



Valvira

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**Guideline on alcohol marketing
6/2018 (pdf)**

Guidelines 6/2018

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Introduction

This revised version of the Guideline on the marketing of alcoholic beverages applies to marketing as referred to in Chapter 7 of the Alcohol Act (1102/2017). In section 3 of the Act, 'marketing' is defined as including advertising, indirect advertising and other promotional activities. Indirect advertising includes, in particular, promotion of a product in connection with the advertising for another commodity so that the established emblem of the product or its seller, whether as is or in modified but identifiable form, is used as the emblem of the other commodity; or advertising for another commodity that conveys an image of a particular product or its seller.

The packaging of an alcoholic beverage, including the illustrations and texts on its label, may be considered promotion aimed at consumers if they are used in marketing for the products, e.g. in advertising images or as advertising slogans. In such cases, those features may also be appraised according to the provisions on marketing in the Alcohol Act.

This Guideline published by the National Supervisory Authority for Welfare and Health (Valvira) concerns the application of the marketing provisions in the Alcohol Act and includes examples of policy on decisions adopted by the supervisory authorities so far. Because the provisions on marketing were only amended in part in the overall reform of the Alcohol Act, this Guideline also covers policy from the time while the previous version of the Act was in force.

The Guideline has been issued for Regional State Administrative Agencies to consider in pursuing their duties in the supervision of marketing of alcoholic beverages. The purpose of the Guideline is to establish uniform operating principles and thus a consistent supervision practice nationwide. It is further intended to provide business operators and advertising designers in the sector with a framework of points to consider in the design and delivery of marketing.

The Guideline includes examples of which kinds of marketing might be considered permissible or prohibited. However, in applying the Guideline it must be noted that the question of whether any specific activity should be permitted or prohibited is resolved on a case-by-case basis. Moreover, the overall impact of any marketing effort is of core relevance in the evaluation of whether a particular action is unlawful or not.

Marketing is in a constant state of flux. Therefore, the Guideline cannot pretend to contain an exhaustive description of permissible or prohibited marketing and promotional activities. Valvira monitors the evolution and impact of marketing and will update this Guideline as required. Policy emerging through the interpretation of any legislative amendments will also be added to the Guideline.

This Guideline extends to the amendments entering into force on 1 January 2018 which, among other things, eliminated the ban on short-term discount price notices on licensed premises and imposed a new ban on rebates on alcoholic beverages, and also added exceptions to the ban on advertising strong alcoholic beverages.

Provisions

Section 3, paragraphs

1 to 4 and 16

Definitions

For the purposes of this Act:

- 1) alcoholic substance means a substance or product which contains more than 1.2% by volume of ethyl alcohol;
- 2) alcoholic beverage means a potable alcoholic substance which contains a maximum of 80% by volume of ethyl alcohol;
- 3) mild alcoholic beverage means an alcoholic beverage which contains a maximum of 22% by volume of ethyl alcohol;
- 4) strong alcoholic beverage means an alcoholic beverage which contains more than 22% by volume of ethyl alcohol;
- 16) marketing means advertising, indirect advertising and other promotional activities; indirect advertising includes, in particular, promotion of a product in connection with the advertising for another commodity so that the established emblem of the product or its seller, whether as is or in modified but identifiable form, is used as the emblem of the other commodity; or advertising for another commodity that conveys an image of a particular product or its seller.

The provisions concerning sales in the present Act shall also apply to the supply and serving of an alcoholic substance in business operations free of charge and in connection with marketing another product or service, unless otherwise provided for in the present Act.

Section 4 Ban on actions contrary to accepted principles of morality

In the manufacture, import, sales and marketing of alcoholic substances and in business operations pursued adjacent to same on the basis of an agreement or other arrangement, actions contrary to accepted principles of morality are prohibited.

Operations are considered contrary to good practice (or “moral principles”) if they are in clear violation of accepted societal values and especially if they are accepting of or indifferent to taking health risks under the influence of alcohol or intoxicating substances, medicinal products or chemicals (Alcohol Act, Section 4).

Chapter 7 Marketing and pricing

Section 50 Marketing regulation

Marketing of strong alcoholic beverages is prohibited.

Marketing of mild alcoholic beverages and associating same with the marketing of another product or service is prohibited if:

- 1) it is aimed at minors or other persons to whom alcoholic beverages may not be sold under section 37, or it depicts such persons;
- 2) it associates alcohol use with operating a vehicle;
- 3) it presents the alcoholic content of a beverage as a positive feature;

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- 4) it depicts abundant use of alcohol in a positive light or depicts sobriety or moderate use of alcohol in a negative light;
- 5) it gives the impression that alcohol use enhances performance or improve social or sexual success;
- 6) it gives the impression that alcohol has medical or therapeutical properties or that it is a stimulant, a tranquiliser or a means for resolving conflicts;
- 7) it is contrary to accepted principles of morality, employs procedures inappropriate for consumers or otherwise provides untrue or misleading information on alcohol, its use, its impacts or its other properties;
- 8) it is undertaken in TV and radio broadcasting as defined in the Information Society Code (917/2014) between 07.00 and 22.00 or in an audiovisual programme which is screened at a cinema and whose age limit under the Act on Audiovisual Programmes (710/2011) is under 18 years;
- 9) it is executed or aimed at the general public in a public place as referred to in the Public Order Act (612/2003);
- 10) it involves the consumer participating in a game, a raffle or a competition;
- 11) its commercial operator uses verbal or visual content created by consumers in information network services controlled by that operator, or makes verbal or visual content produced by that operator or produced by consumers available for distribution by consumers through such services.

By way of derogation from subsection 1 above, strong alcoholic beverages may be marketed, with the restrictions specified in subsection 2:

- 1) on premises licensed for the manufacture, retail sale or serving of strong alcoholic beverages;
- 2) in a retail sale or menu price list, whether printed or online, and in a manufacturer's or wholesaler's product catalogue so that all available beverages are presented to consumers in an equal and uniform way; and
- 3) to professionals involved in the sale of alcoholic beverages, though not in an information network accessible by consumers.

The ban imposed above in subsection 2 paragraph 9 shall not apply to the marketing of mild alcoholic beverages, though with the restrictions specified in subsection 2:

- 1) at a public event as referred to in the Assembly Act (530/1999) or at a venue permanently designated for such events;
- 2) on board a vessel in international traffic;
- 3) at a point of retail sale or on licensed premises;
- 4) outside a point of retail sale or licensed premises for the purpose of notifying consumers of the availability and price of a beverage.

Subsections 1 and 2 above shall not apply to publishing or broadcasting as referred to in the Act on the Exercise of Freedom of Expression in Mass Media which is practiced abroad by a business operator not based in Finland and which is intended to be received exclusively outside of Finland or is intended to be received with exactly the same content regardless of the recipient's country of residence. However, said provisions shall apply to marketing by foreign parties which concerns alcoholic beverages available on the Finnish market and which is specifically aimed at Finnish consumers.

Section 51 Pricing and price notices

It is prohibited to offer two or more packages or servings of alcoholic beverages at a discounted combined price in retail sale or commercial serving of alcoholic beverages.

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Under section 51(2) of the Alcohol Act, it is prohibited in the retail sale and the serving of alcoholic beverages to offer and grant rebates on the price of alcoholic beverages, calculated on the basis of purchases of alcoholic beverages, other consumer goods or services.

Advertising a discounted price valid for a period of less than two months for a package of alcoholic beverages outside a retail outlet is prohibited.

Chapter 10 Prohibitions and sanctions

68 § Prohibitions and precautionary measures imposed by the supervisory authority

If an alcoholic beverage is marketed in violation of section 50 or 51, the supervisory authority may prohibit the party commissioning or executing the marketing and anyone in their employ from continuing or repeating such unlawful activities.

Valvira may prohibit an alcoholic substance from being released on the market, or may without compensation require the removal of an alcoholic substance from the market, if the product or how it is presented is contrary to the relevant provisions and regulations, or if the quality of the product or its possible health hazards and risks are not appropriately monitored, or if such a prohibition is otherwise justifiable in the interests of safeguarding people's health.

The supervisory authority may prohibit a licenceholder from continuing the business operations referred to in the present Act insofar as they are materially in breach of accepted principles of morality as referred to in section 4 and insofar as such activities have not been corrected or discontinued within a reasonable time limit as imposed despite the supervisory authority's request to do so.

If it is necessary urgently to prevent the continuing or repeating of activities that are illicit or hazardous to health as referred to in subsections 1 to 3, because of the scope or significance of said activities, Valvira may issue a temporary prohibition in the matters referred to in the aforementioned subsections, and the Regional State Administrative Agency may issue a temporary prohibition in the matters referred to in subsections 1 and 3, prior to the final settlement of the matter. A temporary prohibition enters into force immediately when issued and may be cancelled prior to the final settlement of the matter.

69 § Correction

When deciding on a prohibition referred to in section 68 or when imposing a temporary prohibition, the supervisory authority may require the recipient of the prohibition to correct the activities concerned within a specified time and in a specified way, if such a correction is considered necessary because of the obvious adverse impacts of the illicit activities.

70 § Conditional fine and enforced compliance

The supervisory authority may enhance a prohibition, order or correction imposed pursuant to the present Act with a conditional threat or a notice of enforced compliance, whereby corrective action mandated but neglected shall be undertaken at the negligent party's expense.

In the matters referred to in sections 68 and 69, the levying of a conditional fine imposed by the supervisory authority and the execution of a notice of enforced compliance issued by the supervisory authority shall be decided by the Market Court on application by the supervisory authority.

Appeals against a conditional fine and enforced compliance are provided for in section 82. In other respects, conditional fines and enforced compliance are provided for in the Act on Conditional Fines (1113/1990).

Section 90 Penal provisions

The sanction for an alcoholic beverage marketing offence is provided for in Chapter 30, section 1a of the Criminal Code.

A person who markets a mild alcoholic beverage in deliberate violation of section 50 or 51 shall be sentenced for an alcoholic beverage marketing offence to a fine, unless a more severe penalty is specified elsewhere in law.

Chapter 30, Criminal Code

Section 1a Alcoholic beverage marketing offence

A person who in violation of section 33 of the Alcohol Act or of a provision issued on its basis

- 1) directly or indirectly advertises strong alcohol drink or otherwise promotes the sale of strong alcohol drink,
 - 2) directs advertisement, indirect advertisement or other sales promotion of mild alcohol drink towards minors or combines this with advertisement or other sales promotion of another product or service, or
 - 3) depicts minors in the marketing of mild alcohol drink referred to in paragraph 2,
- shall be sentenced for an alcoholic beverage marketing offence to a fine or to imprisonment for at most six months.

1 Strong alcoholic beverages

1.1 Marketing of strong alcoholic beverages to consumers (Alcohol Act, section 50(1))

By the default provision in the Alcohol Act, the marketing of strong alcoholic beverages, i.e. beverages containing more than 22% of alcohol, is **prohibited**.

Such marketing is only allowed in **exceptional cases** that are separately provided for. These include advertising aimed at professionals involved in the sale of alcoholic beverages; publications and broadcasting of foreign origin; and advertising at places of manufacture, retail sale and serving of strong alcoholic beverages.

An exception is also made in the Act for price lists in the retail sale or serving of alcoholic beverages, and for manufacturers' and wholesalers' product catalogues. The requirement for the aforementioned exception is that all available alcoholic beverages (both mild and strong) must be presented in a uniform and equal way in the price list or product catalogue.

These exceptions are discussed in more detail in section 1.3 of this Guideline.

What is said in section 3.1 concerning the advertising of strong alcoholic beverages in restaurants shall also apply as applicable to advertising and product displays at locations of manufacture and retail sale of strong alcoholic beverages.

Marketing shall be understood to include not only traditional media marketing but also any commercial communications aimed at consumers, such as the distribution of merchandise or clothing bearing emblems of strong alcoholic beverages.

The marketing provisions are not restricted to the marketing of specific **brands**; advertising using a **generic name** may also be prohibited. For instance, posting a cocktail recipe including cognac on an importer's website is clearly intended to increase sales of cognac regardless of which brand of cognac the importer is selling.

However, using the **generic name** of a strong alcoholic beverage is not prohibited in the advertising of other products if such advertising has no direct link to the sale of strong alcoholic beverages. Thus, for example, a chocolate manufacturer may advertise 'cognac liqueur chocolates' and an ice cream manufacturer may advertise 'rum raisin ice cream'.

The Constitution guarantees freedom of expression and freedom of speech to everyone. This freedom includes freedom of the press. The Constitution also guarantees freedom of artistic expression. The provisions limiting the marketing of alcoholic beverages do not apply to private individuals or to material produced under the protection of freedom of the press or freedom of artistic expression. However, if a private individual is in a position where he/she may benefit from the marketing of a strong alcoholic beverage, the prohibition of such marketing may apply to that individual too. An example of this is a person who is in a position of authority in a company that manufactures, sells or imports strong alcoholic beverages.

Similarly, a blogger must not write about strong alcoholic beverages in his/her blog for a fee. It should also be noted in this case that a professional in the alcoholic beverage industry may be violating the Alcohol Act in providing information on strong alcoholic beverages to a blogger who must be considered a consumer, since marketing strong alcoholic beverages to consumers is prohibited.

The issue of a commercial operator executing advertising campaigns is discussed in more detail in section 2.11.

Consumers may be given information on strong alcoholic beverages in editorial text in mass media, and also in non-fiction books, textbooks, cookbooks, etc., but not of the purpose of providing such information is promotional. A text may be considered promotional if it consists solely of advertising copy provided by the manufacturer of the beverage in question, or if the manufacturer has paid for the text to be published. Also, providing information only on a single product or on the products of a single manufacturer instead of providing information on the type of strong alcoholic beverage in general is prohibited.

National legislation on advertising does not apply to TV broadcasts originating in another EU Member State; these may contain advertising for strong alcoholic beverages if such advertising is legal in the originating country (for further information, see section 5.10.). However, repeating such a broadcast, for instance by screening it from a recording at a marketing event or trade fair, is considered advertising that takes place in Finland.

The prohibition on the marketing of strong alcoholic beverages is not intended to prevent or unreasonably hinder the legal sale of alcoholic beverages. For

this reason, the authorities basically do not intervene in the publication of generic names of strong alcoholic beverages in cases where alcoholic beverages are served in a context where prohibiting the mentioning of a generic name would clearly unreasonably hinder the activity in question (e.g. in the case of a 'whisky fair').

Decisions by the supervisory authority

The provisions on the promoting of alcoholic beverages also apply to promotions online. A Facebook page dedicated to a strong alcoholic beverage was found to be contrary to section 33(1) (now section 50(1)) of the Alcohol Act. (Prohibition 5823/13.08.00.02/2012)

A manufacturer of alcoholic beverages issued a bulletin reporting that the whisky manufactured by the company was going on sale in a new special package, and also posted the bulletin on its Facebook page. The bulletin was written in advertising-copy style, and several print media published the bulletin virtually unedited. Valvira instructed the company not to issue or distribute bulletins concerning strong alcoholic beverages to any other media except trade publications. (Decision 926/99/002/2011)

A proposed TV programme about strong alcoholic beverages, which was to be partly funded by companies in the alcoholic beverages industry, was ruled as constituting prohibited promotion of strong alcoholic beverages, even though the names of the funding providers would not have appeared in the programme title or closing credits. It was ruled that such a programme would not only constitute the providing of information safeguarded by the freedom of the press but would partly be tantamount to commercial communications with an indirect advertising purpose. (Letter 702/99/2011/002/001)

See also

[1.6 Advertising aimed at professionals in the alcohol](#)

[industry 5.7 Tastings](#)

[5.10 Marketing of alcoholic beverages in foreign publications and programming and online](#)

1.2 Indirect marketing of strong alcoholic beverages

Indirect marketing appears particularly in the context of marketing product families, sponsoring, product placement and corporate image marketing, but it can take other forms as well.

An **emblem** established as representing a strong alcoholic beverage must not be used 'as is' in advertising, nor in modified form as the emblem of another product or service. In other respects too, the advertising for any other product must not convey the **impression** of a specific strong alcoholic beverage. Such an impression may be created for instance through images or key colours associated with a beverage.

With reference to a strong alcoholic beverage, the concept of 'emblem' must be understood broadly. It may comprise the name of the beverage, its nickname, its logo, etc. An emblem may be established by registering it as a trademark, or it may become established through popular usage, as for instance the nickname 'Kossu' for 'Koskenkorva'. Modifying an emblem does not make it acceptable in advertising if it is still recognisable as the emblem of a strong alcoholic beverage.

Indirect marketing may arise when the manufacturer of a strong alcoholic beverage attempts to circumvent the prohibition on advertising strong alcoholic beverages by establishing a family of products, allowing the indirect advertising of the strong alcoholic beverage through advertising other products. For example, this would be the case if the manufacturer of an established and well-known strong alcoholic beverage were to introduce a non-alcoholic beverage bearing the same name.

On the other hand, a completely different product may by coincidence have the same name as a strong alcoholic beverage. For example, the name of Finlandia Hall or of the community of Koskenkorva cannot automatically be construed as promoting the sale of alcoholic beverages when used in other contexts. It depends entirely on the context in which such a name is used whether such usage constitutes prohibited promoting of strong alcoholic beverages.

Decisions by the supervisory authority

The proposed label of a vodka package that would have included the name and trademark of a well-known confectionery product was considered to violate the prohibition on indirect advertising of strong alcoholic beverages. The selling of said confectionery in supermarkets and the marketing of the aforementioned product outside points of manufacture, retail sale and serving of alcoholic beverages taken together would have constituted indirect advertising of a strong alcoholic beverage in violation of section 33(1) of the Alcohol Act. The proposed vodka label was also problematic vis-à-vis advertising legislation in that using the name of a confectionery product would have caused the promotional activities to be aimed at minors. (Statement 232/41/03)

1.3 Price lists and catalogues of strong alcoholic beverages (Alcohol Act, section 50(3))

Price lists may be made available to the public at points of retail sale and serving of strong alcoholic beverages. A venue licensed for delivery of alcoholic beverages shall be considered tantamount to a point of retail sale as far as price lists are concerned.

Such a price list may be printed matter or available in electronic form over an information network. Manufacturers and wholesalers may also publish product catalogues.

However, price lists may be published online only on the seller's own website. Price lists, whether in printed or electronic form, must not be sent to customers.

It follows from the ban on advertising strong alcoholic beverages that any and all price lists and product catalogues available for customers to take with them and published over an information network must contain information on all available alcoholic beverages (both mild and strong), presented in a moderate and equal manner. In other words, no beverage may be highlighted by means of a different font, colour or layout, for instance.

A price list may contain relevant product information such as the name of the beverage, the name of the manufacturer, the package size, the price and the country or region of origin. A price list may also include a neutral image of the bottle or package of a beverage. Such an image of the bottle or package of a beverage may only be given if combined with other product information.

The price list may also contain purely informative descriptions of alcoholic beverage product groups that do not include advertising elements. A 'product group description' can include, for instance, descriptions of the ingredients and/or manufacturing processes, flavour characteristics and usages of a particular type of alcoholic beverage. Such descriptions must also be provided equally for all product groups of alcoholic beverages.

Decisions by the supervisory authority

On the website of a shipping line, alcoholic beverages were presented in an unequal way, with some products illustrated with an image. Valvira instructed the company to present all beverages equally, without highlighting any individual product(s). (Instruction letter 8960/13.08.02.01/2014)

1.4 Serving strong alcoholic beverages free of charge (Alcohol Act, section 50(1))

Under the provision in section 50(1) of the Alcohol Act, the marketing of strong alcoholic beverages is by default prohibited unless it is specifically permitted under particular provisions. Whenever a company that manufactures, imports or sells alcoholic beverages serves or distributes free of charge a strong alcoholic beverage that it represents, such activities shall by default be considered promotional.

Distributing a strong alcoholic beverage free of charge is permissible when the beverage is sent to professionals involved in the sale of alcoholic beverages or served to them in a tasting. There are no quantitative limits to the distribution of such samples. By contrast, serving or distributing strong alcoholic beverages free of charge to any other professional groups is by default construed as promotional activities.

It is customary in business contexts to serve alcoholic beverages free of charge – in some cases, specifically strong alcoholic beverages – and give them as gifts. In such a context, serving, giving or sending a strong alcoholic beverage free of charge does not necessarily constitute prohibited promotional activities as referred to in section 50(1) of the Alcohol Act, even if the beverage served or given as a gift is one that is sold by the company in question itself.

The following specimen cases, in which **a company representing a strong alcoholic beverage acts according to commonly accepted business practice**, cannot be construed as promotional activities in the opinion of Valvira.

It is permissible:

- for a company to make a gift of the strong alcoholic beverage it represents to **one of its own employees** in respect of that employee's or the company's anniversary
- for a company to give or send as a business gift to a specific business partner the strong alcoholic beverage it represents in a situation where it is customary specifically to give or send a gift comprising a strong alcoholic beverage (as in the case of a 50th birthday or retirement)
- for a company to serve to guests, at a business lunch on its own premises or at a restaurant, the strong alcoholic beverage it represents in a situation where it is customary to serve a strong alcoholic beverage (as in the case of a schnapps at a crayfish banquet or a cognac with coffee)

- for a company to give or send a sample of its product to licenceholders in the retail sale, wholesale or commercial serving of strong alcoholic beverages or to persons making purchase decisions on the account of said licenceholders.

When a strong alcoholic beverage is given, sent or served free of charge in a context specifically concerning the business of the company in question as a manufacturer or wholesaler of the beverage in question and where the purpose of giving or serving said beverage is specifically intended to create a positive impact, directly or indirectly, on the sales of said beverage, this constitutes marketing. Therefore the following activities shall still be considered **prohibited promotional activities** under the default provision of the Alcohol Act:

- for a company to give, send or serve a strong alcoholic beverage free of charge, in relation to an anniversary of the company or its product, to anyone other than professionals involved in the sale of alcoholic beverages
- for a company to contribute to parties, competitions or other events organised by associations or other groups, by giving or sending the strong alcoholic beverage it represents to such an event
- for a company to give, send or serve a strong alcoholic beverage free of charge to journalists or other media representatives such as bloggers. Editors of trade journals in the alcoholic beverage industry may be considered tantamount to professionals involved in the sale of alcoholic beverages.

See also

[1.6 Advertising aimed at professionals in the alcohol industry](#) [5.7 Tastings](#)

1.5 Corporate image advertising (Alcohol Act, section 50(1))

The purpose of corporate image advertising is to foster a positive image of the company by describing its operating principles, goals, history and product quality. Corporate image advertising is intended to promote product sales even when no products or brands are specifically mentioned.

Basically, pure corporate image advertising is permissible also for companies that manufacture, import, sell or broker strong alcoholic beverages. In some contexts, it may be necessary for a company to mention the names of products manufactured by the company in its public communications. Such contexts include annual reports, recruitment ads, corporate brochures and corporate websites.

However, in some cases corporate image advertising may constitute prohibited advertising or promotion of strong alcoholic beverages. The evaluation of whether such activities are legal or not depends for instance on the target group for which the communications are intended, how prominently the product names are featured and whether they are featured in a way that resembles advertising. Using promotional images or emblems of products easily gives the impression of promotional activities.

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If the official name of a company contains the name of a strong alcoholic beverage, it is basically permissible as a fundamental right for the company to use that name in its publicity. However, the company name must not be used in such a way as to clearly promote sales of the strong alcoholic beverage in question.

1.6 Advertising aimed at professionals in the alcohol industry (Alcohol Act, section 50(3)3)

Strong alcoholic beverages may be marketed to professionals involved in the sale of alcoholic beverages, within the limitations on content specified in section 50(2), though not over an information network accessible by the general public.

With the exception of points of manufacture, retail sale and commercial serving of alcoholic beverages and of price lists and product catalogues, the marketing of strong alcoholic beverages is only permissible to professionals involved in the sale of alcoholic beverages.

Being 'involved in the sale' may be construed not only to mean actually selling products to consumers but also to apply to students in the catering sector and other employees of manufacturers, importers, brokers and sellers who only participate indirectly in sales.

By contrast, employees of companies in other sectors who purchase alcoholic beverages for hosting or other purposes for their companies shall not be considered as being 'involved in the sale of alcoholic beverages' as referred to in the Alcohol Act. Advertising and promotional activities aimed at the latter employees are subject to the same provisions as all consumer advertising.

Also, journalists working for publications that are not trade journals in the alcoholic beverage industry shall not be considered to be involved in the sale of alcoholic beverages even if they write about alcoholic beverages in their work. It has further been ruled that persons who have previously been employed by a company in the alcoholic beverage industry are no longer involved in the sale of alcoholic beverages as referred to in the Alcohol Act.

The limitations on content specified for the advertising of mild alcoholic beverages in section 50(2) of the Alcohol Act shall also apply to the marketing of strong alcoholic beverages in the exceptional cases permitted under subsection 3. For example, the advertising must not highlight the alcohol content of the product and must not be contrary to accepted principles of morality (for further information, see Chapter 2).

There are no longer any specific provisions on the content of product information that may be given to professionals involved in the sale of alcoholic beverages. However, particular care and consideration should be taken when sending sample bottles of a strong alcoholic beverage to this target group.

Trade journals

Strong alcoholic beverages may be advertised in trade journals for instance in the hotel and catering sector or in the retail trade.

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A publication is considered a trade journal if its circulation is largely to professional groups involved in the sale of alcoholic beverages. In earlier practice, 'largely' has been interpreted to mean 80% to 90% of the circulation. In practice, as before, advertising is only permitted if aimed at members of a trade association in the industry or another group similarly delimited in advance.

If the publication in question may be subscribed to by anyone, the publisher must be able to ensure that the subscribers only include persons involved in the sale of alcoholic beverages or that the percentage of other subscribers is not too great. As before, it is not permitted to advertise strong alcoholic beverages in publications freely available to the general public.

Websites

Information on strong alcoholic beverages may be provided to persons involved in the sale of strong alcoholic beverages irrespective of the medium through which said information is provided. In addition to trade journals, information may be provided for instance on websites intended for professionals in the industry. Such websites may not be freely accessible by the general public.

Access by consumers to such a website, to view anything other than a product catalogue or price list, must be reliably prevented, for instance by requiring a member login or other identification procedure. Parties undertaking advertising online must take care that consumers outside the target group do not have access to members-only content.

Trade fairs

Product information on strong alcoholic beverages may be provided at trade fairs to persons involved in the sale of alcoholic beverages. If tastings of strong alcoholic beverages are held at a trade fair, the organisers must be able to ensure that the attendees are in fact persons involved in the sale of alcoholic beverages. At a trade fair to which other occupational groups have access, the premises for presenting strong alcoholic beverages must be clearly separated from the other fair premises, and access to those premises may only be granted to persons who are verifiably persons involved in the sale of alcoholic beverages. Responsibility for the legality of such promotional activities lies with the party organising the promotion, not the company actually giving the tasting. The organisers of the trade fair are also responsible for ensuring that the activities undertaken therein are legal.

If only mild alcoholic beverages are presented at a trade fair, it is permissible for a small percentage of attendees to be members of occupational groups not involved in the sale of alcoholic beverages, if this is in keeping with the concept of the trade fair and access is limited, for instance by invitation only. Persons responsible for purchases or serving of alcohol at companies, and representatives of wine or beer clubs, etc., may be invited to attend such a trade fair. By contrast, serving samples free of charge at events open to the general public (consumers) or other public fairs must be considered a promotional activity contrary to accepted principles of morality.

2 Mild alcoholic beverages

The marketing of mild alcoholic beverages is by default permitted, but such activities must comply with the limitations imposed in section 50(2) of the Alcohol Act

. After the overall reform of the Alcohol Act, licensed retail outlets are now allowed to sell any alcoholic beverages with a maximum of 5.5% by volume of alcohol, also those produced by means other than fermentation.

Beverages brought to market in the retail trade may contain a strong alcoholic beverage. According to the Government Proposal, the trade name of a strong alcoholic beverage may be used in the name of such a beverage. However, while the prohibition on marketing strong alcoholic beverages does not extend to having such beverages for sale, it is still prohibited to market **products whose name contains the trade name of a strong alcoholic beverage**.

For further information on the display of pre-mixed drink products, see Chapter 5.

2.1 Marketing aimed at minors (Alcohol Act, section 50(2)1)

Marketing of a mild alcoholic beverage is prohibited if it is aimed at minors or other persons to whom alcoholic beverages may not be sold. It is also prohibited to depict in an advertisement any minors, persons behaving in a disruptive manner, persons who are clearly intoxicated or persons who are abusing alcohol. Advertisements must not be designed so as to entice the aforementioned groups to consume alcoholic beverages. The impact of an advertisement may be direct (enticing underage persons to purchase alcoholic beverages) or indirect (creating positive images and attitudes regarding the alcoholic beverage in question and its consumption for children and adolescents).

Indirect advertising of alcoholic beverages to minors is also prohibited. No name or emblem of any alcoholic beverage may be used when advertising products, services or events used or attended by minors or intended for them. It is also prohibited to associate advertisements for alcoholic beverages with such products. Examples of such products intended for children and adolescents include toys, films and games, and equipment related to leisure pursuits typically undertaken by children and adolescents.

Advertising may be construed to be targeted at minors also when **an advertisement is presented in connection with content aimed at them**. For example, it is prohibited to advertise alcoholic beverages in a magazine aimed at minors or in connection with online games, music or videos aimed at children and adolescents. Advertising of alcoholic beverages is also prohibited at musical, cultural and other events intended for children and adolescents. Advertising is further prohibited at educational institutions and in other premises principally intended for or attended by persons under 18 years of age.

An advertisement may be suspected of being targeted at minors due to its **manner of execution**. Advertising created using formats that are of interest to children and adolescents, such as children's comics, animated films or fairy-tale characters, attracts their attention. Advertising associating alcoholic beverages with collectible items of interest to children is also considered advertising aimed at children.

It must be taken into account in advertising that no cartoon characters used may resemble children in their appearance or build, they must not be drawn in a style that particularly appeals to children, and the characters may not, for instance, promote beer by drinking it or raising a glass of it.

Advertising may also be considered to be aimed at minors if an advertisement **features current youth idols**, such as TV or film stars, singers or other performers popular with adolescents. Sports figures may also appeal to children and adolescents and serve as role models. Therefore featuring star athletes and prominent sportspersons in advertisements for alcoholic beverages may be construed as advertising aimed at minors. This impression is heightened if these people are depicted as consuming or recommending an alcoholic beverage in the advertisements.

Advertisements for alcoholic beverages may not be placed on the clothing or equipment of athletes who are below the legal age for purchasing alcoholic beverages. Advertising alcoholic beverages at a competition or games venue or event is also prohibited when the event mainly involves children or adolescents.

An underage person may not be depicted in an advertisement as a member of a family consuming alcoholic beverages, even if the underage person himself/herself is not shown as consuming such a beverage.

Advertising of an alcoholic beverage featuring or aimed at minors may constitute an alcoholic beverage marketing offence punishable under the Criminal Code.

Decisions by the supervisory authority

Valvira ruled that the advertising of an alcoholic beverage on a gaming website of interest to minors was aimed at minors contrary to section 33(2)1 of the Alcohol Act and instructed the party maintaining the website to pay closer attention to the provisions on advertising in the Alcohol Act. (Letter 7219/13.08.02.01/2012)

A manufacturer of alcoholic beverages posted on its Facebook page photos from a concert tour promoting a brand of cider where there were minors in the audience; Valvira considered that the manufacturer had not paid sufficient attention to the provisions on advertising in the Alcohol Act. (Letter 5560/13.08.02.01/2012)

Valvira prohibited the importer of Duff beer to continue bringing the product to the Finnish market in a package whose appearance associated it with the cartoon series The Simpsons, which is also commonly viewed by minors. (Prohibition decision 430/99/002/2011)

Using characters from the comic strip 'Viivi ja Wagner' on packages of mild alcoholic beverages was not considered advertising aimed at minors, because the comic strip in question is clearly intended for adults. (Letter 848/99/002/2011)

2.2 Associating alcohol use with operating a vehicle (Alcohol Act, section 50(2)2)

Advertising may not feature a person operating a vehicle while drunk or a person consuming an alcoholic beverage before operating a vehicle, while taking a break from driving or while operating a vehicle. It is also prohibited to create an impression of the above. It is further prohibited to give a positive impression of driving while under the influence of alcohol or to directly or indirectly encourage such an action.

Using the name of a mild alcoholic beverage or its manufacturer or the emblem of an alcoholic beverage in the title of a TV or radio programme or magazine that focuses on motor sports or road traffic may be considered associating alcohol consumption with operating a vehicle.

Naming a motor sports event after an alcoholic beverage and advertising such an event using the name of that alcoholic beverage may be considered associating alcohol consumption with operating a vehicle. However, simply having a picture of a vehicle on a beverage package cannot in itself be considered prohibited.

Featuring motor sports drivers in advertisements for alcoholic beverages, on the other hand, may in some cases be considered advertising that associates alcohol consumption with operating a vehicle.

In its decision-making policy so far, Valvira has not intervened in the display of emblems of mild alcoholic beverages at motor sports event venues, on the outer surfaces of vehicles at such events or on drivers' outfits at such events. A similar approach has been adopted with regard to associating the name or emblem of a mild alcoholic beverage with the name of a boat.

Decisions by the supervisory authority

Valvira ruled that including the word "speedway" in the name of an alcoholic beverage and depicting chequered flags on its label unlawfully associated alcohol consumption with operating a vehicle. (Letter 7138/13.08.00.02/2012)

A car dealership offered in its direct marketing campaign a gift of a bottle of wine to persons who test drove a particular car. Valvira ruled that this advertising unlawfully associated alcohol consumption with operating a vehicle. (Decision 227/99/002/2011)

2.3 Presenting alcoholic content as a positive feature (Alcohol Act, section 50(2)3)

It is prohibited to present alcoholic content as a positive feature of a beverage. Advertising does this for instance in cases where the purpose of the ad is to entice consumers to select and purchase a beverage specifically because of its high alcoholic content. A similar effect is created by advertising emphasising that the alcoholic content of the beverage is higher than before, or high in relation to its price or to the alcoholic content of another beverage.

Particularly in the presentation and describing of beers, the word 'strong' has for a long time been unambiguously associated with a higher alcoholic content. The term 'strong beer' has been used in this sense in Alko price lists, in official statistics and on beer labels, among other things. A large portion of the characteristic properties, taste experience and effects of an alcoholic beverage is due specifically to its alcoholic content. Therefore, the epithet 'strong' when used of an alcoholic beverage is generally taken to refer specifically to its alcoholic content.

Even if the word 'strong' were used in an ambiguous sense to play on the other possible associations of the word, it nevertheless remains associated with high alcoholic content. The association with alcoholic content

can only be negated, according to Valvira, by a clear indication in the advertising that the word 'strong' is used to refer to another property of the beverage, e.g. original wort extract or taste. Words alluding to strength, such as 'powerful' or 'intense', are evaluated similarly when used in advertising.

Alcoholic content may also be considered to be highlighted in advertising if the percentage indicating alcoholic content is displayed prominently. Such advertising is also considered prohibited.

Decisions by the supervisory authority

Introducing the brand name 'Woima' (strength) for an alcoholic beverage would have emphasised the alcoholic content of the beverage as a positive characteristic, in violation of section 33(2)3 of the Alcohol Act. (Statement 355/41/02)

2.4 Marketing depicting abundant use of alcohol in a positive light or depicting sobriety or moderate use of alcohol in a negative light (Alcohol Act, section 50(2)4)

Depicting abundant use of alcohol in a positive light may include such things as depicting drunken bravado or severe intoxication and the use of expressions describing severe intoxication in a positive light. This prohibition may also be considered to prohibit advertising that generally presents the abundant use of alcohol in a positive light, for example by showing as admirable a person who can drink several alcoholic drinks in rapid succession or who has a high tolerance for alcohol.

Advertising may not present situations or create impressions where a person who drinks large amounts of alcohol is better dressed, better looking, more successful or happier than a moderate user or sober person. Even if there are no visual comparison of users of different kinds, it is prohibited to show a moderate user or sober person in a negative light with a view to his or her social status, outlook on life, physical properties or mental properties.

Decisions by the supervisory authority

An importer of beer posted an update on its Facebook site with the text "January is one big party if you don't waste it by keeping it Dry." Valvira ruled that this presented sobriety in a negative light in violation of section 33(2)4 of the Alcohol Act. (Prohibition decision 430/99/002/2011)

2.5 Marketing containing promise of enhanced performance, social success or sexual success (Alcohol Act, section 50(2)5)

Advertising that creates the impression that alcohol improves physical or mental performance is prohibited. For example, it is not permitted to recommend alcohol as a pick-me-up.

Advertising may also be considered prohibited if it indicates that a particular beverage, due to its high status, increases social success

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or sexual attractiveness. Depicting seduction with the aid of an alcoholic beverage is a classic example of such advertising. Advertising claiming that a beverage has an enhancing effect on sexual performance due to the libidinous substances it contains is also prohibited.

An ad may create an impression of an alcoholic beverage enhancing performance simply by featuring a person known for his or her excellent physical or mental performance. This impression is heightened if the person himself or herself drinks the beverage in question or endorses it.

Decisions by the supervisory authority

Images and texts used in the packaging of a strong alcoholic beverage were considered to associate the product with an internationally well-known adult entertainment star. In circumstances where it is exceptionally allowed to advertise a strong alcoholic beverage, such advertising must nevertheless conform to the provisions concerning the advertising of mild alcoholic beverages. Because of the adult entertainment associations, the packaging in question was considered to be contrary to accepted principles of morality, creating an impression that using the product adds to sexual prowess; thus, the use of these elements on the packaging was prohibited. (Prohibition decision 7563/13.08.02.01/2012)

A TV ad was banned where a man entered a restaurant and offered an alcoholic beverage to a woman unknown to him, leading to the woman leaving the older man whom she was with and going with the man offering the drink instead. Contact between the man and the woman in the ad was created specifically with the aid of the alcoholic beverage advertised, presenting the beverage as an aphrodisiac. (Decisions of the Market Court 1996:16 and 1996:17)

2.6 Marketing containing promise of medical effects (Alcohol Act, section 50(2)6)

It is prohibited to create an impression that alcohol use could eliminate physical or mental problems, cure illnesses, alleviate symptoms or make the user feel better. Advertising creating the impression that an alcoholic beverage, whether in itself or due to substances it contains, can alleviate stress or insomnia, help relax, ease pain or improve sexual performance is prohibited.

Alcoholic beverages may not be advertised as having health benefits or therapeutic properties.

For example, advertising for mixtures of alcoholic beverages and energy drinks may not claim that these mixtures improve alertness or help the user stay awake. Indeed, such advertising is potentially dangerous, because the combined effects of energy drinks and alcohol are not yet well known.

Advertising 'flu toddies' or 'hair of the dog' is also typically prohibited under this provision.

This provision may further be invoked to prohibit advertising where a beverage is named or presented in such a way as to create an impression of medical impact, e.g. if it is recommended by a health care professional.

Decisions by the supervisory authority

An interest group for manufacturers of alcoholic beverages claimed health benefits for a beer in its brochure. Valvira ruled that the brochure was in violation of section 33(2)6 of the Alcohol Act in presenting an alcoholic beverage as having health benefits or therapeutic properties. Moreover, because the brochure did not refer to the adverse health impacts of alcohol, it was considered to be misleading, in violation of section 33(2)7 of the Alcohol Act. (Letter 5564/13.08.02.01/2013)

An energy drink and a mild alcoholic beverage belonging to the same product family had very similar product names and packages. The energy drink created an impression of giving increased energy and enhancing performance. Advertising for the energy drink thus constituted indirect advertising for the mild alcoholic beverage, in violation of section 33(2)5–7 of the Alcohol Act. (Decision 978/99/2008)

2.7 Marketing that is contrary to accepted principles of morality or inappropriate or misleading (Alcohol Act, section 50(2)7)

Evaluating whether the marketing of alcoholic beverages is contrary to accepted principles of morality, or improper, or misleading, must be rooted in the general purpose of the Alcohol Act. Section 1 of the Alcohol Act states that the purpose of this Act is to prevent detrimental societal, social and health effects caused by alcoholic substances by controlling the consumption of alcohol. Therefore the principal aim of the provisions concerning the marketing of alcoholic beverages is rooted not in consumer protection on the market but in alcohol policy.

In addition to alcohol legislation, consumer protection legislation and specifically the Consumer Protection Act also apply to the advertising of alcoholic beverages to consumers. Marketing of consumer goods is provided for in [Chapter 2 of the Consumer Protection Act \(39/1978\)](#). The general purpose of these provisions is to safeguard the consumer's ability to make informed purchase decisions.

Advertising is a form of communications that creates images with a powerful impact on values and attitudes. Advertising is considered **contrary to accepted principles of morality** if it contradicts values prevalent in society or is likely to offend a specific group of people. This includes but is not limited to encouraging behaviour unacceptable in society at large, using violence as a means to an end, or discriminating by race, religion or gender in advertising.

It may also be considered contrary to accepted principles of morality to idolise antisocial, intoxicated or otherwise reprehensible behaviour or to depict such behaviour as acceptable through humorous means, for example. Promotion of alcoholic beverages may be considered contrary to the values of society at large if associated with alcohol abuse and associated antisocial behaviour.

Restraint should be exercised in featuring sports and well-known athletes in the promotion of alcoholic beverages. Advertisers should be particularly careful about featuring individual highly recognisable top athletes in ads for alcoholic beverages. (For further information, see section 5.5.)

The advertising industry's own international ground rules specify that the social responsibility of advertising must be kept in mind with every advertisement.

An ad is not subject to prohibition simply if someone who sees it considers themselves offended by it; but if it can be anticipated when creating the ad that it will be found offensive by specific population groups, the ad should be considered unacceptable. An ad intended for a defined, limited audience may thus be appraised differently than one intended for the general public.

Using **humour** in an ad does not in itself justify using means contrary to accepted principles of morality. A message presented in a humorous manner may equally well influence attitudes and offend specific population groups. However, in evaluating the overall impact of an ad it may be of relevance how serious its content should be considered.

Different target groups may understand an ad in different ways. It should be taken into account that print ads are often merely glanced at and TV ads are usually only viewed passively rather than with attention focused on their narrative. If the message of an ad is presented in a veiled or complicated way, the advertiser will have to expect viewers to generate impressions not originally intended.

Specific means of marketing are prohibited in the Consumer Protection Act as being inappropriate. Under Chapter 2 section 3 of the Consumer Protection Act, a procedure that may impair the consumer's ability to make an informed purchase decision or other decision with regard to the consumer goods in question, leading the consumer to make a decision that he or she would not have made in the absence of said procedure, shall be considered inappropriate. Any other procedure that, for example, exploits the inexperience or special needs of vulnerable consumer groups, thereby directing the consumer's attention away from matters relevant for decision-making, shall also be considered inappropriate.

In the marketing of alcoholic beverages, **vulnerable consumer groups** include minors, adolescents and heavy consumers of alcohol. By definition, such consumer groups are considered more susceptible to influences than others. Advertising of alcoholic beverages directed at such groups must always be evaluated more strictly. Applying the provision on inappropriate procedures does not require the marketing in question to have been demonstrably harmful or damaging to certain consumers, nor does it require that the party commissioning or executing the advertisement knew that the procedure was inappropriate vis-à-vis consumers.

Evaluating whether advertising an alcoholic beverage is appropriate must always be informed by the fact that alcohol is an intoxicant whose use can cause addiction as well as adverse social and health impacts. Therefore, certain advertising practices must be considered inappropriate or contrary to accepted principles of morality under the Alcohol Act even if acceptable in the marketing of other products. For example, special offers of free drinks intended to cause consumers

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to increase their alcohol consumption have been considered inappropriate for this reason. (For further information, see section 3.2.)

A claim is **false** if it is demonstrably incorrect. Advertisers using factual claims must be able to substantiate them.

Advertising is **misleading** if it leaves consumers with an untrue impression or understanding of the product's properties. Advertising whose factual content is accurate may nevertheless be misleading if essential information is omitted or presented unclearly. Misleading impressions may be created not only through text but also through visual means, e.g. with images, patterns or layout.

Misleading advertising may be contained in the information on the label of an alcoholic beverage. Valvira may order packages of alcoholic beverages with misleading labels to be removed from the market.

It may be misleading to label a serving of an alcoholic beverage as 'large' or 'small' without informing the consumer of the actual size of the serving. If there are several sizes of serving available, as is commonly the case for brewery products, consumers must be informed of the serving sizes even in print ads. For instance, the term 'large pint' is not standardised enough to constitute sufficient information on the serving size.

For further information on the provisions and policies of the Consumer Protection Act with regard to marketing an advertising, consult the website of the Finnish Competition and Consumer Authority www.kkv.fi.

Under the new section 4 added to the Alcohol Act, practices contrary to accepted principles of morality are prohibited in the sales and marketing of alcoholic substances and in any other business operations linked to same contractually or through any other arrangement.

A practice is considered contrary to accepted principles of morality if it is in clear violation of generally accepted values in society at large, particularly if it is approving of or indifferent towards the endangering of health while under the influence of alcohol.

General examples mentioned in the relevant Government Proposal include endangering the safety of a customer, depicting sexuality so as to demean women or men, or endangering the wellbeing of children. Similarly, unacceptable are offers of the type 'drink as much as you can for a fixed price' in serving or marketing alcoholic beverages or selling alcohol on credit to vulnerable consumer groups. Selling alcohol to be ingested by an unusual method may also be unacceptable, because alcohol ingested in the form of a powder or an aerosol may be absorbed far more efficiently than alcohol ingested conventionally.

The authorities may order an operator to discontinue such unacceptable practices.

Decisions by the supervisory authority

A restaurant advertised its entry fee as all-inclusive. The advertising failed to note that the price consisted of a programme fee and a drinks coupon fee. The 'all-inclusive' ad was considered misleading. Because the advertising enticed consumers to visit the restaurant with the impression of free drinks, it was also considered inappropriate for consumers. (Statement 8639/13.08.00.01/2013)

An operator wished to print a statement about charity work on the rear label of a wine bottle. Valvira ruled in its statement that influencing consumers' purchase decisions by referring to charity work is inappropriate and therefore contrary to accepted principles of morality and prohibited under the Alcohol Act. Valvira noted that a company in the alcoholic beverages business may foster a positive corporate image for instance by reporting on its sponsorship in its annual report or in other contexts. However, corporate image marketing must be kept separate from the marketing of an individual alcoholic beverage; the beverage and sponsorship must not be linked in such an obvious manner. (Letter 8427/13.08.00.02/2015)

See also

[3.2 Marketing mild alcoholic beverages in restaurants](#)
[and 5.4 Free gifts and combined offers](#)
[5.5 Advertising of alcoholic beverages and sports](#)

2.8 Marketing on TV, on radio and in cinemas (Alcohol Act, section 50(2)8)

Advertising alcoholic beverages is prohibited on TV and radio between the hours of 07.00 and 22.00, and in cinemas when the programme is allowed for persons under 18 years of age.

Under the Information Society Code (917/2014), television broadcasting means the authentic and simultaneous transmission of programmes consisting of audio-visual programmes to the audience on the basis of a programme schedule. Radio broadcasting is similarly defined. Television and radio broadcasting are linear, meaning that they transmit the same programme stream in real time to the entire audience. It is irrelevant for the purposes of this definition which technology is used for the broadcasting, reception or monitoring of the programme. Therefore the provision also applies to television broadcasting originating in Finland that is streamed over the Internet.

Video-on-demand and audio-on-demand services offered over information networks, where recipients themselves choose when to receive the programmes, are not considered television or radio broadcasting as referred to in the aforementioned provision and are thus excluded from its scope.

It is prohibited to air ads for alcoholic beverages on TV or radio at times when children and adolescents are likely to be tuned in. Children and adolescents are vulnerable

to advertising in electronic media, and the primary purpose of the time limits on the advertising of alcoholic beverages on TV and radio is to prevent and limit situations where children and adolescents may be exposed to advertising of alcoholic beverages.

It is prohibited to screen ads for alcoholic beverages at cinemas, except if the programme is only allowed for viewers aged 18 and above. If the National Audiovisual Institute (KAVI) has set the age limit for a particular film at 7, 12 or 16 years, no ads for alcoholic beverages may be shown at public screenings of that film.

2.9 Marketing in public places (Alcohol Act, section 50(2)9 and section 50(4) §)

Marketing of mild alcoholic beverages and associating same with the marketing of another product or service is prohibited if it is carried out or aimed at the general public in public places referred to in the Public Order Act.

This provision applies to alcoholic beverages with an alcoholic content of **1.2% by volume or more of ethyl alcohol**. In other words, the prohibition on advertising in public places also covers alcoholic beverages with an alcoholic content of 1.2% to 2.8% by volume, even though the sale of such products is not subject to a licence.

2.9.1 Definition of a public place

A public place may be an **open space** accessible without passing through a door or gate. Typical public places include public roads and streets, footpaths and non-vehicular traffic routes, open markets, public car parks, squares and parks. Open and unfenced sports grounds, recreational routes, camping grounds and public water areas are also public places.

A public place may also be a **building or similar enclosure** with a fence, walls and/or ceiling and generally accessible by passing through a door or gate. Such places may be closed to the public at specific times, e.g. at night or when there is no public event or occurrence.

These include shopping centres, transport terminals, multi-storey car parks and cinemas.

Access to a public place may be limited by specific criteria, such as:

- age limits
- entry tickets
- access passes
- security screening

What is essential for evaluating is that in a public place **access is not limited to a predefined group of people**.

Public places are places which are intended for use by the general public or which are habitually, whether on a temporary or permanent basis, used by the general public, regardless of who owns the place.

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According to the principal provision in the Public Order Act, the definition of public places excludes locations protected by inviolability of the home and certain buildings unfit for accommodation.

Advertising of alcoholic beverages is prohibited if aimed at the general public in a public place, even if the advertisement itself is not located in a public place.

For instance, an advertisement for an alcoholic beverage that is placed on private land, e.g. in a field or a garden, or on the wall, fence or other structure of a non-public building, may be ordered to be taken down pursuant to the Alcohol Act. Such a prohibition may be issued if the advertisement is clearly visible and can be interpreted as intended to be seen by the general public. Even advertising within an area licensed for serving alcoholic beverages – advertising that in itself is permitted – may be banned if the advertisement is conspicuously large and clearly intended to be seen by people outside the licensed area.

The prohibition of advertisements for alcoholic beverages in public places is particularly aimed against continued outdoor advertising. In built-up areas, this specifically concerns advertising at **tram and bus stops, along streets** and on large **billboards**.

The following kinds of advertising may also be considered prohibited:

- advertisements on public transport, e.g. on buses or trams
- advertisements on the exterior of delivery vehicles that are used in the alcohol industry and that operate in public places
- conspicuous or very large cans, bottles or other structures or advertisements resembling an alcoholic beverage or a known emblem thereof, whether located in a public or private place

2.9.2 Exceptions to the prohibition on advertising in public places

Public events and venues used for same on a permanent basis

Notwithstanding the ban on advertising in public places, promotional activities may be undertaken at **public events** as referred to in the Assembly Act and at **venues used for same on a permanent basis**.

In section 2(2) of the Assembly Act, a public event is defined as amusements, contests, performances and other comparable events that are open to the public, but not considered to be public meetings.¹

The concept of a 'public event' is extensively defined in the Assembly Act and its preparatory materials; public events include, but are not limited to, various celebrations, performances and concerts. Commercial events such as trade fairs, promotions, air shows, sports events, competitions and team sports events are also public events. Events at permanent and travelling amusement parks are also public events.

¹ In section 2(1) of the Assembly Act, a **public meeting** is defined as a demonstration or other assembly arranged for the exercise of the freedom of assembly, open for participation or observation also to persons who have not been expressly invited to it.

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However, at events intended for children and adolescents, such as children's music, culture or sports events, advertising alcoholic beverages is prohibited under section 50(2)1 of the Alcohol Act.

In addition to promotion during public events, advertising is permitted at venues used for public events on a permanent basis. According to the Government Proposal, if the name of an alcoholic beverage is painted on the side of an ice hockey rink, for instance, it does not need to be removed between matches.

Operations intended to provide individuals with everyday opportunities for independent recreation, such as maintaining fitness facilities, shall not be considered public events. A sports hall or other similar facility is not by default a venue used for public events on a permanent basis if, for instance, public events such as shows, competitions, matches, etc., are only held sporadically.

The primary purpose of a venue is paramount in evaluation. If a venue exists primarily for a purpose other than organising public events, then advertising of alcoholic beverages is only permissible at the times of public events organised there.

Other exceptions

Promotion of mild alcoholic beverages as referred to in section 50 of the Alcohol Act may be undertaken, with the restrictions on content specified in subsection 2, on a vessel in international traffic; on premises licensed for the serving or retail sale of alcoholic beverages; and outside such premises as regards the availability and price of specific beverages.

On board vessels and aircraft in international traffic, advertising and promotion of mild alcoholic beverages is permitted on premises other than those licensed for the serving and retail sale of alcoholic beverages.

Premises licensed for the serving, retail sale or manufacture of alcoholic beverages may advertise those products that they have for sale. Also, a display in the window or outside premises licensed for the serving or retail sale of alcoholic beverages may provide factual information on the mild alcoholic beverages available on the premises and list their prices.²

Permission to display advertising with regard to availability and price outside premises licensed for the serving or sale of alcoholic beverages constitutes an exception to the default provision on the prohibition of advertising. Outside the premises, the product may not be presented, for example, with an especially large-sized advertisement or otherwise conspicuously. Such a display may not resemble advertising in its nature; in other words, products must not be described extensively with regard to their quality, taste or other properties.

² In retail sales, any offer price must be valid for a period of at least 2 months for it to be permissible to be displayed outside the premises.

Advertisements have to be placed in the immediate vicinity of the sales premises. Advertisements can be placed elsewhere than within visual contact of the sales premises only if there are justifiable reasons to do so, such as if the restaurant is difficult to find. Customers must be able to comprehend the link between the alcohol advertisement and the premises of sale, both visually and functionally. For instance, an illuminated display outside a shopping centre does not constitute advertising by the operator of the licensed premises and therefore, according to Valvira, does not fulfil the aforementioned criteria.

Public transport stops and streets are areas in the habitual living environment of children and adolescents, which is why they are subject to the ban on advertising alcoholic beverages in public places. Public transport stops and similar locations are not places where operators of licensed premises may advertise and are not subject to the monitoring obligation. Even if a bus stop were located in the immediate vicinity of licensed premises, consumers would not view advertising there as belonging to a specific venue, as opposed to displays in a restaurant or shop window, or an A-frame beside an entrance. Therefore, under the default provision advertising of alcoholic beverages is not allowed at bus stops and similar sites.

This provision may be relevant with reference to items in the outdoor serving areas of restaurants, such as promotional umbrellas, posters, furniture or other items. The advertising of alcoholic beverages on such items must not be so prominent and so clearly visible outside the licensed serving area as to be seen as circumventing the prohibition on advertising in public places.

Availability and prices of mild alcoholic beverages may be advertised on, for example:

- in the window of premises licensed for serving alcoholic beverages
- an A-frame stand in the immediate vicinity of the licensed premises
- awnings of the licensed premises
- parasols in an outside serving area

According to Valvira's interpretation practice, it is permissible for the names, emblems and logos of mild alcoholic beverages to be displayed in the windows and on the awnings of restaurants. There may also be e.g. an image of a pint of beer in the window as an indication of availability. Displaying the name, logo or emblem of a manufacturer does not constitute information of the availability of the alcoholic beverage in question.

The name of a restaurant may be the same as the name of a mild alcoholic beverage. It should be noted, though, that in this case advertising the restaurant in a public place not in the immediate vicinity of the restaurant may constitute indirect advertising of an alcoholic beverage, which is prohibited.

2.9.3 Marketing in connection with another product or other advertising, and indirect advertising

Marketing of mild alcoholic beverages and associating same with the marketing of another product or service in a public place is prohibited under section 50(2) of the Alcohol Act.

Indirect advertising in public places is also prohibited, including, in particular, promotion of a product in connection with the advertising for another commodity so that the established emblem of the product or its seller, whether as is or in modified but identifiable form, is used as the emblem of the other commodity; or advertising for another commodity that conveys an image of a particular product.

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Because the Alcohol Act prohibits the advertising of mild alcoholic beverages in public places, and this ban cannot be circumvented for instance by:

- paying an event organiser for using the name of an alcoholic beverage as the name of the event (sponsorship)
- paying manufacturers of other products for using the name of an alcoholic beverage as the name of other products.

If e.g. an event, a competition or a tournament is named after a mild alcoholic beverage for contractual reasons, it must not be advertised in public places, such as on streets or at public transport stops.

Because of the blanket ban on advertising in public places, problematic situations may arise with regard to product families and namesake products.

For instance, beverages that contain less than 1.2% by volume of alcohol must nevertheless not be advertised in public places if they belong to a family of products that includes stronger alcoholic beverages under the same emblem, name or logo, even if the latter are mild alcoholic beverages. Whether the use of an emblem constitutes indirect advertising of an alcoholic beverage is evaluated on a case-by-case basis. This evaluation will take into account whether such a name or emblem is known primarily as the emblem of an alcoholic beverage.

It has become increasingly common to name alcoholic beverages after sports teams, bands and artists, in which cases the name or emblem of such a team, band or artist is used as the name, emblem or logo of an alcoholic beverage. The prohibition of indirect advertising of alcoholic beverages must be taken into account when advertising such beverages. However, the matches of a particular team may still be advertised in public places if the advertising does not create an impression of the beverage named after the team.

With regard to corporate image advertising, the regulations on the indirect advertising and other promotion of strong alcoholic beverages may be taken as a guideline as applicable. It should be noted, though, that promotion of strong alcoholic beverages is prohibited by default, while advertising of mild alcoholic beverages is permitted by default. With a view to the systematic nature of the Alcohol Act, it is not necessary to restrict corporate image advertising as strictly when it comes to mild alcoholic beverages.

Indeed, in keeping with fundamental rights, an enterprise must by default have the right and the opportunity to advertise itself by its own name. An enterprise is also allowed to promote products the advertising of which is not specifically prohibited by law. However, corporate image advertising may not incorporate emblems or slogans used exclusively in the advertising for an alcoholic beverage. If the name or logo of the enterprise is similar to that of a mild alcoholic beverage or includes part of the name of the beverage, its permissibility in corporate image advertising must be appraised on the basis of whether the advertising primarily conveys an image of that specific alcoholic beverage, through means such as typeface, colour scheme or similar features.

2.10 Games, raffles and competitions (Alcohol Act, section 50(2)10)

Advertising for alcoholic beverages that involves the consumer participating in a game, a raffle or a competition is prohibited. Manufacturers and importers of alcoholic beverages and holders of a licence for the serving or retail sale of alcoholic beverages must not organise a game, a raffle or a competition where one or more prizes are an alcoholic beverage. Any other games, raffles and competitions associated with alcoholic beverages are similarly prohibited even if none of the prizes are an alcoholic beverage. It is irrelevant how such a game, raffle or competition is organised; the ban covers such events if associated with alcoholic beverages, whether held online or on licensed premises, for instance. It is also irrelevant whether the outcome is due to chance or depends on the skills or knowledge of the contestant.

Games, raffles and competitions may be organised on premises licensed for the serving or retail sale of alcohol as long as they are in no way associated with alcoholic beverages and none of their prizes are an alcoholic beverage.

If a mild alcoholic beverage is a prize in a raffle or public competition used for marketing **products other than alcoholic beverages**, then no product names or emblems of alcoholic beverages or names of their manufacturers, importers or sellers may be presented in connection with such a raffle or competition.

If alcoholic beverages are given out as prizes in a raffle or public competition, the organisers must ensure that it is not possible for **persons under the age of 18** to participate in the raffle and to receive a prize that is an alcoholic beverage.

Strong alcoholic beverages must not be given out as prizes in raffles used for marketing products other than alcoholic beverages, because giving out such a prize would be tantamount to promoting the strong alcoholic beverage in question.

It should also be noted that if the organisers of a raffle or competition where entrants pay a fee and where the prizes include alcoholic beverages gain a profit from such a raffle or competition, this may in some cases be considered a violation of the monopoly on sales and licensing system provided for in the Alcohol Act. Therefore, giving out an alcoholic beverage as a prize in a charity raffle, for instance, is prohibited. Under [Chapter 50a](#) section 1 of the Criminal Code, a person who in violation of the Alcohol Act or of a provision issued on its basis sells, supplies or otherwise provides to another alcoholic drink or spirits, shall be sentenced for an alcohol offence to a fine or to imprisonment.

When giving out non-alcoholic products as prizes, it must be noted that the prohibition of indirect marketing also prohibits the use for such a purpose of products belonging to a product family that includes alcoholic beverages.

2.11 Using consumer-produced content and offering advertising for consumers to share in information network services (Alcohol Act, section 50(2)11)

Advertising alcoholic beverages is prohibited if its commercial operator uses **verbal or visual content created by consumers** in information network services controlled by that operator or makes verbal or visual content produced by that operator or produced by consumers **available for distribution by consumers** by such services.

According to the Government Proposal, the purpose of the provision is to restrict new and efficient means of online marketing so as to reduce the exposure of children and adolescents to alcohol advertising but so that adult consumers will still be able to receive the information on mild alcoholic beverages that they require.

It is prohibited to use material created by consumers, such as comments or photos or videos of consumers drinking, in advertising alcoholic beverages. Material created by consumers must not be distributed through the website or social media services of a commercial operator. Advertisers must disable the sharing option and must not encourage or suggest that consumers share content created by themselves or by other consumers that may be construed as advertising an alcoholic beverage in the information networks controlled by those advertisers. Commercial operators are obliged to delete consumer-created material tantamount to advertising alcoholic beverages in the information network services they control. For instance, favourable comments on and images of alcoholic beverages are considered such consumer-created material. However, material created in collaboration with a manufacturer, importer or seller, such as a blog text, is not considered consumer-created material.

The restriction applies to the **commercial operator** producing advertising of alcoholic beverages. A commercial operator is an entity with a direct financial interest in the advertising of alcoholic beverages. Typically, a commercial operator in this context is the manufacturer, importer or seller of an alcoholic beverage. The restriction thus does not apply to the freedom of speech of private individuals or consumers, because independent communication between consumers does not constitute advertising.

However, any other party engaged in advertising and potentially benefiting from advertising of alcoholic beverages may also be considered a commercial operator in this context. If an individual person has an immediate financial interest or other clear commercial connection to the advertising of alcoholic beverages, then that person shall be considered a commercial operator for the purposes of this evaluation by virtue of his or her status. An example of this is a person who is in a position of authority in a company that manufactures, sells or imports strong alcoholic beverages.

A blogger, YouTube account holder or Instagram account holder may also be considered a commercial operator if he or she collaborates with or is commissioned by a manufacturer, importer or seller of alcoholic beverages, or if he or she promotes alcoholic beverages for a fee. In such a case, such a person must abide by the provisions on the advertising of alcoholic beverages, and the same restrictions shall apply to that person as to other advertisers.

Whether any particular action or practice is prohibited or permitted is always evaluated comprehensively on a case-by-case basis. If a blogger only occasionally receives product samples and is not otherwise guided in his or her writing by an operator in the alcoholic beverage industry, then the blogger's writing is interpreted as the expression of a private individual and as such not subject to the provisions on the advertising of alcoholic beverages.

An **information network service controlled** by a commercial operator means any online service or channel which is visible to consumers and whose content may be determined by the commercial operator. Such information network services include websites, Facebook, Instagram, blogs and YouTube.

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It is the considered opinion of Valvira that advertisers must not encourage or suggest that consumers share content created by themselves or by other consumers that may be construed as advertising an alcoholic beverage in the information networks controlled by those advertisers.

Advertisers must use the settings available to them in the information network services to prevent the distribution of the advertising of alcoholic beverages that they produce. If it is possible to disable the sharing function in the information network service used by an advertiser, then the advertiser must disable that function in connection with advertising alcoholic beverages.

By default, displaying user-targeted sponsored ads for mild alcoholic beverages in social media services is permitted, but the party executing the advertising must ensure that the advertising is aimed at adults. The sharing function must be disabled for sponsored ads.

If an advertiser has **blocked** distribution of advertising material produced by the advertiser **using the means available**, then the advertiser shall not be held responsible for consumers forwarding or sharing links or material with other consumers. In practice, this means that advertisers must act with due diligence and responsibility in selecting service-specific settings in the information network services used by them.

Many services also include a "Like" function. A consumer clicking a button – without producing verbal or audio visual content – to express that he or she approves of the advertiser's content, shall not constitute consumer-produced content. Therefore, the advertiser does not need to remove or block "Likes".

Whether any particular action or practice is prohibited or permitted is always evaluated comprehensively on a case-by-case basis. What is particularly essential for this consideration is whether a commercial operator can be considered to have sought to advertise and promote an alcoholic beverage by leveraging the active participation of consumers or content produced by them. Relevant factors in this are the purpose, scope, target group and duration of any given practice.

It is permitted to:

- advertise mild alcoholic beverages on traditional websites
- advertise mild alcoholic beverages in social media services, provided that the restrictions on the sharing function are complied with and consumers are blocked from posting texts or comments on the page or the advertiser deletes any texts or comments that may be construed as advertising alcoholic beverages.
- use consumer-created content and the sharing function in advertising for any other products and services besides alcoholic beverages. If the principal message in consumer-created content does not concern alcoholic beverages, it does not need to be deleted.

It is prohibited to:

- use consumer-created material such as images, videos, comments or blog texts in marketing
- encourage consumers to share alcohol advertisements

- use the social media services sharing function in connection with advertising alcoholic beverages on the advertiser's traditional website (social media buttons).

3 Marketing alcoholic beverages in restaurants

Marketing of strong alcoholic beverages in restaurants (Alcohol Act, sections 50(1) and 50(4)1

Marketing of strong alcoholic beverages is permitted indoors on premises licensed for the serving of alcoholic beverages. Such advertising may not be visible from outside the restaurant. The advertising does not need to be confined to the actual serving area; advertisements may be placed in other rooms in the venue, provided they are not visible from outside. Marketing on the licence holder's website or in social media services does not count as advertising on the premises.

The advertising must be appropriate: not contrary to accepted principles of morality, inappropriate for consumers or misleading. When advertising drinks, the size of the portion and the amount of alcoholic beverage contained in a mixed drink must be indicated.

Strong alcoholic beverages **must not be advertised:**

- in products that the customers are meant to take away (postcards, flyers, recipe booklets, matches sold to customers, etc.);
- by offering samples of strong alcoholic beverages.

Emblems of strong alcoholic beverages may be featured on employee clothing. Such clothing must only be used at work, not in the employees' spare time.

Product presentations of strong alcoholic beverages may be held on premises licensed for the serving of alcoholic beverages. Presentations may be given by a person or persons who are not employees of the restaurant. Such a presentation may include information on the properties or use of the beverage or a demonstration of cocktail mixing. Product samples must not be given out for free or at only a nominal price. However, in connection with such a presentation the restaurant may sell servings at a reasonably discounted price.

Advertising strong alcoholic beverages outside restaurant premises is prohibited. Strong alcoholic beverages must also not be advertised using commonly known nicknames or euphemisms, nor using established emblems.

Strong alcoholic beverages cannot be advertised in newspapers and magazines, on TV, window displays, window taping, the front door, outdoor signage and on the Internet, such as on the website or Facebook page of the restaurant. Placing bottles of strong alcoholic beverage in a restaurant window also constitutes prohibited advertising.

A restaurant must not have advertisements containing

- the brand name of a strong alcoholic beverage

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- the generic name of a strong alcoholic beverage, as in 'Irish whiskeys' or 'coffee and cognac'
- images of the bottles or labels of strong alcoholic beverages
- an expression covering all beverages available (including strong alcoholic beverages), such as 'any drink for 10 e'.

Advertising placed on an **outdoor terrace** or other outdoor serving area must be such that it is not prominently visible from outside that area. Large posters advertising strong alcoholic beverages, price labels clearly seen from a distance, parasols with emblems, etc., are prohibited for this reason.

Advertising **drinks or cocktails** containing strong alcoholic beverages is tantamount to advertising those strong alcoholic beverages, regardless of whether the alcohol content of the finished product is over or under 22% by volume. This prohibition applies to any and all drinks served at the restaurant that contain strong alcoholic beverages.

The marketing of drinks made solely from alcoholic beverages containing less than 22% ABV is permitted. For the avoidance of doubt, it should be mentioned that the drink in question is mild, unless this is otherwise apparent from its name. Selling **pre-mixed bottled drinks** does not constitute serving strong alcoholic beverages. However, such drinks may not be advertised if their name contains the brand name of a strong alcoholic beverage: for instance, it is prohibited to advertise the canned drink 'Jim Beam & Cola'.

Nicknames such as 'snapsi', 'salmari' or 'salkkari' are well established as referring to specific strong alcoholic beverages. If such nicknames are used to advertise drinks that are actually prepared using mild alcoholic beverages, this must be clearly indicated, as with 'tervasnapsi 21%' (tar schnapps) or 'mieto salmari' (mild salt liquorice Koskenkorva) to avoid the advertising being misleading.

The prohibition of advertising strong alcoholic beverages does not prevent the licensed premises from publishing a serving price list in print or online, such that all the products on sale are presented to the customer in a consistent and appropriate manner. A catalogue must not be like an advertising brochure where only some products are highlighted. In other words, no beverage may be highlighted by means of a different font, colour or layout, for instance.

Decisions by the supervisory authority

A restaurant advertised its entry fee as all-inclusive. The advertising failed to note that the price consisted of a programme fee and a drinks coupon fee. The 'all-inclusive' ad was considered misleading. Because the drinks coupons could be redeemed for strong alcoholic beverages as well as mild ones, the advertising was also considered to constitute advertising of strong alcoholic beverages, and as such in violation of section 33(1) of the Alcohol Act. (Statement 8639/13.08.00.01/2013)

Marketing of mild alcoholic beverages in restaurants (Alcohol Act, section 50(2))

By default, appropriate advertising of mild alcoholic beverages (maximum 22% alcohol by volume) is permitted. It is permitted to use the brand names and emblems of mild alcoholic beverages and to provide price information for them. Such advertising becomes prohibited if it is aimed at minors or if it employs

promotional means that are contrary to accepted principles of morality or otherwise inappropriate. Overall evaluation of marketing efforts is often decisive in considering when a particular practice is illegal or not.

Free servings

It is prohibited to advertise alcoholic beverages by enticing customers with free drinks or by making offers indicating that the more drinks one buys, the cheaper it gets. It is also prohibited to hold tastings of alcoholic beverages open to the general public in a restaurant. Such advertising easily appeals to vulnerable consumer groups, such as adolescents or heavy consumers of alcohol, thus possibly leading to an inconsiderate increase in alcohol consumption.

Examples of inappropriate promotion:

- "First drink free", "Lottery tickets for free drinks"
- Packages sold by restaurants including unlimited alcoholic beverages, e.g.: "VIP ticket with unlimited drinks" or "Pay once, drink as much as you like"
- "Two drinks for the price of one"
- 'Beer passes' or other vouchers where consumers collect stamps for purchases of alcoholic beverages and receive a free drink or other benefit in return for a certain number of stamps, e.g. every fifth drink at half price
- Vouchers passed out to consumers, for instance in the street: 'free beer or cider at restaurant X with this coupon'
- Beer-drinking competitions or other events specifically involving the drinking of alcoholic beverages.

However, a licence holder may offer customers a mild alcoholic beverage free of charge as a surprise gesture of hospitality. For instance, a restaurant may declare a round of drinks to be on the house, i.e. free for the customers who happen to be in the restaurant at that moment, on the occasion of a celebration or momentous event. Such hospitality may not be announced beforehand, e.g. in print media or by text message. Such free serving of drinks must be done completely at random and must involve a reasonable size of serving. Such free serving must not be performed on a regular basis so that customers would be aware of the time of such serving even though it were not published.

Licence holder's hospitality at an invited function

A licence holder of a restaurant may hold an opening function for invited guests when opening a new restaurant. The individually invited persons in this case are guests of the licence holder, and as such may be served food and drink free of charge as hospitality on part of the licence holder. Such an event is an invited function held by the licence holder and not an occasion intended to promote the sale of alcoholic beverages. However, normal regulations concerning the serving of alcoholic beverages nevertheless apply.

A licence holder may organise other kinds of functions at the restaurant. Food and alcoholic beverages may be offered free of charge at business negotiations, for instance. Whether any given event is considered to constitute a function held by the licence holder or a promotional event for consumers concerning alcoholic beverages must be evaluated on a case-by-case basis, depending on the nature and scope of the event.

Events for regular customers

A licence holder may, on a random basis, organise invited time-limited sessions for loyal customers where a reasonable amount of alcoholic beverages may be served to those loyal customers free of charge. The beverages served may also include strong alcoholic beverages, but due to the prohibition of marketing such beverages they may not be otherwise marketed or mentioned in the event invitation.

The regulars must have an existing customer relationship. Invitations to such loyal customer events must be sent out in advance and must be personalised. A person who has arrived at the restaurant not knowing of the event and registers as a loyal customer in order to receive free drinks shall not qualify as a loyal customer for this purpose.

loyal customer sessions by invitation only must be time-limited as indicated on the invitation. During that time period, the restaurant or the relevant part of it must be closed to the general public. After the event, the restaurant can continue operating normally, open for the public.

Product presentations

It is permitted to present alcoholic beverages in a licensed serving area, for instance at a trade fair. However, it is not permitted to allow consumers to drink or sample the alcoholic beverages presented free of charge at a fair open to the general public. Any tasting or serving of alcoholic beverages in connection with a presentation must comply with the regulations concerning the serving and advertising of alcoholic beverages.

Exhibitors in the alcohol industry must agree with the licence holder on the delivery of the alcoholic beverages to be presented to the trade fair and on other related practical arrangements. It should be noted that only alcoholic beverages that have been legally delivered may be served and consumed on licensed premises.

Alcoholic beverages may be obtained for serving from the State alcohol company, from a licensed manufacturer or from a wholesaler. A licence holder himself may also import alcoholic beverages for serving, having first submitted a notification to Valvira. Even in the case of a product presentation, the alcoholic beverages in question must be delivered to the serving venue as described above, and the deliveries must be recorded under the licence number of the premises.

The **other restrictions on the advertising of mild alcoholic beverages** must also be taken into account in restaurant advertising. These are discussed in more detail in chapter 2.

Decisions by the supervisory authority

The State Provincial Office issued a warning to a restaurant, inter alia because the restaurant issued 'beer passes', granting customers who had bought five pints a sixth pint for free. The Supreme Administrative Court ruled that the restaurant had been engaging in inappropriate promotional activities and upheld the decision of the State Provincial Office. (Supreme Administrative Court, 29 Jan 1999, record no. 147)

See also[2 Mild alcoholic beverages](#)[4 Pricing and price notices](#)[Valvira guideline: Serving of alcoholic beverages on licensed premises](#)

4 Price notices, pricing and rebates on purchases of alcoholic beverages

4.1 Price notices in marketing

It is noted in the Decree on Price Marking in Marketing ([553/2013, Price Indication Decree](#)) that if a retail seller or other business operator operating in the manner of a retail seller markets a specific item of goods by giving a specific sales price, then the unit price for those goods must also be given.³ The provisions of the Decree must be complied with in all marketing, irrespective of the means.

In case a consumer goods item is marketed at a particular sales price or unit price, both the sales price and the unit price must be posted in a clear and unambiguous way that is easy to notice and understand for the consumer.

Under the Consumer Protection Act, enterprises must in their marketing provide consumers with all the information that is relevant for making a purchase decision. The Consumer Ombudsman has ruled that the price is one of the essential and significant factors affecting a consumer's purchase decision, and as such should be reported even when there is no specific provision requiring it.

A venue for serving alcoholic beverages must have price information on all the products sold at the venue available. If it is not possible to record all sales prices or the basis for those prices in a price list because of the large number of services provided or other similar factors, it is sufficient to enter the most common sales prices or the basis for those prices in the price list. In that case, it must be clearly indicated in the price list that there is a more comprehensive price list, and that list must be provided to the consumer on demand.

The prices of mild alcoholic beverages may also be displayed on an outside stand, in a light box on an external wall or on a door or window of the restaurant.

4.2 Pricing (Alcohol Act, section 51(1))

Under section 51(1) of the Alcohol Act, it is prohibited to offer two or several alcohol beverage packages or servings in retail sale or serving on the premises at a joint discount price, i.e. at a price such that in buying the same items separately

³ *sales price* means the final price inclusive of tax charged from a consumer for a goods item or a service, including any deposits, *unit price* means the final price inclusive of tax per unit of weight, volume or length of the product; the unit price does not include any deposits that may be charged from a consumer.

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would result in the consumer paying a higher unit price. Discounts and joint discount prices are considered to be particularly effective with regard to those whose alcohol consumption is most restricted by paucity of disposable funds and to those whose judgment is impaired, for instance because of alcohol addiction.

This provision shall not apply to situations where the same alcoholic beverage is being sold in packages of different sizes, e.g. in bottles of 0.33 l and 1 l. An alcoholic beverage may be sold at a lower price per litre in a larger package than in a smaller package. In serving alcoholic beverages, this applies to the pricing of beer, white wine and red wine, for instance, when served by the glass as opposed to by the bottle.

Price notices must not mislead the consumer. It may be misleading to label a serving of an alcoholic beverage as 'large' or 'small' without informing the consumer of the actual size of the serving. The advertisement must specify what a "big pint" or "glass" of red wine, for instance, are in centilitres.

Because of the ban on joint discount prices, a consumer must be able to buy a single item at the unit price of that same item in a multi-package. The price shall be calculated on the basis of the cheapest multi-package available for the brand in question. This provision shall not apply to situations where the same alcoholic beverage is being sold in packages of different sizes. An alcoholic beverage may be sold at a lower price per litre in a larger package than in a smaller package.

A commercial serving venue or retail outlet may sell an alcoholic beverage at a price lower than normal to a limited group of people, e.g. people registered as loyal customers. Special regular customer prices and staff discounts are thus permitted.

A consumer must be able within such a pricing group to buy a single item at the discount price; for instance, a loyal customer or premium card holder must be able to purchase a single item at the loyal customer's discount price.

Decisions by the supervisory authority

Not all alcoholic beverages on sale at a retail outlet were available in unit packages, and there was a sign on the shelves specifically prohibiting customers from dismantling multi-packages. The Regional State Administrative Agency instructed the licence holder that a seller may not refuse to sell multi-packaged items singly. (Regulatory letter from the Regional State Administrative Agency of Southern Finland, 3750 99 2013 170 020)

An advertising brochure for a retail outlet chain advertised cider at a discounted price of 2 cans at EUR 5. The offer was valid for one week. The Regional State Administrative Agency ruled that this advertising violated both the ban on joint discount prices and the ban on discount advertising and issued a warning to the licence holder. (Decision by the Regional State Administrative Agency of Northern Finland, 110 99 2011 170 015)

4.3 Ban on rebates on the purchase of alcoholic beverages (Alcohol Act, section 51(2))

Under section 51(2) of the Alcohol Act, it is prohibited in the retail sale and the serving of alcoholic beverages to offer and grant rebates on the price of alcoholic beverages, calculated on the basis of purchases of alcoholic beverages, other consumer goods or services. It is also prohibited for a benefits programme operating in Finland to grant rebates on the purchase of alcoholic beverages abroad.

It is further clarified in the detailed rationale in the Government Proposal that in the future it will not be permissible to promote the sale of alcoholic beverages through loyal customer cards or other benefit schemes of shops or restaurants so that, because of rebates, purchasing an alcoholic beverage would become the cheaper the more the customer buys beverages or other goods.

Thereby any rebates obtained from the purchase of other goods or services cannot be used towards the purchase of alcoholic beverages.

The provision specifically applies to the retail sale and serving of alcoholic beverages, and it is noted that its purpose is to prevent shops and restaurants from promoting the sale of alcoholic beverages through rebates via their loyal customer cards or benefits programmes.

The provision does not prohibit any benefits that may accrue from the use of credit cards, provided that the credit card in question is issued by a financial institution and that the financial institution in question is not itself engaged in the restaurant or retail sale business to any significant extent. Such benefits accrue on all purchases made by the cardholder using the card, not just on the products purchased from the operator granting loyal customer status. Therefore the rebate is not related to the loyal customer card or benefits programme of a specific seller of alcoholic beverages.

The Act and its rationale mention rebates, not bonuses in particular. 'Rebate' is here used as a blanket term that includes bonuses and other kinds of benefits such as terms of payment benefits. The purpose of this provision is to prevent all kinds of incentives.

Judging by the above, Valvira rules that offering a bonus, means-of-payment discount and any purchase rebates for the purchase of alcoholic beverages, and using rebates earned from the purchase of other goods or service to purchase alcoholic beverages, are both prohibited.

However, the prohibition of rebates does not prevent an operator from offering an alcoholic beverage at a discounted price as a loyal customer benefit.

4.4 Special offer price notices for alcoholic beverages (Alcohol Act, section 51(3))

Price advertising for mild alcoholic beverages aimed outside a retail outlet is restricted in section 51(3) of the Alcohol Act. According to this provision, advertising a discounted price valid for a period of less than two months for a package of alcoholic beverages outside a retail outlet is prohibited.

Using terms and images referring to a discount on alcoholic beverages outside a retail outlet may also be considered unlawful advertising of a discount price,

if their actual purpose is to advertise a discount price valid for a period of less than two months.

Discount prices for alcoholic beverages that are valid for a period of less than two months must not be displayed so as to be visible outside the retail outlet (e.g. on the door, in the window or on the street), and they may not be advertised in print media, on the retail outlet's website or in loyal customer communications. Discount prices for alcoholic beverages may only be advertised if the discount is valid for a consecutive period of at least two months. It is recommended to display the period during which the discount price is in force so as to avoid confusion in this respect.

As of 1 Jan 2018, licensed serving venues are allowed to display short-term discount prices for mild alcoholic beverages outside the venue too. The ban on advertising strong alcoholic beverages remains the default provision in the Alcohol Act, and any exceptions to this ban, such as a price list published on a website or marketing indoors at the serving venue, are specifically provided for in the Alcohol Act.

Therefore it remains prohibited to publish discount prices for strong alcoholic beverages in social media, in a restaurant window, in print media, etc.

It is permitted to advertise drinks where only alcoholic beverages with an alcohol content of less than 22% by volume are used. It is recommended to mention, for clarity, that the drink is a mild one, if this is not apparent from the name of the drink.

Selling pre-mixed bottled drinks does not constitute serving strong alcoholic beverages. However, such drinks may not be advertised if their name contains the brand name of a strong alcoholic beverage.

Decisions by the supervisory authority

An advertising brochure for a retail outlet chain advertised cider at a discounted price of 2 cans at EUR 5. The offer was valid for one week. The Regional State Administrative Agency ruled that this advertising violated both the ban on joint discount prices and the ban on discount advertising and issued a warning to the licence holder. (Decision by the Regional State Administrative Agency of Northern Finland, 110 99 2011 170 015)

5 Special issues

5.1 Displaying alcoholic beverages

After the overall reform of the Alcohol Act, licensed retail outlets are now allowed to sell any alcoholic beverages with a maximum of 5.5% by volume of alcohol, also those produced by means other than fermentation.

Pre-mixed drinks brought to market in the retail trade may contain a strong alcoholic beverage. According to the Government Proposal, the trade name of a strong alcoholic beverage may be used in the name of such a beverage.⁴ However, while the prohibition on marketing strong alcoholic beverages does not extend to having such beverages for sale, it is still prohibited to market **products whose name contains the trade name of a strong alcoholic beverage.**

Such products should be displayed in a restrained and moderate way at the point of sale. How well this is achieved may be evaluated on the basis of the overall impression with regard to the sales volume and range of products of the outlet in question.

The Alcohol Act does not specifically prohibit the marketing of mild alcoholic beverages whose name includes the generic name of a strong alcoholic beverage, such as gin, rum or vodka. However, it must be ensured in such cases, by considering the overall impact or by other marketing means, that such marketing does not constitute indirect marketing of a specific brand of strong alcoholic beverage.

It must be ensured in the display of all alcoholic beverages that they are clearly separate from soft drinks. Alcoholic beverages must also not be adjacent to sweets shelves or other products popular with children and adolescents.

5.2 Alcoholic beverages containing 1.2% to 2.8% by volume of alcohol

An 'alcoholic substance' is any substance or product that contains more than 1.2% by volume of ethyl alcohol, while an 'alcoholic beverage' is a potable alcoholic substance containing more than 1.2% but no more than 80% by volume of alcohol.

The provisions of the Alcohol Act apply only in part to products containing between 1.2% and 2.8% by volume of alcohol.

Such products must not be sold to persons under the age of 18 or intoxicated persons. Marketing restrictions also apply, for instance:

- marketing must not be aimed at minors
- marketing must not violate accepted principles of morality
- marketing in public places is prohibited
- marketing in social media is subject to restrictions
- games and raffles involving such beverages are prohibited

Both the joint discount price ban and the purchase rebate ban apply, in both retail sales and serving.

In retail sale, a discount price for an alcoholic beverage may only be advertised outside the retail outlet if valid for a period of at least 2 months.

Products containing 1.2% to 2.8% by volume of ethyl alcohol are not subject to the limitations on times of sales or serving, and selling these products is not subject to a licence.

⁴ Here, a product name is a name that incorporates the name of a specific strong alcoholic beverage used in the mix. A generic name is the common name for a type of alcoholic beverage, such as gin, vodka or rum.

5.3 Alcoholic preparation

An 'alcoholic preparation' means an alcoholic substance which is not an alcoholic beverage or a spirit and which may be denatured. For example, any foods and confectioneries containing ethyl alcohol are alcoholic preparations. Under section 52 of the Alcohol Act, alcoholic preparations may not be sold for consumption. However, this provision does not apply to alcoholic preparations sold as a food or a nutritional supplement. Selling and marketing such alcoholic preparations is not subject to a licence, but their manufacturers, importers and sellers must not present them as usable for intoxication purposes nor encourage such use.

The provisions on the sale and marketing of alcoholic beverages also apply to any products that are wholly or partly solid and have a total alcohol content of more than 2.8% by weight. Alcohol content by weight is considered in lieu of alcohol content by volume in this respect. The sale and serving of such products therefore require a licence. The provisions on age limits and hours of sale also apply to such products. Such products containing a maximum of 2.8% by volume of alcohol, such as chocolates and ice cream, may be sold freely.

5.4 Free gifts and combined offers

A **free gift** is an item of consumer goods given to a consumer either free of charge or at a discounted price on the purchase of another item of consumer goods. A **combined offer** is an offer where two or more products are sold at a combined price.

The Consumer Protection Act does not require free gifts or combined offers to be necessarily connected to the principal product being sold, but it is required that the marketing for such offers be transparent. The aim is that benefits and discounts should not compete against each other. For competition to be fair, consumers must be provided with clear information about the product on offer and the benefit related to it.

It follows from the special nature of alcohol as an intoxicant that free gifts and combined offers can be evaluated more strictly than the marketing of other consumer goods, pursuant to section 50(2)7 of the Alcohol Act. Therefore a practice that is not inappropriate for other consumer goods may be inappropriate in the marketing of alcoholic beverages. For the marketing of alcoholic beverages to comply with accepted principles of morality, it must be appropriate. The purchase of alcoholic beverages should not be made more attractive by drawing the consumer's attention to additional benefits that are irrelevant to the product itself.

Therefore any free gifts or combined offers connected to purchases of alcoholic beverages must necessarily be connected to the principal product. In other words, a free gift or combined offer connected to a purchase of an alcoholic beverage must have something to do with the consumption or storage of the beverage, etc. Thus, items such as one or more serving glasses, a corkscrew, a wine carafe, a bottle seal, a thermos bag, a wine thermometer or foods may be offered as a free gift or combined offer with the purchase of alcoholic beverages.

Any such free gifts or combined offers must also not violate other paragraphs in section 50(2) of the Alcohol Act, i.e. they must not

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be aimed at children or associate alcohol with driving, for instance. Also, items referred to in section 8 of the Tobacco Act, such as tobacco products or tobacco accessories, must not be offered as free gifts or combined offers with the purchase of alcoholic beverages.

If an ancillary product has **no independent value**, it cannot be considered an item of consumer goods as referred to in the Act. Therefore items such as decorative plastic animals on bottles are not free gifts. If, however, value is created for such inherently valueless items, for instance by making them into collectibles, then they may become inappropriate for marketing to consumers. The same evaluation is extended to beverage packages, e.g. if during a holiday season a beverage bottle is packaged in a particularly ornate box possibly with collectible value.

A free gift must not be offered as a random benefit of the kind: "Free pint glass to the first 100 people who buy beer."

Even if offering an ancillary product alongside the principal product does not in itself constitute inappropriate consumer marketing, it may become inappropriate if:

- the ancillary product is used as the principal message in the marketing or otherwise highlighted at the expense of the principal product,
- the ancillary product is advertised as 'free' even though the consumer must pay for the principal product to receive it,
- the ancillary product forms part of a collectible series (e.g. products for wine enthusiasts such as decanters, wine thermometers, etc.) available by purchasing a specific brand
- the ancillary product is a T shirt, badge or other item that is in no way related to consumption of the beverage. Such an offer is not validated by the item bearing the logo of the beverage in question.
- any item, prize or other benefit to be awarded at a later date to a consumer collecting labels, corks or other parts of a package of an alcoholic beverage

It is established legal practice that it is permitted for a licensed restaurant to advertise an offer of a meal and a serving of a mild alcoholic beverage at a combined price, under the following conditions:

- there is a non-alcoholic option available.
- The drink is not advertised as free or given on the house; the drink is not "free" as the customer pays for it in the combined price.
- the alcoholic beverage is not the principal content of the advertising for the offer.

In accordance with official practices, it is permitted to:

- Include, in the price of an entrance ticket, one serving of mild alcoholic beverage to be consumed during the visit in question. The customer must be informed that a non-alcoholic alternative is available. The drink may not be advertised as "free" because the customer pays for it in the price of the entrance ticket.
- include, in the price of a ticket sold for an event on licensed premises or for a programme at a licensed restaurant, a serving of mild alcoholic beverage as a welcome drink and a limited, moderate number of servings of a mild alcoholic beverage to be served with a meal. A non-alcoholic alternative must be available.

When marketing packages containing a meal, alcoholic beverages and programme services at a restaurant, it must be kept in mind that no one other than the licence holder may sell such packages. No middleman is permitted to buy such a package including alcohol from the restaurant for resale to a customer. According to the Criminal Code, procuring alcoholic beverages for others against payment is punishable.

Section 51(1) of the Alcohol Act states that it is prohibited to offer two or more packages or servings of alcoholic beverages at a discounted combined price in retail sale or commercial serving of alcoholic beverages. Two or more packages of alcoholic beverages must not be offered at a joint discount price, i.e. at a price such that a consumer would pay a higher unit price if buying the items separately. In other words, the price of a unit of alcoholic beverage when sold singly must not be higher than the price of such a unit when sold together or in a multi-package.

In practice, this means that in a combined offer including two or more packages of alcoholic beverages and another product, the alcoholic beverages must be priced at their normal price.

It should also be noted that under section 12 of the Consumer Protection Act the separate prices of all items offered at a combined price must be displayed, unless the price of each item if bought separately is under EUR 10.

5.5 Advertising of alcoholic beverages and sports

If star athletes and prominent sportspersons **who have active sports careers or who are involved in youth work** are featured in advertisements for alcoholic beverages, this may be construed as advertising aimed at minors.

Emblems of a mild alcoholic beverage may be displayed at sports events, e.g. in programme leaflets, in the event area, in competitors' outfits and on equipment. However, such emblems must not be displayed on the outfits of underage competitors, nor anywhere at sports events where the majority of participants or spectators are minors.

Using a sports team, e.g. a local ice hockey team, and its logo for marketing an alcoholic beverage cannot in itself be regarded as inappropriate. However, if the team logo is of a kind to appeal to children and adolescents, e.g. if it includes a cartoon character or fairy-tale character that is presented in advertising in a way to appeal to children, it may be regarded as inappropriate to use such a logo in advertising an alcoholic beverage or on the label of an alcoholic beverage. This will be the case particularly if the advertising includes other elements clearly aimed at children.

The authorities have not intervened in the display of emblems of mild alcoholic beverages on vehicles or competitors' outfits in motor sports or boating. However, neither drivers nor vehicles may display such emblems in public places outside competition areas. Competitions must not be named after an alcoholic beverage. Advertising of alcoholic beverages must not feature motor sports races or slogans alluding to the consuming of alcohol during a race.

Decisions by the supervisory authority

A text on a label on a wine bottle that clearly linked sports and drinking wine and promoted drinking the beverage after engaging in sports was considered to be contrary to accepted principles of morality. (Letter 1534/13.08.00.02/2012)

5.6 Using an alcoholic beverage as an ancillary product for another product

If alcoholic beverages are used to promote other products, it should be noted that alcoholic products for consumption may only be sold in Finland by Alko Oy and by licenced retail outlets and servers.

The provisions concerning sales shall also apply to the forwarding and serving of an alcoholic substance for a charge in business activities in connection with marketing another product or service.

Supplying an alcoholic beverage in exchange for the purchase of another product or the providing of other compensation, and any comparable activity, shall be considered supply of alcoholic beverages for a charge in violation of the monopoly and licensing system pursuant to the Alcohol Act if the operator in question does not have the appropriate licence for retail sale or serving of alcoholic beverages. Such practices are prohibited regardless of whether the offer is aimed at businesses or private consumers.

Examples of unlawful practices:

- a hardware shop offers a case of beer as a bonus to consumers who buy a gas barbecue
- an IT company offers a bottle of sparkling wine as a gift to consumers who buy computer hardware
- a printing press offers corporate clients the gift of a bottle of wine if they pay for postage
- a kitchen fitter offers bonus coupons against which customers can receive an alcoholic beverage free of charge at the restaurant next door

Decisions by the supervisory authority

An enterprise in the electrical industry gave customers a gift voucher to Alko when they ordered supplies. This was interpreted to mean that the ancillary product given out with the electrical products mainly comprised mild and strong alcoholic beverages, in the form of an Alko gift voucher. Receiving the gift voucher required the purchase of other products; the practice thus constituted the supply of alcoholic beverages against compensation without an appropriate licence as per the Alcohol Act. (Letter 8999/13.08.02.01/2013)

A shipping line advertised cruises by noting that the price included a case of beer. Valvira ruled that the alcoholic beverage was framed as the principal message in the advertising, which was thus contrary to accepted principles of morality. The advertisement also violated the discount advertising provision in section 33a(2) of the Alcohol Act. (Letter 3028/13.08.02.01/2012)

5.7 Tastings

Under the Alcohol Act, the organising of tastings of alcoholic beverages are limited depending on the venue and the target group.

Venue

Tastings must not be organised at venues where the consuming of alcoholic beverages is prohibited pursuant to section 85 of the Alcohol Act. Such a prohibition is motivated for instance in the interests of good behaviour and public order, and also for the purpose of preventing the serving of alcohol to be used as an enticement for customers to buy.

Therefore, tastings may not be organised at the following venues:

- restaurants⁵
- any venue where food or refreshments are available to the general public against payment
- at public events as defined in the Assembly Act.

Section 35 of the Alcohol Act prohibits the consumption of alcoholic beverages in indoor or outdoor areas controlled by a retail licence holder or in the immediate vicinity of same. Similarly, section 36 specifies that only alcoholic beverages **sold** by a the holder of a serving licence may be consumed on the licence holder's licensed premises.

The police have the authority to prohibit the drinking of alcoholic beverages in a public place if required for the keeping of public order.

Considering the special nature of alcoholic beverages, it may be noted that organising tastings of alcoholic beverages in other venues or places to which the general public has unlimited access also constitutes inappropriate promotion. Therefore tastings must not be organised at an open market, on a public beach, at a shopping centre or in front of a shop, etc.

Target group

Free tastings of strong alcoholic beverages must not be organised for consumers at all, neither at a venue licensed for serving alcoholic beverages nor at any other venue. This ban may not be circumvented by charging a nominal fee for the tasting portions.

In connection with guided tours of distilleries or plants manufacturing strong alcoholic beverages, it is only permitted to organise a tasting if there is a venue licensed to serve alcoholic beverages at the same location.

Handing out free samples of mild alcoholic beverages to consumers for promotional purposes is generally regarded as inappropriate and contrary to accepted principles of morality. In other words, a manufacturer, importer or seller

⁵ A restaurant is defined as any establishment engaged in providing food or drink for the general public for payment.

of alcoholic beverages must not organise a tasting to which non-preselected participants are freely invited.

A manufacturer or wholesaler of a mild alcoholic beverage may offer tastings of that mild alcoholic beverage to pre-invited groups or organise tastings in his own presentation premises in connection with a tour of the production facility.

Product information on alcoholic beverages may be provided to **professionals involved in the sale of alcoholic beverages** by organising tastings for them at venues where prohibitions against drinking alcoholic beverages do not apply. Such a tasting may also be organised on licensed premises (e.g. a customer event in a private room at a restaurant), but in that case the beverages to be tasted must be acquired and served by the licence holder.

Wholesalers of alcoholic beverages often also have a retail sale licence, because not all the customers of wholesalers are professionals involved in the sale of alcoholic beverages. Because of the provisions on the prohibition against drinking alcoholic beverages, tastings of alcoholic beverages must not be organised in a wholesaler's premises where alcoholic beverages are also available for retail sale, nor in the immediate vicinity of such premises.

5.8 Business gift packages

Because of the State monopoly provided for in the Alcohol Act, only holders of a licence for the wholesale, retail sale or serving of alcoholic beverages may sell alcoholic beverages.

It is also prohibited to supply alcoholic beverages for a fee. Alcoholic beverages may be sold to enterprises selling business gifts only by Alko Oy and by shops selling 'vineyard wines' or, in the case of beverages containing a maximum of 5.5% by volume of alcohol, holders of licences for retail sale or serving.

When offering a business gift product consisting of an alcoholic beverage packaged with other products, the business gift enterprise must require customers to purchase the alcoholic beverage themselves from a licensed retail outlet. The business gift enterprise can only package the beverage. The customer may commission the business gift enterprise to act on his behalf in obtaining the alcoholic beverage from the retail outlet, but alcohol purchases must be kept separate from the price otherwise charged for the products in invoicing. No fee may be charged for obtaining the beverage. The clearest arrangement would for the retailer or Alko Oy to invoice the customer directly for the alcoholic beverages.

The advertising of the business gift enterprise must not give the impression that the enterprise itself is selling alcoholic beverages. If alcoholic beverages are included in advertising images or mentioned in text, it must also be clearly indicated that the beverages must be separately obtained. The cost of the beverages must not be included in the prices of the gift packages. However, for mild alcoholic beverages their sale price at a retail outlet and examples of overall prices when combined with a package may be given.

Brand names or emblems of strong alcoholic beverages must not be displayed. However, suggestions as to the content of a business gift package may be made using generic names, as in 'a selection of coffee with a bottle of cognac of the customer's choice' or 'sauna set and bottle of vodka of the customer's choice', etc. No identifiable bottles or emblems of strong alcoholic beverages may be used in illustrations. The exceptions mentioned in the Alcohol Act regarding price lists only apply to licenceholders.

Decisions by the supervisory authority

Valvira ruled that the website of a business gift enterprise contained references to brands of strong alcoholic beverages and identifiable images of them. Valvira instructed the enterprise to explain more clearly how the beverages to be packaged were to be obtained. (Instruction 752/99/002/2010)

5.9 Marketing of alcoholic beverages in tax free shops

There are special regulations for the sale of alcoholic beverages in tax free shops and on board transport between Finland and other countries. This, however, does not mean that such areas are outside Finnish legislation.

Tax-free shops in Finnish territory are subject to Finnish legislation. On board vessels, under the United Nations Convention on the Law of the Sea, the 'flag state law' principle applies. In other words, a vessel is governed by the exclusive jurisdiction of the country under whose flag she sails.

On board vessels registered in Åland, the legislation of the Province of Åland shall apply to the extent of the autonomy of the province. Under the Act on the Autonomy of Åland, the province has been given legislative powers in matters concerning licensing the serving of alcoholic beverages. However, the province has not been given legislative powers in matters concerning the advertising of alcoholic beverages, and thus the provisions of Finnish law concerning such advertising apply in Åland and on vessels registered in Åland.

The special regulations on the sale of alcoholic beverages in tax-free shops represent an exception to the State monopoly and licensing system provided for in the Alcohol Act and to the excise tax system. The provisions in Finnish law on the marketing of alcoholic beverages apply wherever Finnish legislation applies. However, under section 50(4)2 of the Alcohol Act the marketing of mild alcoholic beverages on board vessels in international traffic is permitted without regard to the prohibition on advertising in public places (for more on the prohibition on advertising in public places, see section 2.8).

As per the Alcohol Act, advertising alcoholic beverages is prohibited at ports and airports in those premises that are not licensed for the retail sale or serving of alcoholic beverages. The marketing of strong alcoholic beverages is also prohibited in tax-free shops' printed media advertisements and TV advertising published in Finland and direct mail marketing.

A retail outlet selling strong alcoholic beverages may have a price list available to the general public where the alcoholic beverages on sale (both mild and strong) are presented on an equal basis. Such a price list may be printed matter or available in electronic form over an information network. A printed price list may only be available to the general public at a retail outlet selling strong alcoholic beverages. Price lists may be published online only on the seller's own website. Price lists, whether in printed or electronic form, must not be sent to customers.

It follows from the prohibition on advertising strong alcoholic beverages that any and all price lists and product catalogues available for customers to take with them and published over an information network must contain information on all available alcoholic beverages, presented in a moderate and equal manner. In other words, no beverage may be highlighted by means of a different font, colour or layout, for instance.

A price list may contain relevant product information such as the name of the beverage, the name of the manufacturer, the package size, the price and the country or region of origin. A price list may also include a neutral image of the bottle or package of a beverage.

The price list may also contain purely informative descriptions of alcoholic beverage product groups that do not include advertising elements. A 'product group description' can include, for instance, descriptions of the ingredients and/or manufacturing processes, flavour characteristics and usages of a particular type of alcoholic beverage. Such descriptions must also be provided equally for all product groups of alcoholic beverages.

Decisions by the supervisory authority

Discounts on strong alcoholic beverages published in a customer newsletter mailed to loyal customers of a shipping line were ruled to be prohibited advertising. (Prohibition decision 872/99/002/2011)

5.10 Marketing of alcoholic beverages in foreign publications and programming (Alcohol Act, section 50(5)) and online

Section 50(5) of the Alcohol Act provides for the regional application of restrictions on advertising of alcoholic beverages. It states that the restrictions on the advertising of strong and mild alcoholic beverages shall not apply to publishing or broadcasting which is practiced abroad by a business operator not based in Finland and which is intended to be received exclusively outside of Finland or is intended to be received with exactly the same content regardless of the recipient's country of residence.

What this provision means is that, for example, advertisements for alcoholic beverages published by a foreign operator in a foreign magazine or on a foreign website and intended for consumers in another country are not actionable under the Finnish Alcohol Act even if the magazine or website is available in Finland. Similarly, alcohol ads on a satellite TV channel visible in the entire Northern Hemisphere are not subject to supervisory action pursuant to the Finnish Alcohol Act.

However, said provisions shall apply to marketing by foreign parties which concerns alcoholic beverages available on the Finnish market and which is specifically aimed at Finnish consumers. Thus, the ban on advertising cannot be circumvented by aiming advertising at Finnish consumers from abroad. A prohibition order as per section 68 of the Alcohol Act may be issued against a party that commissions or executes a marketing action, or against anyone employed by same. A prohibition order may thus be issued against a Finnish importer of alcoholic beverages who advertises a strong alcoholic beverage to Finnish consumers on a website based abroad or in a programme broadcast from abroad.

Marketing of alcoholic beverages online

The provisions in the Finnish Alcohol Act are principally media-neutral. Therefore promotional activities online and in social media basically fall under the same provisions as traditional media (TV, radio, newspapers, magazines). The legislation also extends to advertising via e-mail and various mobile services and applications. However, there are certain restrictions that pertain only to online advertising. These restrictions are discussed above in section 2.11.

An operator actually operating in Finland, engaged in actual commercial operations in a permanent establishment, **shall comply with Finnish legislation** with regard to advertising and marketing on the Internet (Information Society Code (917/2014)). Establishment is determined irrespective of in which country the company is registered, in which languages the website is published, where the server where the website resides is physically located, or which domain name is used. The country of establishment cannot be reliably deduced even if the domain name has a country suffix. If an operator has an establishment in several EEA Member States, the crucial factor is in which country the centre providing the service in question is located.

According to the 'country of origin' principle, it is basically irrelevant whether advertising of alcoholic beverages on the Internet is aimed at consumers resident in Finland or not. Operators established in Finland must comply with the marketing provisions in the Alcohol Act even if their marketing is principally or exclusively aimed at another EEA Member State. However, despite the 'country of origin' principle, online advertising directed at Finland from abroad may be intervened in on the basis of the Alcohol Act, for instance if the purpose of such advertising is to circumvent the legislative provisions protecting public health.

In evaluating whether marketing based abroad is specifically directed at Finland, factors to be considered include not only the country where the originating server is located but also the overall impression given by the advertising (using the Finnish language or being localised for Finnish circumstances, etc.). Because Finns generally know English quite well, it does not follow that advertising in English is necessarily aimed at countries other than Finland. It is also important to consider whether the website in question is referred to in other advertising in Finland. Under section 68 of the Alcohol Act, a prohibition order may be issued to a Finnish manufacturer of alcoholic beverages advertising strong alcoholic beverages to Finnish consumers on a foreign website.

It is also common to link external websites to one's own: if, for instance, the website of a Finnish importer of alcoholic beverages contains a link to a foreign manufacturer's website advertising a strong alcoholic beverage, this may be considered to constitute part of the importer's advertising and thus actionable.

Thus, it is **prohibited** for a commercial operator established in Finland to publish material on the Internet including but not limited to the following:

- advertisements for strong alcoholic beverages
- links on pages advertising alcoholic beverages that lead to foreign websites advertising strong alcoholic beverages

- advertisements for mild alcoholic beverages using marketing means banned in section 50(2) of the Alcohol Act (see chapter 2 for details)

A rule of thumb for advertising designers deriving from the media-neutral principle is that no material may be made publicly available online that could not be published on the front page of a national daily newspaper (apart from the exceptions concerning price lists).

There are also numerous Internet pages published by private individuals and by media outlets providing information on strong alcoholic beverages. Such pages are by default covered by freedom of speech as safeguarded by the Constitution. However, publishing such pages may be considered unlawful if prepared in collaboration with a manufacturer, importer or seller of strong alcoholic beverages so that the pages also constitute a presentation of the product(s) in a promotional or advertising capacity.

Product information on strong alcoholic beverages may be provided to professionals involved in the sale of alcoholic beverages. Such information may also be provided on a website if the administrator can ensure (for instance with the use of user IDs and passwords) that only professionals involved in the sale of alcoholic beverages can have access to the relevant pages.

Decisions by the supervisory authority

There was a Finnish-language page in the Facebook social media service that was about a strong alcoholic beverage and contained advertising material. The page was administered by a wholesale licence holder established in Finland. The company was in breach of the ban on advertising strong alcoholic beverages and was ordered to discontinue posting the page. (Prohibition decision 5823/13.08.00.02/2012)

6 Supervision of marketing of alcoholic beverages (Alcohol Act, sections 68 to 70)

6.1 Authority and sanctions

Supervision of the marketing of alcoholic beverages is primarily the responsibility of each Regional State Administrative Agency in its own region. The regions for which Regional State Administrative Agencies are responsible and their contact information are available at www.avi.fi. Valvira supervises nationwide marketing of alcoholic beverages, that is, marketing in regions covered by more than one Regional State Administrative Agency.

Provisions on sanctions for marketing offences are laid down in Sections 68–70 of the Alcohol Act. Sanctions can be targeted at the parties that ordered and carried out the marketing as well as their employees.

When Valvira or a Regional State Administrative Agency observe deficiencies or operations that contravene the provisions or regulations of the Alcohol Act, they may provide freeform guidance to rectify these operations.

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If this guidance is not sufficient to put an end to illegal operations, Valvira or the Regional State Administrative Agency may prohibit the party ordering or executing the marketing action, and their employees, from continuing or repeating such operations.

Under section 30 of the Alcohol Act, the manufacturer and importer shall answer for the quality and composition of the alcoholic beverages delivered by them for consumption, as well as for the circumstance that the product and its labelling and other presentation of it are in compliance with the provisions and regulations issued. Valvira monitors compliance with this provision. Under section 68, Valvira may prohibit an alcoholic substance from being released on the market, or may require the removal of an alcoholic substance from the market without compensation, if the product or how it is presented contravenes the relevant provisions and regulations, or if the quality of the product or its possible health hazards and risks are not appropriately monitored, or if such a prohibition is otherwise justifiable in the interests of safeguarding public health.

If it is, owing to the large extent or great significance of the procedure, necessary to urgently prevent the continuance or repetition of a procedure, Valvira may temporarily prior to the final settlement of the matter issue a prohibition to that end. A temporary prohibition enters into force immediately when issued and may be cancelled before the matter is finally resolved. The Regional State Administrative Agency may also issue a temporary prohibition on a marketing measure on the aforementioned grounds before the matter is finally resolved.

The supervisory authority may prohibit a licence holder from continuing business operations insofar as they are materially in breach of the accepted principles of morality as referred to in section 4 and insofar as such activities have not been corrected or discontinued within a reasonable time limit as imposed despite the supervisory authority's request to do so.

When deciding on a prohibition or when imposing a temporary prohibition, the supervisory authority may require the recipient of the prohibition to correct the activities concerned within a specified time and in a specified way, if such a correction is considered necessary because of the obvious adverse impacts of the illicit activities.

Such a correction may concern unlawful marketing material distributed to consumers or incorrect information given in marketing.

Valvira and the Regional State Administrative Agency may enhance a prohibition, order or correction imposed pursuant to the present Act with a conditional threat or a notice of enforced compliance, whereby corrective action mandated but neglected shall be undertaken at the negligent party's expense. The levying of a conditional fine imposed by the supervisory authority and the execution of a notice of enforced compliance issued by the supervisory authority shall be decided by the Market Court on application by the supervisory authority.

A prohibition, temporary prohibition, conditional fine or enforced compliance issued or ordered by Valvira or the Regional State Administrative Agency may not be appealed, but the matter may be submitted to the Market Court on application within 30 days of receiving notice of the decision or order. The decision issued by Valvira or the Regional State Administrative Agency must be complied with notwithstanding any appeal, unless the appellate authority orders otherwise.

Advertising in violation of the Alcohol Act is also subject to punishment under the Criminal Code. A person who deliberately markets a mild alcoholic beverage -

in violation of sections 50 and 51 may be sentenced for an **alcohol offence** to a fine. (section 90(3)4 of the Alcohol Act) A person who in violation of the Alcohol Act (1) directly or indirectly advertises strong alcohol drink or otherwise promotes the sale of strong alcohol drink, (2) directs advertisement, indirect advertisement or other sales promotion of mild alcohol drink towards minors or combines this with advertisement or other sales promotion of another product or service, or (3) depicts minors in the marketing of mild alcohol drink referred to in paragraph 2, shall be sentenced for an alcoholic beverage marketing offence to a fine or to imprisonment for at most six months. (Chapter 30 section 1a of the Criminal Code)

6.2 Liability of party publishing an advertisement

A prohibition order as per section 68 of the Alcohol Act may be issued against a party that commissions or **executes** a marketing action, or against anyone employed by same. The 'commissioner' is generally the company to whose benefit the advertising is being published. The 'executor' with similar liability for the advertising may be the advertising agency that designed the advertisement or the publisher or owner of the medium in which it was published.

The prohibition may also be personally directed at an individual in the employ of the commissioner or the executor of the advertising. The latter may be the case if the circumstances indicate that there is a risk of the prohibition being circumvented by continuing the unlawful action in the name of a new company or other legal entity.

Commercial communications fall within the domain of the freedom of speech provision in [section 12 of the Constitution](#), but it is not considered to be in the core area of the freedom of speech. Regulation concerning advertising has to do not only with the freedom of speech but also with the freedom of livelihood safeguarded in [section 18\(1\) of the Constitution](#). The Constitutional Law Committee has consistently ruled in its policy that the promoting of public health and the protecting of children justify quite far-reaching restrictions on fundamental rights and freedoms in the case of marketing in business operations involving particular risks of adverse impact. The Market Court has upheld this policy in numerous decisions.

It is in the discretion of the supervisory authority whether to issue a prohibition order against the commissioner or executor of advertising, or both. In urgent cases, often the most efficient way to discontinue an extensive advertising campaign already in progress is to extend the prohibition to the medium publishing the advertising.

The conditional fine imposed to enhance the prohibition may be scaled separately for each party so as to be proportional to their solvency and other relevant factors.

If the decision by an authority results in an advertisement being discontinued or removed before the end of the advertising period agreed with the commissioner, the commissioner is generally not entitled to demand indemnification from the publisher of the advertisement on the basis of breach of agreement, because the commission itself was illegal. If the publisher of the advertisement independently undertook its design as well, the publisher may be liable to the commissioner regarding the legality of its content. This, however, does not absolve the commissioner's responsibility for advertising published in its name.

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Decisions by the supervisory authority

TV networks were prohibited from airing a TV commercial that created an impression of social or sexual success generated by a mild alcoholic beverage and used a woman as an attention getter in a manner that demeaned her and violated accepted principles of morality. (Decisions of the Market Court 1996:16 and 1996:17)

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