

# Recommendation on advertising for alcoholic beverages and low-alcohol beverages

(Jointly adopted by the Association of Swedish Advertisers, Brewers of Sweden, Swedish Spirits and Wine Suppliers and Swedish Marketing Federation)

## 1. Scope

This recommendation is associated with and serves as an interpretation of chapter 4, sections 8–13 of the Swedish Alcohol Act (1994:1738) and the Swedish Marketing Practices Act (1995:450). It addresses the merchant's marketing of alcoholic beverages to consumers. The recommendation is also consistent with sections 27 and 28 of the Alcohol Ordinance (1994:2046).

Items 12 and 13 in the recommendation also apply to marketing of low-alcohol beverages.

With the exception of item 9 on the Ban on Gifts, the recommendation does not cover marketing measures aimed at merchants in their capacity as manufacturers, distributors, or other vendors of alcoholic beverages, such as in advertising in trade publications.

This recommendation does not cover marketing aimed at consumers outside of Sweden or marketing that falls outside Swedish jurisdiction.

## 2. Purpose

The purpose of this recommendation is to provide guidance for marketing of alcoholic beverages based on the requirements of the Swedish Alcohol Act that alcoholic beverages should be marketed with particular moderation, to promote standard application of the regulations for marketing of alcoholic beverages in the Swedish Alcohol Act, and to provide guidance for marketing low-alcohol beverages so that this cannot be considered to encourage marketing of alcoholic beverages.

There is essentially no judicial practice under either the Alcohol Act's current marketing regulations or its predecessor. The recommendation is the industry's assessment of how the Act should be interpreted, but the regulatory authority, the Swedish Consumer Agency and the Swedish Market Court may prove to have different opinions, especially with reference to those items noting that the situation is uncertain.

## 3. Definitions

In this recommendation, different concepts such as alcoholic beverages and low-alcohol beverages have the same meaning as in the Alcohol Act.

## 4. Basic principle for all marketing of alcoholic beverages

Under chapter 4, section 8 of the Alcohol Act *particular moderation* shall be observed when marketing alcoholic beverages to consumers. Advertising or other marketing measures that are *obtrusive or can be considered a form of solicitation* or that *encourage the consumption of alcohol* may not be undertaken. Moreover, marketing may not *be aimed particularly towards or depict children or young people under the age of 25*.

#### **4.1 Marketing content and design**

The requirement for particular moderation applies to all marketing of alcoholic beverages to consumers, and includes choice of media, content and design of the advertisement, along with special marketing methods.

Certain types of media and marketing methods may be perceived as obtrusive or as a form of solicitation and are therefore in conflict with the Alcohol Act. However, there is essentially no judicial practice and the assessment is therefore uncertain – see the following items 5 – 8.

Marketing may not, through its design or the context in which it appears, be associated with situations in which, according to generally recognized opinion, alcohol consumption should not occur.

The assessment of whether marketing is designed to attract children or young people shall be based on an overall assessment. This means that the marketed product itself, the design of the presentation in its entirety and especially the context in which it occurs shall be considered. Symbols or phenomena that can particularly be linked with or attract children or young people under the age of 25 may not be used.

Alcoholic strength must always be specified.

#### **4.2 Advertising images and text**

The regulations for particular moderation in chapter 4, section 8 of the Swedish Alcohol Act must be taken into account when designing images and text. Images and text must give an objectively balanced and reliable presentation of the marketed alcoholic beverage – e.g., its origin, raw materials, properties and use. Special restrictions apply for images in advertisements in periodicals (see item 10 below) and in outdoor advertising, etc. (see item 7 below).

Value statements and testimonials shall be used with caution and under the Marketing Practices Act and ICC, International Code of Advertising Practice. Information from reviewers must be meaningful, balanced and relevant.

Images and text may not describe situations where it is dangerous or inappropriate to consume alcohol.

### **5. Online Marketing**

There are a few short and not particularly enlightening statements in the preliminary studies for the marketing regulations of the Alcohol Act that address online marketing, but there is absolutely no judicial practice pertaining to such marketing. The recommendation in this item is not comprehensive but reflects a few important points to consider.

Particular moderation in both technical design and the content of the advertisement regarding text, image and type of media under item 4 above shall be considered with online marketing.

### **5.1 Marketing on own website**

The first page of the website shall clearly state that the site contains marketing of alcoholic beverages. Those pages that contain marketing of alcoholic beverages shall clearly specify the age limit that applies for purchasing the marketed beverages.

Individual pages of the website that do not contain marketing of alcoholic beverages but, for example, advertising for water and soft drinks, may have links that lead to other pages with marketing of alcoholic beverages. It must be clearly apparent that the link leads to such marketing. An active verification of age is required for access to the website.

### **5.2 Marketing on someone else's website**

When advertising on or via a website that belongs to someone other than the advertiser, consideration must be taken to the website's main target group and especially to the age of the people in the target group.

Marketing shall not take place on websites whose main target group or actual visitors can be assumed to mainly consist of people under the age of 25. Nor may marketing linked to websites with advertising for alcoholic beverages appear on websites with such a target group.

When using different advertising networks or similar outlets it is the advertiser's responsibility to ensure that marketing does not appear on websites in accordance with the preceding paragraph.

Design of marketing shall particularly take into account the target group and focus of the website. For example, pop-up ads or similar advertising may only occur on websites where the target group actively searches for or can be expected to find alcohol advertising.

### **5.3 Marketing on websites covered by the Freedom of the Press Act (e.g., online newspapers, etc.)**

In addition to item 5.2 above, advertisements for alcoholic beverages in an online newspaper or periodical that constitutes an "online version" of a printed periodical or other printed matter for which the Freedom of the Press Act applies shall be designed in accordance with the special regulations that apply for advertising in the printed publication – see item 10 below.

## **6. Direct advertising**

In many cases direct advertising may be considered obtrusive and a form of solicitation and therefore would be in conflict with the main rule under item 4 above. However, there is no judicial practice and considerable uncertainty as to how the Alcohol Act's marketing regulations should be applied to direct advertising, though under the terms specified here direct advertising should be acceptable.

The content of the advertising must be formulated in accordance with the requirement for particular moderation under item 4 above.

## **6.1 Unaddressed direct advertising (UDA)**

The only unaddressed direct advertising that is acceptable is the usual mailbox advertising from the food industry. When such advertising includes several different goods it may contain marketing of beer and low-alcohol beverages.

## **6.2 Addressed direct advertising (ADA)**

Addressed direct advertising that was not clearly ordered by the recipient must meet the following requirements.

- The advertisement may only be sent to people over the age of 25.
- The advertisement must be distributed in such a way that it requires the recipient to actively intervene to read the contents. It must therefore be distributed in closed envelopes and opaque external packaging.
- The external packaging must clearly indicate that the mailing contains alcohol advertising.
- The relevant NIX database and other relevant advertising blocks must be respected for the direct advertising method used. The same applies to the provisions of the Marketing Practices Act on unsolicited advertising, under which direct advertising by e-mail, SMS and MMS and other similar methods require the advance approval of the individual recipient.

Direct advertising that was explicitly ordered by the recipient may be sent on condition that this person at the time of the order stated that he or she is old enough to buy the alcoholic beverages referred to in the advertisement.

## **7. Advertising in public places – outdoor advertising, advertising in and in connection to sales outlets, distribution vehicles and similar**

The Alcohol Act does not include any explicit prohibition against outdoor advertising. However, alcohol advertising in public places may in many cases be considered obtrusive and a form of solicitation and would therefore be in conflict with the main rule under item 4 above. Although there is no judicial practice, advertising related to sales outlets for alcoholic beverages is acceptable to some extent. However, it is highly questionable whether any attempts to maintain a general ban on other types of outdoor advertising by virtue of the basic requirement for particular moderation would be compatible with the EU law.

The content of the advertising must be formulated taking into consideration the requirement for particular moderation under item 4 above. However, particular moderation in conjunction with outdoor advertising and similar initiatives should be given a stricter content than in many other contexts. In such evaluations all circumstances must be taken into consideration – e.g.,

- placement of the advertisement (see separate information about certain placements below)
- design of the advertisement (see separate information about restrictions of images below)
- the type of alcoholic beverage that the advertisement is for

In general, placement of advertising for alcoholic beverages as described below risks being in conflict with the requirement for particular moderation and must therefore not occur

- on public transportation or at waiting areas for public transportation,
- on or by hospitals or other healthcare facilities,
- at public sports fields and other public arenas, or

- in or in connection with premises mainly intended for or visited by young people under the age of 25.

Placement of advertising for alcoholic beverages in connection with retail outlets for alcoholic beverages should be acceptable. However, pictures should only show:

- the item, or raw materials included in it
- individual packs of the item – several types of packs including various multi-packs that can be purchased by the consumer may be shown (maximum of one of each may be shown)
- brand or equivalent mark

Advertising may be used:

- on vehicles used for sale or distribution of alcoholic beverages
- on or in immediate connection with the production site and
- in premises where alcoholic beverages may be sold or in immediate connection to such premises

The basic requirements of particular moderation must be observed in such cases.

## **8. Special marketing methods**

In many cases, special marketing methods may be considered obtrusive, a form of solicitation and constitute encouragement to purchase. They are therefore at risk of being in conflict with the marketing regulations of the Alcohol Act. However, there is no judicial practice and a few types of special marketing methods have been accepted under certain circumstances.

In an assessment all circumstances must be considered – e.g., the target group of the offering, the context in which it occurs, the design and presentation of the offering. The design of the presentation must take into account the basic requirements for particular moderation under item 4 above. Both the design and content of an offering can in some cases be considered to be particularly attractive to people under the age of 25 or constitute encouragement to increased purchase and consumption of alcoholic beverages. The same applies to the presentation. This may not occur.

Taking the previous paragraph into account, it should be possible to use the following special marketing methods if the specified conditions are observed.

- Contest:
  - No purchase may be required to participate
  - The prize may not include alcoholic beverages.
- Free gifts:
  - May be handed out at trade shows, visits at manufacturing sites for alcoholic beverages or similar; the same applies to medium-strength beer at sales outlets for such beer.
  - The recipient must have actively shown an interest in alcoholic beverages
  - The value of the gift must be low
- Combination offers:
  - Alcoholic beverages may be accepted as extra items if the beverage is part of a meal and a non-alcoholic alternative is offered at the same time.
  - When purchasing alcoholic beverages extra items may be offered at no additional charge or at a special price if the value is in reasonable proportion to the price of the alcoholic beverage. There is a risk that markedly expensive and luxurious extra items would entail

neglect of the requirement for particular moderation.

- Quantity discounts, discount offers on certain brands and similar are only acceptable in the following contexts
  - Happy hour or similar at restaurants licensed to serve the alcoholic beverage in question
  - With the sale of medium-strength beer within the scope of traditional price campaigns in grocery stores.

## **9. Ban on gifts, etc.**

Free samples may only be given to holders of the appropriate license (restaurant owners, wholesalers, etc.), who are entitled to buy the product directly from the person providing the sample and only for the purpose of allowing the recipient to evaluate the product in question. Samples may also be given to beverage journalists in and for their journalistic activities.

## **10. Commercial advertising in periodicals**

### **10.1 Design of the advertising**

Under chapter 4, section 11a of the Alcohol Act, alcoholic beverages that contain a maximum of 15 percent alcohol by volume, under certain specified conditions, may be marketed to consumers through commercial advertisements in periodicals or other publications covered by the Freedom of the Press Act and which in terms of publication are comparable with periodicals.

Even here, the requirements for particular moderation under item 4 are basic principles. However, the requirements under section 11a for these advertisements are more specific and in-depth. They entail the following:

- only alcoholic beverages with a maximum of 15 percent alcohol by volume may be advertised
- images may only show
  - the item, or raw materials included in it
  - individual packs of the item – several types of packs including various multi-packs that can be purchased by the consumer may be shown (maximum of one of each may be shown)
  - brand or equivalent mark
- the advertisement may not be larger than 2100 column millimetres – i.e., tabloid format
- the advertisement may not be in conflict with good practice because of the context in which it occurs, or use methods that are inappropriate considering the consumer

### **10.2 Information texts**

Under chapter 4 section 11c of the Alcohol Act, such advertisements as are referred to in section 11a (i.e., item 10.1 above) shall contain an approved "information text". In repeated advertising the different information texts shall be used interchangeably and if possible to an equally large extent.

The information texts to be used can be found in the Alcohol Ordinance (1994:2046). Over time different texts must be included in the advertisements, both in repeated campaigns for a specific item and in advertisements from a specific advertiser. Information texts must also be included in publications distributed in sales outlets for alcoholic beverages if they are periodicals or equivalent.

Under section 27 of the Alcohol Ordinance the following information texts are approved:

- Alkohol kan skada din hälsa. (Alcohol can damage your health.)
- Alkohol är beroendeframkallande. (Alcohol is addictive.)
- Alkohol kan orsaka nerv- och hjärnskador. (Alcohol can cause nerve and brain damage.)
- Alkohol kan orsaka skador på lever och bukspottskörtel. (Alcohol can damage the liver and pancreas.)
- Alkohol kan orsaka hjärnblödning och cancer. (Alcohol can cause cerebral hemorrhages and cancer.)
- Varannan förare som omkommer i singelolyckor i trafiken är alkoholpåverkad. (Every other driver who dies in a single-vehicle accident is under the influence of alcohol.)
- Hälften av alla som drunknar har alkohol i blodet. (Half of all people who drown have alcohol in the blood.)
- Alkohol i samband med arbete ökar risken för olyckor. (Alcohol in connection with work increases the risk of accidents.)
- Alkoholkonsumtion under graviditeten kan skada barnet. (Alcohol consumption during pregnancy may harm the child.)
- Barn som får alkohol hemma dricker sig berusade oftare än andra barn. (Children who are given alcohol at home get drunk more often than other children.)
- Att börja dricka i tidig ålder ökar risken för alkoholproblem. (Starting to drink at an early age increases the risk of alcohol problems.)

Under section 28 of the Alcohol Ordinance the information text must

- be printed in Swedish
- be printed in Helvetica in bold face,
- be printed in a font size that allows the text to cover the biggest possible portion of the field reserved for it,
- be printed in black ink on a white background,
- be centered on the surface where the text is printed,
- be surrounded by a black frame that does not infringe on the area reserved for the information text,
- cover at least twenty percent of the area of the advertisement, and
- be positioned horizontally and in a way that makes it easy to read

### **10.3. Marketing places where alcohol is served (restaurant and bar advertisements) in partnership with alcohol vendors**

In advertising for places licensed to serve alcoholic beverages, such beverages may be marketed without specifying brand, e.g., through expressions such as "large strong beer" [*stor stark*] or "drink of the week" with price information; the special rules under items 10.1 and 10.2 above do not apply. However, the basic requirements of particular moderation under item 4 above must be observed.

When advertising for places that serve alcoholic beverages, such beverages may be marketed with reference to one or more brands of alcoholic beverages. In addition to the basic requirements for particular moderation under item 4 above, the special rules under items 10.1 and 10.2. above must also be observed.

## **11. Commercial advertising in radio or TV programs**

Under chapter 4 section 10 of the Alcohol Act, when marketing alcoholic beverages it is prohibited to use commercial advertisements in radio or TV programs, including satellite broadcasting that is covered by the Swedish Radio and TV Act (1996:844).

## **12. Indirect advertising**

Under chapter 4 section 11 b of the Alcohol Act, when marketing low-alcohol beverages involving commercial advertising aimed at consumers, such marketing may not be presented in such a way that the public might confuse it with marketing of alcoholic beverages.

Under the same provision, marketing in commercial advertisements aimed at consumers for alcoholic beverages containing less than 15 percent alcohol by volume must be formulated so that it cannot be confused with marketing of alcoholic beverages that contain more than 15 percent alcohol by volume.

The above provision about marketing low-alcohol beverages shall not be applied if this should be unreasonable.

The marketing regulations of the previous Swedish Alcohol Act did not contain any equivalent to this provision. Consequently, there is no judicial practice and the provision is rather unclear and therefore difficult to interpret. However, the following can be said about its content.

Under the provision, marketing of low-alcohol beverages shall not be marketed so that beverages with higher alcohol content are marketed simultaneously (indirect advertising for such beverages). Under the same provision, marketing of alcoholic beverages containing less than 15 percent alcohol by volume must not be formulated in such a way that it is marketing alcohol beverages with higher alcohol content. Information about alcohol strength is not in itself adequate to avoid a possible risk of confusion. Instead, the determining factor is that on a fleeting glance, the content and design of the marketing must not inspire associations with stronger alcoholic beverages.

According to statements in the preparatory work for legislation the ban does not apply to the usual marketing of beer and low-alcohol beverages from retailers. The ban applies to radio and TV advertising as well as to other contexts in which all alcohol advertising or advertising for stronger alcoholic beverages is not permitted.

## **13. Low-alcohol beverages**

Marketing for low-alcohol beverages may not be targeted at or depict children or young people under the age of 25.

An overall assessment is pivotal for whether marketing shall be considered as specially aimed at children or young people. Symbols or phenomena that can be particularly linked with or attract children or young people must especially be avoided. When evaluating whether marketing is designed to attract children or young people, the presentation in itself, the product in question and the context in which they occur must be taken into account.

Marketing may not be associated, through its design or the context in which it appears,

with situations in which alcohol consumption should not occur according to generally recognized opinion.

It shall clearly be apparent that the advertising pertains to low-alcohol beverages.

In all advertising the alcohol content of the beverages and the designation such as lowalcohol beer, class I (i.e. no more than 2.25% alcohol by volume), low-alcohol cider or lowalcohol drinks must occur at least once and in such a style that it can easily be read/perceived in its entirety. In messages that are spoken or sung, the brand shall immediately be followed by clarification that low-alcohol beverages are involved, followed by the beverage's alcohol content, the designation of low-alcohol beer, class I, low-alcohol cider or low-alcohol drinks.

The advertisement may not:

- create associations to consumption of beverages with a higher alcohol content or its intoxicating effects.
- contain words, jokes, images, etc., that are associated with beverages that have a higher alcohol strength.
- contain disparaging opinions of non-alcoholic beverages.
- suggest that sexual ability is stimulated by consumption of alcohol.

As stated in item 12 above, the advertisement may not be designed in such a way that it could be confused with advertising for alcoholic beverages.

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