

**Full title of law or regulation** Recommendation regarding the marketing of alcoholic beverages, alcoholic soft drinks and indirect alcohol advertising

Jointly adopted by Sweden's Advertisers, Sweden's Breweries and the Liquor & Wine Suppliers Association. This is an unofficial GRS translation.

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**Title of relevant section**

1. Introductory provisions on scope and purpose
2. Definitions and the Recommendation's scope of application
3. Where marketing of alcoholic beverages may occur
4. How the marketing of alcoholic beverages should be designed
5. Sales promotion measures when marketing alcoholic beverages
6. Alcoholic soft drinks and indirect alcohol advertising

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## Section 1

### Introductory provisions on scope and purpose

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**1.1 Background, purpose and compliance, etc** The current Swedish alcohol advertising regulations were introduced in 1979 with, among other things, a requirement for special moderation. There are also general rules that cover all marketing in the Marketing Act, as well as other regulations from the EU regarding e.g. health claims for foods.

Historically in Sweden, the advertising rules have been broadly designed and since the 1960s the Swedish business community has had clarifying rules and recommendations for marketing. These have constituted and still constitute an expression of good business practice. In the first Marketing Act from 1971, the requirement to follow good business practice was already stated and that is also evident in the law that applies today.

The recommendation regarding the marketing of alcoholic beverages and alcoholic soft drinks (the Recommendation) shall similarly provide guidance for the marketing of alcoholic beverages based on the requirements placed on their marketing. The recommendation shall further promote a uniform application of these rules. The recommendation has a corresponding purpose regarding alcoholic soft drinks and in the case of indirect

alcohol advertising, in particular so that such marketing cannot be considered to constitute marketing of alcoholic beverages.

The recommendation also aims to ensure that the marketing of alcoholic beverages and alcoholic soft drinks as well as indirect alcohol advertising aimed at Swedish consumers follows good business practice.

The recommendation is the business community's interpretation of the regulations, but it may happen that the supervisory authority Konsumentverket/ KO or the court may in some cases make a different assessment. The recommendation is an expression of good business practice in Sweden.

The Recommendation was adopted in its first version on February 17, 2006. It has subsequently been revised in June 2011 and in June 2018. In the 2022 version, a new section has been added on the Recommendation's scope of application.

In order to comply with the Recommendation, Sweden's Breweries and Liquor and Wine Suppliers Association have established the self-regulatory programme Alkoholgranskningssystemen (AGM).

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**1.2 Structure of the recommendation** Section 2 specifies definitions and when the Recommendation applies. In section 3, it is further specified where alcohol advertising may or may not appear. Sections 4–5 provide information on how the marketing of alcoholic beverages should be designed and what applies to so-called sales promotions such as competitions, lotteries, offers, etc., while

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## Section 2

### Definitions and the Recommendation's scope of application

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#### 2.1 Definitions

The recommendation's definitions are linked to definitions and regulations found in the Alcohol Act and the Marketing Act respectively.

*Comment:* Through the 2008 Marketing Act, the concept of marketing also came to include before - and after - purchase situations. It has not been clarified by the legislator how this should or can affect the definition of marketing in the Alcohol Act. (*GRS note: the definition of marketing in the Marketing Act is: advertising and other measures in the course of business activities which are intended to promote the sale of and access to products including a trader's actions, omissions or other measures or behaviour before, during or after sale or delivery of products to consumers or traders*)

Marketing refers to all actions that a trader takes with the aim of increasing his sales. This means e.g. that all representations (all communications), regardless of medium, which have a commercial purpose and which have a purely commercial relationship with the objective constitute marketing. Purpose and relationship usually mean statements about the trader's business activities or the products provided therein. The source must be a trader or someone who acts on their behalf (for example, a newspaper, a so-called influencer or an advertising agency). An employee who chooses to write about the company or its products in e.g. social media is in that context often considered to be a representative of the company, which means that what is written must observe the marketing rules.

Marketing also includes using constitutionally protected material, e.g. by the source quoting or linking to the information or using such material in media that the source him/ herself controls. This means that the information that is quoted or to which it is linked forms part of the company's own marketing and must therefore follow the marketing rules.

Commercial advertising refers to advertisements with a commercial purpose and which have a purely commercial relationship with the purpose. Examples of commercial advertising are posts in social media, advertisements in radio, television or newspapers. Websites, outdoor advertising and direct mail are also considered by the supervisory authority to constitute commercial advertising.

Indirect advertising refers to the marketing of a product other than an alcoholic beverage under a trademark that is wholly or partially used for an alcoholic beverage or that is registered or established for such a beverage and which can be perceived as marketing of the alcoholic beverage as well. Examples of such products can be non-alcoholic beer/wine/spirits, barbecue sauce or confectionery.

Alcoholic drink refers to a drink that contains more than 2.25% alcohol by volume.

Alcoholic soft drinks in the Recommendation refer to drinks that contain more than 0.5% alcohol by volume up to and including 2.25% alcohol by volume.

Up to and including 0.5% alcohol by volume, the drink is called a soft drink. Such a drink may also be called non- alcoholic.

Under the terms of the Recommendation, in order for it to be considered to be marketing of alcoholic beverages it must be marketing of individual identifiable products.

*Comment:* a company can therefore, without it being marketing of alcoholic beverages, communicate in general terms about e.g. red wines from a certain region/country as long as individual alcoholic beverages are not mentioned or otherwise identifiable. Although this may to some extent benefit the source, the competition also benefits accordingly, meaning that the communication is not a purely commercial matter.

Only the information that a serving place has full rights, or information such as "large/ strong glass of wine" with a specified price has not been considered by the authorities to constitute marketing of alcoholic beverages.

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## 2.2 Scope of the recommendation - the 'effect country' principle

In Sweden, historically, the so-called effect country principle applies (*GRS note: we think this means that the law of the country where the transaction takes effect shall apply*), which means that Swedish rules for e.g. alcohol advertising apply if the marketing is aimed at the Swedish market/ Swedish consumers. The principle does not follow from law, but originally from preliminary working statements which have come to be established in practice.

Different special rules have in some areas and in some cases replaced the country of effect principle, which means that Swedish alcohol advertising rules do not apply even though the advertising is considered directed at Sweden.

The recommendation observes this, which means that it is based on the effect country principle, i.e. that Swedish rules apply to alcohol advertising aimed at the Swedish market but with the following exceptions.

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## 2.3 Exceptions to the 'effect country' principle

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### 2.3.1 TV advertising incl. video sharing platforms

The recommendation does not cover marketing that falls outside the Swedish jurisdiction (e.g. television advertising broadcast from another EU country or advertising on so-called video sharing platforms from another EU country).

*Comment:* In the preparatory work for the radio and television act, the social media platform YouTube is given as an example of a video sharing platform. One of the reasons is that it is (exclusively) moving images. It is currently unclear whether Facebook, Snapchat or Instagram constitute a video sharing platform. Whether TikTok or similar social media platforms with a similar focus on moving images constitute a video sharing platform has not yet been tested in Sweden, but the greater the similarity to YouTube, the greater the likelihood of a corresponding assessment.

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### 2.3.2 Digital marketing and e-commerce

The recommendation does not cover marketing that falls outside Swedish jurisdiction (digital marketing including e-commerce from a company/advertiser that is established in another EU/EEA country).

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### 2.3.3 Marketing aimed overseas

The recommendation does not cover marketing aimed at consumers overseas.

*Comment:* According to the E-commerce Act (for digital advertising), Swedish advertising rules also apply to Swedish companies' marketing that can be received in other EU/EEA countries. For such advertising, the rules may partly constitute an impermissible export restriction and it is also partly unclear how Swedish public health is protected by making an export of alcoholic beverages more difficult. The recommendation therefore does not cover alcohol advertising from Swedish companies that is directed at the EU/EEA.

The recommendation also does not cover advertising directed at the rest of the world, but because that, according to the country of effect principle, it is not directed at Sweden.

*Comment:* The mere choice of communication in English is not in of itself sufficient for the communication to be considered to be directed abroad.

In order to determine where the advertising should be considered targeted, factors such as channel selection/ media, language, reference to Systembolaget (the govt. owned chain of liquor stores), price in Swedish kroner, product availability on the current market and more must be weighed

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### 2.3.4 Marketing aimed at traders

The recommendation does not cover, with one exception, marketing aimed at traders. The exception in question is the prohibition on gifts, the Alcohol Act Ch. 7. Section 2, which also covers marketing aimed at traders.

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## Section 3

Where marketing of alcoholic beverages may occur

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The starting point is that it is permitted to promote alcoholic beverages in all media unless there is an express prohibition

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of the medium in question. This means that it is permitted to market alcoholic beverages, e.g. on the internet, in social media, in newspapers/ magazines or through certain forms of direct advertising. However, the fact that it is allowed does not mean that it can appear in any form; how the marketing should be designed is set out in chapter 4.

Below are the media for which there are prohibitions against, or restrictions on, the ability to market alcoholic beverages. The ban/ restriction thus applies to the medium itself.

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### **3.1 Marketing specifically aimed at people under the age of 25**

According to the Alcohol Act, marketing of alcoholic beverages may not be specifically aimed at, or depict, children or young people under the age of 25. Marketing of alcoholic beverages should therefore only take place where at least 70% of the recipients of the information are 25 years of age or older (the so-called 70–30 rule).

*Comment:* The rule is not intended to be applied so that 70% of visitors to a point of sale (e.g. pub or festival) must be over 25 years old.

It is the advertiser who is responsible for the marketing following the 70–30 rule. When using e.g. different ad networks and the like, it is the advertiser's responsibility that the marketing does not end up on websites that do not meet the 70–30 rule.

The marketing must also not be designed particularly to attract children or young people.

The assessment of whether the marketing is designed to attract children or young people must be based on an overall assessment. This means inter alia. that the marketed product itself, the production design as a whole and not least the context in which it occurs must be taken into account. Symbols or spectacles that can be particularly associated with or attract children or young people under the age of 25 may not be used.

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### **3.2 Radio and TV advertising incl. video sharing platform**

According to the Alcohol Act, it is prohibited to use commercial advertising in audio radio programs, television programmes or on-demand television. This also applies to such television broadcasts via satellite that are covered by the Radio and Television Act.

The ban refers to those TV channels that broadcast from Sweden.

Video-sharing platforms which have Sweden as the "sending country" are also covered by the corresponding ban (see section 2).

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### **3.3 Advertising in periodicals (newspaper ads) and on the newspaper's web edition**

According to the Alcohol Act, it is prohibited to use commercial advertisements in periodicals (newspaper advertisements) for alcoholic beverages containing more than 15% alcohol by volume. If the newspaper in question is only provided at a point of sale for such drinks, then you may also advertise alcoholic drinks exceeding 15% alcohol by volume.

Permitted advertising must not be larger than 2100 column millimetres - i.e. tabloid format. According to the Alcohol Act, it must also not be contrary to good practice via the context in which it occurs, use methods that are inappropriate for the consumer or contain untrue or misleading information about alcohol, alcohol consumption, the effects of alcohol or other properties.

The advertisement must clearly state the alcohol content of the drink, but must not present high alcohol content as a positive characteristic.

Newspaper advertisement must reproduce so-called warning messages (information text); see section 4.5.

In the event that a printed newspaper is also provided as a web edition, the rules in this section shall also cover the web edition.

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### **3.4 Outdoor advertising, industry vehicles, etc**

#### **3.4.1 Outdoor advertising, advertising at points of sale and manufacturing, etc**

There is no general ban on outdoor advertising, but the critical factor is whether the advertising is considered to be a dominant feature of the environment or not. Elements of importance for assessment are e.g. size, design, colours, location, lighting, scope, or if the marketing took place in a place where the average consumer has reasonable cause to expect alcohol advertising. This means that traditional outdoor advertising such as large-

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	<p>format billboards is generally prohibited because it normally constitutes a dominant element in the environment and is then considered to be intrusive.</p> <p>Advertising of alcoholic beverages carried out at, or in connection with, the place of manufacture or sale of alcoholic beverages or visitor centres for such activities is normally permitted (unless it constitutes a dominant feature of the environment). The advertising must be placed in or immediately adjacent to the premises (e.g. a sign on the facade or placed a few metres from the entrance). Marketing that is seen by passers-by should be somewhat more restrained.</p> <p><i>Comment:</i> Visitor centre, manufacturing or selling point of alcoholic beverages is a place where the average consumer can expect to be exposed to alcohol advertising.</p>
<b>3.4.2 Vehicles used in the industry</b>	<p>It is permitted to advertise on vehicles that are used for e.g. sale or distribution of alcoholic beverages or otherwise within the scope of such activities. Such marketing must comply with the requirement for special moderation and, according to practice, in visual form reproduce such factual information acceptable after a proportionality assessment. The latter should mean that e.g. product or raw material, brand or individual packaging/s are allowed</p>
<b>3.5 Direct advertising</b>	<p>Direct advertising refers to marketing that is delivered directly to individual consumers through e.g. leaflets, letters, telemarketing etc. Under the terms of the Recommendation, electronic direct mail means e-mail, SMS or other system for individual communication that is not operated by any individual person. Direct advertising includes messages in social media that are delivered directly to individuals (direct messages) but not sponsored posts that are displayed in the flow (feed).</p>
<b>3.5.1. Unaddressed Direct Mail (ODR)</b>	<p>The only unaddressed direct mail that is accepted is customary letterbox advertising/ advertising mailings from the food trade. When such advertising covers a number of different goods, it may also contain marketing of the alcoholic drink that is sold there.</p>
<b>3.5.2. Addressed direct mail (ADR)</b>	<p>Addressed direct mail that has not been expressly ordered by the recipient must meet the following requirements.</p> <ul style="list-style-type: none"> <li>• The advertisement may only be sent to people who have reached the age of 25.</li> <li>• The advertising must be distributed in such a way that it requires action by the recipient to take part in its contents. It must therefore be distributed in sealed envelopes and opaque outer packaging.</li> <li>• The outer packaging must clearly state that the package contains alcohol advertising.</li> </ul> <p>In the case of direct advertising, the applicable NIX register and other relevant advertising restrictions must be respected. The same applies to the provisions of the Marketing Act regarding unsolicited advertising.</p> <p>Direct advertising that has been expressly ordered by the recipient may be sent provided that he/she states at the time of the order that he/she is of such an age that he/she can buy the advertised alcoholic beverages.</p>
<b>3.5.3 Electronic direct mail EDR</b>	<p>As a general rule, according to the Marketing Act, prior consent is required before EDR can be addressed to an individual recipient.</p> <p><i>Comment:</i> In cases where the recipient has agreed to receive EDR but not alcohol advertising, the subject line can be used to state the electronic message contains alcohol advertising and thereby give the recipient the opportunity to delete the message without having to read it.</p>
<b>3.6 Own Website</b>	<p>The first page of the website must clearly state that the website contains the promotion of alcoholic beverages. Active age verification shall be required for access to the website. The age limit should be at least 20 years old.</p>

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### 3.7 Situations that should not be associated with alcohol consumption

Marketing of alcoholic beverages must not, through the context in which it occurs, be associated with situations where, according to generally accepted opinion, alcohol consumption should not occur.

Marketing should therefore not appear in media (e.g. website, newspaper, newsletter) with a main content such as sports (both practitioners and spectators), work, pregnancy, bathing and in traffic (driving a vehicle that the average consumer can normally be considered to be driving).

*Comment:* The fact that alcoholic beverages should not be linked with sports follows, among other things, from a ruling in the Market Court. However, the judgment does not mean a ban on the sale of alcoholic beverages in connection with/ within sporting events.

*Comment:* Point 3.7 refers to the medium in which the marketing occurs - regarding the content of the communication, see point 4.2.5.

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### 3.8 Other

Under the terms of the Alcohol Act, marketing of alcoholic beverages that is intrusive, solicitous or encourages the use of alcohol is not permitted. According to the preparatory work for the Alcohol Act, the appeal to use alcohol should be seen in a more active sense.

This means that alcohol marketing such as "pop-up ads" or ads that cover the entire front page of the newspaper are normally not compatible with the moderation requirement. The list is not exhaustive and new media or ways of spreading alcohol advertising may arise where it cannot be ruled out that the procedure itself is considered e.g. intrusive.

*Comment:* It is therefore a case of the medium itself and not of the advertising message.

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## Section 4

### How the marketing of alcoholic beverages should be designed

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#### 4.1 The requirement for special moderation

The rules in the Alcohol Act (especially the requirement for special moderation) are a balance between the state's interest in protecting public health and the need for information to consumers. The consumer must be able to obtain information so that he/she can make an informed purchase decision, and sellers/suppliers must then be allowed to provide such information.

The Alcohol Act's requirement for special moderation applies to all marketing of alcoholic beverages to consumers. What is stated below about e.g. limitations in image or text therefore apply to all such marketing of alcoholic beverages regardless of where it takes place. The moderation requirement covers both the design and content of the communication as well as sales promotion measures.

As for "Encouraging the use of alcohol", according to practice and the preparatory work of the law, it should be seen in a more active sense. "Reaching out" and "intrusive" normally have more to do with where the advertisement is located/ how it is presented than with how it is designed.

*Comment:* There is always an overall assessment of the message; the circle of recipients, the medium/ channel and the content (text together with image, headline placement, images are given extra importance). Messages do not have to be direct or explicit, but can also be implied or indirect statements. When evaluating advertisements, it is assumed as a general rule that the consumer only has a fleeting contact with the content.

In the case of such marketing that the consumer himself/ herself has sought out/ subscribed to (e.g. websites, newsletters or product sheets), it should be taken into account that the consumer himself/ herself has actively chosen to take part in the information.

*Comment:* the legal text explicitly states the use of alcohol, but the supervisory authority has chosen to interpret it as the purchase of alcohol.

*Comment:* this description of a more active role in encouragement means that a representation of the brand is not covered, but an additional reinforcement such as "drink more" is required, under the terms of the Recommendation. However, expressions such as

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	"test/ try another product instead" should not constitute such an 'active' invitation.
<b>4.2 Communication in text/ spoken message etc.</b>	According to the Alcohol Act, intrusive or soliciting/ inviting messages, as well as messages that encourage the use of alcohol, are prohibited.
<b>4.2.1 Factual and informative</b>	<p>Marketing of alcoholic beverages must be aimed at providing factual information and giving a balanced, reliable presentation of the product. This means that communication in the form of e.g. information about the product's price, origin, raw materials, use or food that it normally goes with is compatible with the moderation requirement.</p> <p><i>Comment:</i> The alcoholic beverage should be allowed to be put into context as long as it is done in a responsible manner. This means that alcoholic beverages can be part of a meal without being an essential accessory. Information such as recipes for accompanying dishes should be considered permitted as well as e.g. a drink recipe.</p>
<b>4.2.2 Direct consumption solicitations</b>	Direct consumption invitations are not compatible with the moderation requirement
<b>4.2.3 Feelings, moods, etc</b>	<p>Improper communication such as playing on emotions and moods risks violating the moderation requirement.</p> <p><i>Comment:</i> This means e.g. that it is impermissible with invitations to give alcoholic beverages as gifts for holidays or to "celebrate love" through alcohol consumption</p>
<b>4.2.4 Statements of value, reference to certificates, etc</b>	<p>Value statements, reviews and testimonials must be used with care and in accordance with the Marketing Act and the ICC's Advertising rules. Data from reviewers must be meaningful, balanced and current.</p> <p><i>Comment:</i> Information about how others rated a product, e.g. descriptions, reviews or ratings, is for many relevant and important knowledge in choosing a product. However, it is important that these reviews are designed in a responsible manner if they are to be used in marketing (see also point 4.6)</p>
<b>4.2.5 Situations that should not be associated with alcohol consumption</b>	<p>The marketing must not, through its presentation, be associated with situations where, according to generally accepted opinion, alcohol consumption should not occur. For example, sports (both practitioners and spectators), work, pregnancy or driving (a vehicle such as the average consumer might normally be considered to be driving).</p> <p><i>Comment:</i> The rule aims to prevent marketing from making a connection with the consumption of alcohol at the workplace, in connection with driving, or during pregnancy.</p> <p>Point 4.2.5 covers the content of the communication, while point 3.7 above covers the medium in which the communication occurs.</p>
<b>4.2.6. Alcohol in social contexts etc</b>	Marketing must not claim or imply that alcohol consumption increases physical or mental ability, promotes social or sexual success or solves problems such as loneliness or boredom
<b>4.2.7 Seasons or holidays</b>	<p>It is not prohibited to advertise alcohol that indicates or links to a holiday or a season.</p> <p>However, alcohol consumption must not be presented as being of particular importance during holidays or seasons or that it otherwise enhances an experience.</p> <p><i>Comment:</i> It should be stated that alcoholic beverages are suitable for e.g. Christmas food, but it must not be stated that alcohol consumption "puts a golden edge on the Christmas table". It should not be stated that alcohol consumption is connected/ has a natural connection with a certain season (e.g. between spring and consumption of rosé wine).</p> <p>Names such as midsummer schnapps, Christmas schnapps, Oktoberfest beer, Easter beer, winter beer, summer beer, etc. are allowed, i.e. stating only a season or a holiday is not in itself impermissible.</p>

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#### 4.3 Communication in images

Pictures in alcohol advertising (commercial advertisements) may, according to the legal text of the Alcohol Act, only depict the product or raw materials included in the product, individual packaging or brand name or a comparable characteristic.

Under the terms of the Recommendation, images with objective content presented in a restrained manner are also permitted, such as e.g. pictures from the manufacturing process, pictures of dishes that go with a certain alcoholic drink or picture of a person who has a natural connection to the drink (e.g. a brewmaster, a master blender or a winemaker) in connection with providing factual information about the product in question.

*Comment:* According to the Alcohol Act, images in commercial advertisements for alcohol may only show the product or raw materials that are part of the product, individual packaging or brand name or similar distinguishing feature. This applies to all types of commercial advertising for alcoholic beverages regardless of the medium.

Both the former Market Court and the Patent and Market Supreme Court have assumed that the image rule has this intent. The Patent and Market Court held that the rule, with this meaning, is disproportionate in an EU legal assessment and is therefore invalid.

The Supreme Court has subsequently held that the rule is valid. The Supreme Court stated in its judgment that additional objects are permitted in addition to those specified in the legal text and that what is permitted should be decided after a proportionality assessment in each individual case.

The recommendation's interpretation is based on the fact that the Supreme Court's judgment overall allows that there is room for objects other than those specified in the legal text as long as these additional objects are proportionate. The room should include items that convey factual information, such as food that goes with the beverage in question.

The supervisory authority Konsumentverket has expressed a different interpretation.

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#### 4.4 Designation of origin, etc.

According to the Alcohol Act, it is prohibited to use incorrect or misleading designations of origin by which the drink in question is directly or indirectly stated to be produced in a region of a foreign state. This applies even if the true origin is stated, or if the designation is used only in translation or is accompanied by expressions such as species, variety, type, reproduction or similar expressions. The provision has been added due to Sweden's international obligations in trade and is primarily aimed at countering unfair competition.

According to good business practice, geographical indications of origin on alcoholic beverages must always be reserved for the original goods and cannot be appropriated. An alcoholic beverage must not be described as "authentic" as this risks impairing confidence in designations of origin or labelling in general.

It is also not compatible with good business practice to use another product's good commercial reputation without permission.

*Comment:* The starting point is that the marketed product must be able to stand on its own two feet. It is not therefore not permitted to write e.g. mini-Amarone or to state in advertising for another product that the manufacturer also makes e.g. an Amarone. However, there is no obstacle to two different products appearing in the same advertisement and then describing them as e.g. Amarone and Ripasso respectively.

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#### 4.5 Information texts (warning messages)

Under the terms of the Alcohol Act, newspaper advertisements must contain a fixed "informational message". The requirement only applies to newspaper advertisements and ads in the newspaper's web edition and not to other advertising. In the case of repeat advertising, the different messages must be used alternately and, if possible, to the same extent.

The informational messages can be found in the alcohol regulation. Over time, different texts must be included in advertisements. This applies both to repeated campaigns for a particular product, as well as advertisements from an individual advertiser. Informational texts must also be in magazines that are distributed at points of sale for alcoholic beverages

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if it is a periodical or if it is comparable to one.

According to the Alcohol Ordinance, the following informational messages have been decided:

- Alkohol kan skada din hälsa (Alcohol can harm 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 cause damage to the liver and pancreas)
- Alkohol kan orsaka hjärnblödning och cancer (Alcohol can cause brain bleeding and cancer)
- Varannan förare som omkommer i singelolyckor i trafiken är alkoholpåverkad (Every second driver who dies in single-vehicle accidents in traffic is under the influence of alcohol)
- Hälften av alla som drunknar har alkohol i blodet (Half of all who drown have alcohol in their blood)
- Alkohol i samband med arbete ökar risken för olyckor (Alcohol at work increases the risk of accidents)
- Alkoholkonsumtion under graviditeten kan skada barnet (Alcohol consumption during pregnancy can harm the baby)
- 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)

One of the above must be included and, when communication is repeated, alternated.

The informational message must be:

- Printed in bold Helvetica font
- Printed with a font size that means that the text covers the greatest possible proportion of the area reserved for it
- Reproduced in black ink on a white background
- Centred in the area in which the text is printed
- Surrounded by a black frame that does not infringe on the area reserved for the text
- Placed horizontally and such that it is easy to read and
- Cover at least 20% of the area of the advertisement

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#### 4.6 Other requirements for the marketing of alcoholic beverages

In addition to the alcohol law, there are requirements for e.g. integrity and decency from Inter alia the Marketing Act and the ICC General Provisions for Advertising and Marketing Communications.

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##### 4.6.1 Advertising Identification

According to the Marketing Act, all marketing must be presented in such a way that it is clear that it is actually marketing. In court procedure, this has been specified so that it must take place with "a minimum of effort", which e.g. means that it must already appear on the outside/ subject line of a communication.

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##### 4.6.2 The requirement of authenticity

According to the Marketing Act, all marketing must be true and it is the person making the claim who must be able to prove that it is valid.

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##### 4.6.3 Consumer Reviews

According to the Marketing Act, a trader who provides access to consumer reviews of products must inform as to whether the trader ensures that the reviews come from consumers who have used or bought the products and, if so, how this is done (*i.e. how the reviews are authenticated*)

When marketing alcoholic beverages to consumers, it is not considered to be consistent with good business practice to reference judgments from e.g. anonymous people on the

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internet, something that is therefore not permitted.

*Comment:* In Sweden, the use of certificates/ reviews has been considered to have a strong impact, and high demands have therefore been placed on their validity. The rule in the Marketing Act on consumer reviews is new and there is, as a result, a lack of detailed information on how the act will be applied. However, there is always an opportunity for business to place higher demands than those stated in law on some forms of marketing

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**4.6.4 Ranking of products** According to the Marketing Act, a trader who gives consumers the opportunity to search digitally for products must inform about the criteria that primarily determine the ranking of products presented and their importance compared to other criteria. The information must be provided in a special section of the online interface and be directly and easily accessible from the place where the search results are presented.

According to the law, this does not apply to certain search engines.

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**4.6.5 Nutrition and health claims** According to the EU regulation on nutrition and health claims, it is forbidden to claim or imply that there is a positive connection between drinks above 1.2% alcohol by volume and health. As a general rule, it is also not permitted to claim or imply that such drinks have special beneficial nutritional properties due to the nutrients or other substances they contain to a lesser or greater extent.

As the only exception regarding positive nutritional composition, claims related to low alcohol content or reduced alcohol or energy content are permitted.

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## Section 5

### Sales promotion measures in the marketing of alcoholic beverages

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Sales promotion measures are often aimed at increasing consumption, and they thus run the risk of contravening the moderation requirement. When assessing a particular measure, all circumstances must be taken into account – e.g. which target group the offer is aimed at, in which context it occurs, as well as the construction and presentation of the offer.

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**5.1 Competition and lottery** Competitions are permitted provided that the purchase of alcoholic beverages is not actually required to participate in the competition and that the prize does not consist of alcoholic beverages.

Lotteries should be designed in accordance with statements related to competitions.

*Comment:* Historically, it has been forbidden for companies to organise lotteries and it was only with the introduction of the current Gambling Act that it was permitted. The authority Spelinspektionen has provided detailed instructions for how lotteries used in advertising (advertising lotteries) should be developed; among other things, it is normally required that the participant does not make any monetary contribution.

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**5.2 Combination Offer** When purchasing an alcoholic beverage, additional goods can be offered at no extra cost or at a special price if the value of this is in reasonable proportion to the price of the alcoholic beverage. According to good business practice, the additional product (the value of the additional product/ of a discount on the price for it) should normally amount to no more than 20% of the price of the main product, but to a maximum of SEK 99.

*Comment:* In practice, it is stated that there is no general ban on combination offers, but sports-related additional goods have been considered to be prohibited.

Alcoholic drinks can be accepted as an additional item only if the drink forms part of the meal and a non-alcoholic alternative is offered at the same time. In the event of such an offer, the price of the alcoholic beverage must comply with the Alcohol Act's requirements for a reasonable mark-up, etc.

The value of the additional product may in exceptional cases exceed SEK 99. This applies in extraordinary cases and should not be advertised to a wider consumer group.

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### 5.3 Gifts

Gifts are permitted provided that the value of the gift is low and it must not consist of alcoholic beverages. Gift-giving should take place at visitor centres, at manufacturing or sales premises for alcoholic beverages, otherwise they risk contravening the moderation requirement.

The supervisory authority Konsumentverket has a different interpretation.

*Comment:* Since combination offers are permitted according to practice, it is reasonable that gifts that do not require the purchase of an alcoholic beverage to obtain the additional item/ gift are also permitted.

*Comment:* For places of service, there are rules on the so-called 'animation ban' ('animeringsförbud' - this is the prohibition of the encouragement of guests to order alcohol) when serving, and in case of uncertainty, the measure should be agreed with the license holder and/ or the municipal licensing unit.

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### 5.4 Discounts, etc.

As a general rule, discounts, coupon offers, etc. are not allowed.

The usual price difference between different packaging sizes (for example, smaller and larger bottle, bottle and bag-in-box, single glass and full bottle) should, however, be considered permissible.

However, customary discounts such as "Happy hour", "beer of the month" and the like at the point of sale may occur. Such discounts must not be designed according to "two for the price of one", "into the bargain" or the like. In the case of such a discount on alcoholic beverages, food and non-alcoholic beverages should also be discounted.

Quantity discounts, discount brand offers and the like can be accepted for the sale of alcoholic beverages containing a maximum of 3.5% by volume within the framework of customary price activities in the food trade

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### 5.5 Sales, special offers and limited lots etc

As a general rule, the use of sales, clearance sales, bar closing and similar expressions is not compatible with the moderation requirement. This also applies to traditional special offers and the like, i.e. offers that are available for a limited time. Even information that the product is only available in a limited number/ quantity or for a limited time may in some cases contravene the moderation requirement.

However, it should be considered permissible to inform about a new lower price if the new price will be applied for a longer period of time.

It should also be considered permissible to state that the product is available for a limited time or in a limited number/ quantity for products that are provided in certain parts of Systembolaget's range, e.g. "temporary collection" or "small batches" or equivalent. This also applies to catering establishments.

*Comment:* If a product is provided with a statement that the price has been reduced, according to the Price Information Act, the previous price must also be stated.

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### 5.6 Prohibition of gifts

According to the Alcohol Act, it is not permitted to give alcoholic beverages as a gift when marketing services or other goods. Anyone who manufactures, sells or mediates the sale of alcoholic beverages may, however, leave such beverages as a gift in the form of a product sample in their business.

Product samples may only be given to license holders (restaurateurs, wholesalers, etc.) who have the right to purchase the product directly from the person providing the product sample and only for the purpose of the recipient assessing the product in question. Product samples may also be given to beverage writers in and for their journalistic activities.

Marketing in the form of a gift of an alcoholic drink that aims to draw the recipient's attention to the fact that they have received the gift (e.g. in social media) is not compatible with good business practice.

*Comment:* 'Drinks writer' is defined as a person, publication, blog or the like who regularly

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and responsibly writes or otherwise communicates about food and drink. Drykesskribent/. Drinks writer replaces in the Recommendation the designation 'wine journalist' which was used by the supervisory authority at the time (today, the Public Health Authority) when it approved in the mid-1990s that product samples may be given to 'wine journalists'. The choice of words aims to follow the principle that the authority specified while reflecting the development of available information that has taken place since then.

Posts that aim only to advise followers that the writer has received a particular alcoholic beverage as a gift are not covered by this exception under the terms of the Recommendation.

In 2015, the supervisory authority the Swedish Consumer Agency chose to depart from the previous assessment and now considers that product samples may only be given to holders of a serving license or to Systembolaget.

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## Section 6

### Alcoholic soft drinks and indirect alcohol advertising

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The previous ban on using the same brand for alcoholic soft drinks/alcohol drinks and alcoholic drinks under/over 15% alcohol by volume was lifted after criticism from the EU.

The regulations on indirect alcohol advertising contained in the Alcohol Act therefore only concern a prohibition against confusion in the marketing of alcoholic soft drinks and alcoholic beverages, as well as a prohibition against confusion in marketing between an alcoholic beverage below 15% by volume and one containing more than 15% by volume.

The prohibition relating to alcoholic soft drinks does not apply when the marketing of alcoholic drinks containing a maximum of 15% alcohol by volume is permitted or in cases where this is unreasonable.

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#### 6.1 Marketing of alcoholic soft drinks

Under the terms of the Alcohol Act, marketing via commercial advertising aimed at consumers and which refers to alcoholic soft drinks must not be confused with the marketing of alcoholic drinks. This means that the advertisement must be labelled so that it is clear which product is being marketed. Information on the alcohol strength is not in itself sufficient to ensure there is no likelihood of confusion.

In all advertising, the drink's alcohol content and, for example, the name light beer, class I, or light cider must appear at least once and in such a style that it can easily be read/understood in its entirety. In the case of a spoken or sung message, the trademark must be immediately followed by a clarification that it is an alcoholic soft drink that is being referred to by stating, for example, the alcohol content of the drink, the label light beer, class I, or light cider.

Advertising must not contain disparaging reviews of non-alcoholic beverages.

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#### 6.2 The prohibition of confusion between alcoholic beverages

The Alcohol Act contains a ban on confusion in marketing between alcoholic beverages below 15% by volume and alcoholic beverages containing more than 15% by volume. This means that the advertisement must be labelled so that it is clear which product it is that is being marketed. If these are different types of products (e.g. vodka/ rum and mixed drinks), the risk of confusion is reduced. If the products also have, in whole or in part, different names, there should normally be no risk of confusion - especially not if there are alcohol content or other clarifications such as e.g. product description.

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#### 6.3 Indirect advertising for alcoholic beverages in general

It is permitted to market products other than alcoholic beverages under a trademark that is wholly or partially used for an alcoholic beverage or that is registered or incorporated for such a beverage. In addition to what is stated above, there is also no prohibition of confusion.

Regarding indirect alcohol advertising for other beverages (soft drinks), the marketing should state that it is a soft drink. It should also be permitted to market such products as alcohol-free.

In order for the marketing of another product not to risk being judged as "alcohol advertising", the sender should avoid simultaneously (in the same advertisement)

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communicating their alcoholic beverage together with another product, especially if these are marketed under the same trade mark or are in another similar way connected to the alcoholic beverage. Special caution should be observed at the point of sale for alcoholic beverages.

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**The recommendation is established with this wording on 1 October 2022.  
This means that the previous version ceases to apply.**

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