

This translation is unofficial. The applicable guidelines are anyway those in the original Swedish version

<https://www.konsumentverket.se/globalassets/publikationer/produkter-och-tjanster/reklam-och-marknadsforing/vagledning-marknadsforing-sociala-medier-konsumentverket.pdf>

Full title of law or regulation	Marknadsföring i sociala medier / Marketing in social media Vägledning / Guidelines
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| Checklist | If your post contains marketing, you must: <ul style="list-style-type: none">• Tailor the post so that the reader immediately understands that it is advertising• Position the advertising identifier prominently• State who is behind the marketing• Adapt the post for particularly vulnerable people, such as the sick, children and young people, if they are likely to be involved with the post• Commit to no more than you can undertake |
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Summary	Posts that have both a commercial purpose and content are marketing and are covered by the rules of the Marketing Act.
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The Marketing Act requires that an average consumer in the target group can immediately identify marketing in social media. The recipient should also be able to trust that the marketing is honest and not misleading. It is therefore important to tailor the marketing so that it is understood by the recipient. It is also important to adapt it to groups who are especially vulnerable, such as those in poor health, children and young people, who may be particularly influenced by the marketing.

It is both the company that sells the product(s) and others that help to market them that are responsible for compliance with the rules of the Marketing Act. An Influencer is thus responsible for the advertising material that is published in the Influencer's social media channels.

Personal opinions or marketing?	Freedom of speech is a right in the Swedish constitution. This means that everyone is free to give information and express thoughts, opinions and feelings, and it does not matter if that is in speech, writing, image or in any other way.
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The only thing that can limit freedom of expression is other laws. The Marketing Act (2008: 486) is an example of such a law.

The Marketing Act contains rules on how companies receive and may not market their goods and services. Marketing means the actions of a company before, during or after the sale of a product to a private individual. The term thus covers more than, for example, a classic advertisement in a newspaper.

In order for marketing to be covered by the rules of the Marketing Act, the purpose of the marketing and its content is to be commercial. The purpose should therefore be to sell

products and the content should refer to the company's business or the products being sold.

Personal views intermingled with marketing

Sometimes social media channels can contain both marketing and personal views about products.

Posts or sections of posts containing personal reviews of products whose sole purpose is to express their own opinion are protected by freedom of expression. There may also be posts or parts of posts of similar form, but where the purpose is to sell or create an interest in the products and thus increase demand for them, then it's marketing.



Is this post advertising? It can sometimes be very difficult to tell the difference if there are no clear identifiers.

Promotional mailings

Companies sometimes send out products to Influencers with the hope of getting positive reviews in their social media channels. As with all marketing, the purpose is to determine whether a post is marketing or a post that is protected by freedom of expression.

If there is a requirement for service in return, such posts will be marketing and are subject to the rules of the Marketing Act. It can also be considered to be marketing if a company makes systematic and repeated mailing of products to an Influencer who then writes about the products in their channels.

There are many factors that determine whether a post is marketing or personal opinion. If it is difficult to establish, for safety it may be best to identify the post (as marketing).

Unauthorized marketing

The average consumer

The Marketing Act is based on how the average consumer perceives the marketing. The average consumer is determined by individual circumstances. Factors that may be significant are, for example, the type of product or service the marketing relates to. The target group is also important. Different target groups may perceive the same marketing in different ways.



The average consumer is expected to be normally attentive and reasonable, but to lack in-depth knowledge of the products being marketed. Social, cultural and linguistic knowledge

may have an impact on what the average consumer can expect to understand.

The consumer will often glance at marketing, or look at it/ read it quickly, and is therefore primarily influenced by the overall impression. Clear and prominent headlines, logos, statements and images can therefore have a considerable impact on how the average consumer perceives the marketing.

A deciding factor in whether or not marketing is permitted is how it affects the average consumer. If the marketing is misleading and affects the average consumer's ability to make an informed business decision, it is not allowed. An example might be when a follower clicks on a link about lights as they are going through the post in the belief that it is an influencer's own views on the light, when it is in fact advertising.

Especially vulnerable consumers

Some people find it difficult to review marketing from a critical standpoint.

People who are young or old, for example, or who have some kind of disability, may be particularly receptive to certain messages in the marketing and thus particularly vulnerable.

If the marketing risks affecting in particular a vulnerable consumer group, the assessment of that marketing is made on the basis of an average consumer in this group. For example, if marketing might have a special impact on children, then the assessment of the marketing is based on how it is perceived by an average child.



Please note that when it comes to marketing to children, it is at all times forbidden directly to encourage the child to buy, or persuade their parents or other adults to buy, the promoted products.

Advertising identification and distributor declaration

It should be immediately and clearly stated that the content is marketing. If not, it is so-called hidden marketing, which is not permitted. This applies to all media, such as newspapers, radio and social media. It should also be clear who is behind the marketing, i.e. whether it is the influencer him/ herself or a separate company that sells the product. Influencers' social media channels often contain both personal opinions and marketing. In channels where the messages are intermingled, it is particularly important to be clear about what is marketing so that the reader can quickly discern which is which.

Advertising identification

Advertising identification can be done in different ways. In social media, however, it is required to state explicitly that the post contains marketing. The information should be immediately understood by the average consumer.

Users of social media will often scroll through a flow of text and images then to stop at what arouses interest, such as particular images. Therefore, the advertising identification must especially stand out in what is already quick scrolling, so that the average consumer can immediately see it. It is not sufficient to announce at the end of the post that it contains

marketing.

Posts can be perceived differently depending on who sees them. It is therefore important that marketing is adapted to the average consumer's ability to distinguish marketing from other content. Below are some examples of how advertising identification might look. The law does not say exactly how a post should be marked, but the important thing is that the recipient immediately understands that it is advertising.



Here we see two examples of how an influencer can advertise their content.

1) The photo has a clear stamp in the corner and the post starts with "Advertising for..."

2) The blog post uses other colours, a different font and a coloured banner that says that the post is "Advertising for..."

Examples of advertising identifiers that may be insufficient:

- Too far down in the post
- Near the screen edge
- Small font
- Unclear use of colour
- Close to an eye-catching image
- Smaller than other text

One important thing to keep in mind is to use words in advertising identifiers that the reader understands. Such a word can be, for example, "advertising". It is not clear enough to use "# co-operation" or "in collaboration with".



Another important thing to keep in mind is that posts may look different depending on what the recipient is using for the device and where the post is being published. For example, a blog post on a computer may look different than if the recipient shares it via their mobile phone or tablet. It is therefore important that posts in social media are adapted to different devices.

Misleading marketing

The Marketing Act prohibits misleading marketing. Among other things, marketing can be misleading if it includes false claims about a good or service. It can also be the highlighting of properties of the product that do not exist, for example that a dietary supplement provides a stronger immune system or helps one to lose weight when it does not.

Marketing can also be misleading if it gives the wrong impression of something. The same applies if important information about the product is omitted in the marketing. For certain types of goods and services, for example in the financial field, there are specific rules that certain information must be provided in connection with marketing.

Health and environmental marketing

Particularly high standards of proof are placed on marketing related to health and the environment. Marketing of health products may affect people who are especially receptive to this type of message, such as those who want to be healthy. It is therefore particularly important that the recipient can trust that the content of the marketing is correct.

Marketing that contains vague environmental claims such as "environmentally friendly", "sustainable" or "green" must contain an explanation of why the product is just that. Such an explanation must be in direct connection with the claim. If there is no explanation, there must be evidence that the entire life cycle of the product is what is claimed, otherwise the marketing is misleading.

Responsibility

Both the company that sells the product, the influencer or anyone else who contributes to the marketing, must be able to prove that the marketing is correct. They also have a responsibility to make it clear that posts contain marketing. Thus, it is not only the company that ultimately sells the product that is responsible for the marketing. An influencer is also subject to the provisions of the law and may be liable. This applies whether it is the influencer's own products or another company's.

If the rules of the Marketing Act are not followed, those responsible for marketing can be prohibited from continuing with it. If they violate the prohibition, they may be required to pay a fine.

Without marketing important information, those responsible can be forced to add such information to the marketing. If the marketing is not supplemented with such information, those responsible can be required to pay a fine.

If violations are serious, those responsible may be required to pay a special fee to the state, a so-called market disruption charge. Such a fee varies between SEK 10,000 and 10,000,000.
