p> <p><i>Soft/light drink</i> refers to drinks that are non-alcoholic or have an alcohol content of no more than 2.25 percent by volume.</p> <p><i>Alcoholic beverage-like preparations</i> refers to alcoholic preparations that, in a consumption context, are comparable to alcoholic beverages or can otherwise be perceived to be used as intoxicating agents.</p> <p><i>Marketing</i> refers to advertising and other measures in business activities that are intended to promote the sale and availability of products, including a trader's actions, omissions or any other action or behaviour before, during or after the sale or delivery of products to consumers or traders.</p> <p>The concept of <i>commercial advertisement</i> is narrower than marketing and advertising. For a presentation to be considered a commercial advertisement, the message must be intended to promote sales and to have a purely commercial relationship to the subject matter, i.e. relate to the business activities of a trader and, for example, a product provided therein. The</p>

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assessment of what constitutes a commercial advertisement may be made in each individual case, taking into account the design, presentation and, above all, the content (on, for example, a website).

In these general guidelines, *direct marketing* refers to mailbox advertising, telemarketing or other marketing that is directly addressed to an individual consumer, including such marketing in social media.

In these general guidelines, *outdoor advertising* refers to marketing in places to which the public has access, for example in or near a public place, on public transport, in waiting rooms or similar for public transport, on public sports grounds, at cinemas or the like.

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## Section 2 The requirement for special moderation

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The requirement for special moderation

### 2.1 General information about the requirement for special moderation

According to the Alcohol Act, special moderation must be observed in all marketing of alcoholic beverages or alcoholic beverage-like preparations to consumers. Advertising or other marketing measures that intrude, solicit, or encourage the use of alcohol are prohibited.

#### *General advice*

The requirement for special moderation covers all marketing directed at consumers and covers all aspects of marketing, such as the content and design of advertising, specific marketing methods and the choice of advertising media (including packaging and labels).

Marketing should be limited to relevant facts about the product and its properties, presented in as factual a form as possible and without extraneous elements unrelated to the alcoholic beverage or alcoholic beverage-like preparation. Marketing should avoid appealing to emotions or moods.

### 2.2 Prohibition of marketing directed at children and young people

According to the Alcohol Act, it is prohibited to specifically target marketing to, or depict, children or young people who have not turned 25 years old.

#### *General advice*

Symbols or experiences that can be associated with or attract children or young people should be avoided, for example, settings, music, games and characters.

To determine whether a marketing measure is considered to be specifically targeted at children or young people, an overall assessment needs to be made. The presentation itself, the product in question, and the context in which the marketing occurs should be taken into account.

Marketing of alcoholic beverages or alcoholic beverage-like preparations, which does not consist solely of passive marketing of such beverages or preparations, should only occur at events, such as festivals, where the target group or at least 70% of the participants are estimated to be over 25 years of age.

See also sections 4.2–3 regarding websites etc. which include alcohol advertising.

### 2.3 Prohibition of pervasive marketing

#### *General advice*

Pervasive or particularly aggressive marketing is thought to encourage the use of alcohol and must not occur.

Sales promotions in the form of gifts, competitions and discounts, etc. are also considered to encourage the use of alcohol; see section 6.4.

Pervasive or particularly aggressive marketing refers to, among other things, encouragement to purchase and messages such as "*Try now*", "*Hurry up and order*" or

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"*Essential for the weekend*" and similar structures.

Other unsubstantiated and unjustified information and elements in marketing may also be considered as encouragement to consume and thus not compatible with the requirement for special moderation. See in particular section 2.6 on presentation in text.

## **2.4 Prohibition of intrusive and pervasive marketing**

### *General advice*

Marketing should not attract special attention.

The formatting, typography, layout, size and placement of the marketing should be assessed against the background of the moderation requirement.

Marketing that constitutes a dominant feature of the environment, such as a conspicuous poster or extensive product display, must not occur.

Marketing may also be placed such that it may be considered intrusive and/ or pervasive. Review section 4.5 on certain advertising on websites and section 6.1 on direct marketing.

## **2.5 Special situations and contexts**

### *General advice*

Marketing of alcoholic beverages or alcohol-like preparations should not be associated with violence, weapons or drugs, or with situations in which, according to general perception, alcohol consumption should not take place, for example in traffic, sports, pregnancy, school or work. This applies to both the design of the marketing and the context in which it occurs.

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

Alcohol consumption, alcoholic beverages or alcoholic beverage-like preparations should not be presented in marketing as being of particular importance during holidays or seasons.

## **2.6 Specifically about presentation in text**

### *General advice*

The presentation in text must meet the requirements of the Alcohol Act for special moderation. Text should focus on providing information about the product, for example information about origin, raw materials, properties, use or description of taste.

Value judgments, which are irrelevant to a factual presentation of appropriate facts about the product, are incompatible with the requirement of special moderation.

Ratings/grades and awards that are stated in a manner other than in text form may be compatible with the requirement for special moderation depending, among other things, on the nature of the grades or awards and how they are presented.

## **2.7 Specifically about presentation in visuals**

According to the Alcohol Act, presentation in images via commercial advertisements may only include a representation of:

1. the product or raw materials included in the product,
2. individual packs, or
3. the trademark or comparable characteristic.

### *General advice*

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

As a starting point, the image rule is considered to be exhaustive and means that images in a commercial advertisement may only contain a representation of that which is listed in the provision.

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Regarding the concept of ‘commercial advertisement,’ see sections 1.3 and 4.6.

## **2.8 Packaging and labels**

### *General advice*

A representation in a picture that does not constitute a commercial advertisement, for example on packaging or labels, may have content other than that stated in the image rule, provided that the image meets the requirement for special moderation.

In particular, the applicable content under points 2.1–2.6 should be taken into account when designing packaging and labels.

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## **Section 3 Marketing in periodicals etc.**

The Alcohol Act contains special provisions regarding commercial advertisements in periodicals or other publications to which the Freedom of the Press Ordinance applies and which, with regard to the procedure for publication, are comparable to periodicals (“newspaper advertisement”). *General advice:* Regarding the concept of ‘commercial advertisement,’ see section 1.3.

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### Marketing in periodicals

#### **3.1 Prohibition of certain newspaper advertisements**

According to the Alcohol Act, it is prohibited to use newspaper advertisements when marketing alcoholic beverages that contain more than 15% ABV. However, publications that are provided only at the point of sale for alcoholic beverages exceeding 15% ABV may contain newspaper advertisements for such beverages.

#### *General advice:*

Publications that are only available at points of sale for alcoholic beverages should also be allowed to be sent to consumers upon explicit order from the consumer. The order should indicate that the consumer is aware that the publication contains such newspaper advertisements.

#### **3.2 Requirements for permitted newspaper advertisements**

According to the Alcohol Act, a newspaper advertisement for an alcoholic beverage or an alcoholic beverage-like preparation may not be larger than 2100 column -millimetres (tabloid format). The advertisement must clearly state the alcohol content of the beverage or preparation being marketed, but may not present a high alcohol content as a positive characteristic.

According to the Alcohol Act, such an advertisement must not be contrary to good practice in the context in which it appears. The advertising method must not be inappropriate with regard to the consumer.

The advertisement must not contain false or misleading information about alcohol, alcohol consumption, the effects of alcohol or other properties.

#### *General advice*

See in particular sections 2.6 and 2.7 regarding text and image design.

#### **3.3 Requirements for information text**

According to the Alcohol Act, information text about the harmful effects of alcohol must be reproduced when using newspaper advertisements for alcoholic beverages and alcohol-like preparations. The texts to be used and their design are stated in the Alcohol Ordinance (2010:1636).

#### *General advice*

See section 4.5 regarding advertising on certain websites (“online editions”).

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## **Section 4 Internet Marketing**

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#### **4.1 General information about internet marketing**

##### *General advice*

When marketing on the internet, section 2 must be taken into account with regard to both the technical design and the content of the marketing. Marketing on the internet also refers to marketing on social media, apps and the like.

#### **4.2 Websites etc. that include alcohol advertising**

##### *General advice*

Marketing of alcoholic beverages or alcohol-like preparations should only take place on websites, including apps and social media accounts, where the target audience or at least 70% of visitors are people over 25.

Only on such websites etc. should marketing that leads via links to websites with alcohol advertising occur.

When using different advertising networks and the like, the advertiser cannot evade responsibility in the event that the marketing ends up in places other than those specified above.

#### **4.3 Age verification etc.**

##### *General advice*

For websites that sell, distribute or are primarily focused on marketing alcoholic beverages or alcoholic beverage-like preparations, it should be clearly stated on the website's home page that it contains marketing of alcoholic beverages or alcoholic beverage-like preparations.

The website should also clearly state the age limit that applies to the purchase of the marketed drinks or preparations.

The visitor's age should be verified before the visitor is given the opportunity to access the website's content. This verification should be done using the most appropriate and available technology.

#### **4.4 Grocery retailer websites**

##### *General advice*

Sections 4.2–4.3 do not cover grocery retailers' websites that, in addition to marketing for, among other things, food, only contain marketing for folk/ craft beer.

#### **4.5 Specifically about certain advertisements on websites etc.**

##### *General advice*

Ads that are designed to attract special attention, such as pop-up and takeover ads (*Note: where a single advertiser's message essentially replaces the entire background and all available ad spots on a webpage*), may not be used.

Advertisements considered to be supplements to a periodical according to the Freedom of the Press Ordinance ("online edition") should be designed in accordance with the provisions on newspaper advertisements, see section 3.

#### **4.6 Specifically on social media marketing**

##### *General advice*

Posts on social media that have been published for a commercial purpose by the trader or on behalf of a trader and that relate to the trader's products or activities are, as a starting point, to be considered a commercial advertisement.

If such a post refers to alcoholic beverages or alcoholic beverage-like preparations in images or text, or through links or hashtags, for example, the post is generally considered to also be

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	<p>marketing such a product. Regarding the concept of commercial advertising in general, see section 1.3.</p> <p>In addition to general rules in the Marketing Act (2008:486) regarding, among other things, advertising identification, commercial advertisements published in the form of posts on social media need to be compatible with the requirement for special moderation and also follow the image rule (see section 2).</p>
<b>Section 5 Marketing in audio radio or television programmes, etc.</b>	
Marketing in audio radio or television programmes, etc.	<p><b>5.1 Prohibition of commercial advertisements</b></p> <p>According to the Alcohol Act, it is prohibited to use commercial advertisements in audio radio broadcasts, television broadcasts or on-demand television when marketing alcoholic beverages or alcoholic beverage-like preparations.</p> <p><i>General advice</i></p> <p>See section 7 on risk of confusion.</p>
<b>Section 6 Special Marketing Methods</b>	
Special Marketing Methods	<p><b>6.1 Regarding direct marketing</b></p> <p><i>General advice</i></p> <p>The main rule is that it is incompatible with the requirement of special moderation to market alcoholic beverages or alcoholic beverage-like preparations, through direct marketing. However, such marketing is considered permissible after an explicit request from the consumer.</p> <p>Notwithstanding the above, addressed letterbox advertising should be permitted provided that:</p> <ol style="list-style-type: none"> <li>1. the advertisement is aimed at people over 25 years of age;</li> <li>2. the advertisement is conveyed in sealed and neutral envelopes;</li> <li>3. it is clearly stated that the item contains alcohol advertising, and</li> <li>4. the content of the item meets the requirement for special moderation.</li> </ol> <p>Customary direct mail from the grocery trade covering a number of different products, such as weekly newspapers or similar, may contain marketing of folk/craft beer, provided that the marketing is compatible with the requirement for special moderation.</p> <p><b>6.2 Regarding outdoor advertising</b></p> <p><i>General advice</i></p> <p>The main rule is that outdoor advertising of alcoholic beverages and alcoholic beverage-like preparations is incompatible with the requirement for special moderation.</p> <p>Outdoor advertising that takes place at or in direct proximity to a location where alcoholic beverages or alcoholic beverage-like preparations are manufactured or sold should be considered permitted provided that the design is especially moderate.</p> <p>Direct proximity should be understood to mean, for example, a sign, poster or similar mounted on a facade or an unattached sign placed within a few metres of the entrance.</p> <p>See also section 2.4 on intrusive and pervasive marketing.</p> <p><b>6.3 Especially regarding distribution vehicles and similar means of transport</b></p> <p><i>General advice</i></p> <p>On distribution vehicles and similar means of transport for alcoholic beverages and alcoholic beverage-like preparations, individual packages, including product characteristics,</p>

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may be reproduced.

Marketing in the form of trade marks for alcoholic beverages and alcoholic beverage-like preparations may, under certain conditions, also occur on vehicles that are necessary for the business carried out by the trader, as well as equipment belonging to such vehicles. An overall assessment of the individual case may determine whether the use of the trade mark is permitted.

When assessing whether the use of the trademark is permitted, consideration must be given to, among other things, how the vehicle or equipment is used, the context in which it occurs, and the trader's interest in using their trademark, in relation to Swedish public health policy.

## **6.4 Sales promotions**

### *General advice*

The main rule is that the sales promotion measures listed below (sections 6.4.1 – 6.4.5) are not compatible with the requirement for special moderation. However, there are exceptions to the main rule for various measures, which are listed below.

### **6.4.1 Distribution of gifts**

#### *General advice*

It is not permitted to give out gifts in connection with the marketing of alcoholic beverages or alcoholic beverage-like preparations. However, a gift of insignificant value should be permitted at a manufacturing site, trade fair or similar.

The gift should have a natural connection with the alcoholic beverage or preparation.

### **6.4.2 Alcoholic beverages and alcoholic beverage-like preparations as gifts**

According to the Alcohol Act, anyone who manufactures, sells or mediates the sale of alcoholic beverages or alcoholic beverage-like preparations in their business may only give away such beverages or preparations as gifts in the form of samples.

According to the Alcohol Act, it is also not permitted to give alcoholic beverages or alcoholic beverage-like preparations as gifts when marketing services or when selling goods other than alcoholic beverages or alcoholic beverage-like preparations.

#### *General advice*

Alcoholic beverages or alcoholic beverage-like preparations in the form of product samples may only be given to the licensee in accordance with the requirements of the Alcohol Act.

It is not permitted to give away or offer alcoholic beverages or alcoholic beverage-like products for advertising purposes, to create goodwill or to otherwise promote sales. However, organisers may offer alcoholic beverages at openings, vernissages (previews) and similar events.

### **6.4.3 Competitions**

#### *General advice*

Competitions that, for example, require a consumer to purchase an alcoholic beverage or an alcoholic beverage-like preparation to participate, or competitions with such products as prizes, are not permitted.

However, a competition that is not associated with required purchase or that otherwise promotes the consumption of alcoholic beverages or alcoholic beverage-like preparations may occur.

### **6.4.4 Quantity discount, coupon or comparable offer**

#### *General advice*

Discounts and comparable offers are not permitted. However, this does not include the

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usual price difference between different packaging sizes, such as smaller and larger bottles, bottles and bag-in-box, single glasses and whole bottles.

Marketing of "Happy hour" and similar sales arrangements at a place of service may not be designed in a way that is intended to entice the consumer to purchase or increase their purchase of alcoholic beverages. Such arrangements should also include food and light drinks.

A customary offer from grocery stores for folk/ craft beer may occur.

A customary offer from the grocery store refers to the marketing of a temporarily reduced price. Such marketing should be designed in a restrained and neutral manner and limited to relevant facts regarding the product and its properties, presented in as objective a form as possible and without extraneous elements.

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

#### **6.4.5 Combination offers**

##### *General advice*

Combination offers where the additional product has an insignificant value in relation to the alcoholic beverage are generally permitted, provided that the marketing measure as a whole is compatible with the requirement for special moderation.

Combination offers should be used with caution and must not be designed in a way that entices the consumer to purchase or increase their purchase of alcoholic beverages. For example, a combination offer must not be designed as "*two for the price of one*", "*on sale*" or similar.

Marketing of combination offers at a restaurant where the alcoholic beverage is part of the meal and a soft drink is also offered as an alternative should be considered permitted, provided that a discount is also applied to the dish and the soft drink.

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### **Section 7 Risk of confusion**

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#### **Risk of confusion**

#### **7.1 Marketing of alcoholic soft drinks and alcoholic beverages**

According to the Alcohol Act, the marketing of alcoholic soft/light drinks in commercial advertisements may not be designed in such a way that it can be confused with alcoholic beverages. However, the ban does not apply if marketing of alcoholic beverages containing a maximum of 15% alcohol by volume is permitted where the marketing of the alcoholic soft/ light drink occurs, or in cases where a ban would be unreasonable.

According to the Alcohol Act, marketing of alcoholic beverages containing a maximum of 15% alcohol by volume may not be designed in such a way that it can be confused with beverages with a higher ABV percentage.

##### *General advice*

Although the alcoholic strength should always be stated in the marketing, such information should not in of itself be sufficient to prevent a risk of confusion. What is key should instead be that the content and design of the marketing do not, upon cursory inspection, give rise to associations with higher-alcohol beverages.

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These general recommendations will come into force on 1 January 2024, when the Swedish Consumer Agency's general recommendations on the marketing of alcoholic beverages to consumers, KOVFS 2016:1, will cease to apply.

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