



**ABRABE/2022**

São Paulo. September 1<sup>st</sup>, 2022

**ABRABE's position on:**

**Public Health (Alcohol) (Labelling) Regulations 2022 Notification:** 2022/441/IRL (Ireland) to European Commission (Technical Regulations Information System - TRIS)

ABRABE, Brazilian Beverage Association, has been representing the alcoholic beverage sector nationwide for 48 years, representing members from all categories of alcoholic beverages: wines, spirits, beers and cachaças and their interests. There are 36 manufacturers and importers in ABRABE, whose import volume corresponds to 40% of the total of alcoholic beverages in Brazil. ABRABE respectfully expresses its opinion on TRIS Notification 2022/441/IRL, of June 6, 2022, which deals with public health regulation and labeling in Ireland.

**1. Background**

On June 21, 2022, Ireland notified the European Commission ("Commission") of its intention to adopt secondary legislation on labeling of alcoholic beverages ("the Draft Regulation"), under the Regulatory Information System Notification Processes ("TRIS") and Consumer Food Information ("FIC").

The Draft Regulation includes a statutory obligation to provide the following information on product labels for all alcoholic beverages sold in Ireland:

- A symbol, in the form of a pictogram, warning of the dangers of drinking alcohol during pregnancy;
- The grams of alcohol in the container;
- The number of calories in the container;
- A link to the website [www.askaboutalcohol.ie](http://www.askaboutalcohol.ie).

In addition, the Draft Regulation also requires that all alcoholic beverages sold in Ireland carry two health warnings. The proposed wording for the two health-related warnings is:



- “There is a direct link between alcohol and fatal cancers”; and
- “Drinking alcohol causes liver disease”.

## 2. Lack of evidence or disproportionality in health warnings

In February 2022, the UE Parliament's Special Committee on Beating Cancer voted and issued its "Report on strengthening Europe in the fight against cancer – towards a comprehensive and coordinated strategy" (BECA), which proposes language on the moderate and responsible consumption on labeling rather than health warnings.

According to Article 5, numbers 1 and 3<sup>1</sup> from this new propose, containers of alcoholic beverages must carry warnings that “Drinking alcohol causes liver disease” and “There is a direct link between alcohol and fatal cancers”.

However, the proposed wording for these statements is imprecise and not based on scientific evidence. The association between alcohol and the risk of developing cancer or liver disease is complex and depends on several factors – it is certainly not “direct”, as described in the proposed language, nor is it inevitably fatal.

As reported in scientific research, the risk of developing such diseases depends on several factors – lifestyle, environment, age, genetics, diet, among others. In addition, it is not just about the consumption of alcohol, but rather, it is related to the excessive consumption of it<sup>2</sup>.

Current scientific data show that the level of consumption is a key factor in assessing health risks, but the proposed warnings make no distinction and inaccurately suggest that any amount of consumption would lead to fatal liver disease or cancer. This failure to differentiate between moderate and binge drinking is also inconsistent with the Irish Ministry of Health's low-risk guidelines on responsible alcohol consumption and can confuse adult consumers who choose to drink responsibly.

To suggest that alcohol consumption is the “sole cause” of liver disease or fatal cancer is a disproportionate warning. Consumers would be better served by a warning about health risks more generally so they can consider their individual risk factors with their doctor. Furthermore, they must receive consistent information based on scientific evidence, in agreement with the European Union and that accurately reflects the scientific data.

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<sup>1</sup> Source: <https://ec.europa.eu/growth/tools-databases/tris/en/search/?trisaction=search.detail&year=2022&num=441>. Access: September 1<sup>st</sup>, 2022.

<sup>2</sup> Source: <https://liverfoundation.org/for-patients/about-the-liver/the-progression-of-liver-disease/>. Access: September 1<sup>st</sup>, 2022).



### 3. Creating access difficulties for Irish trade

First, it is worth considering that such labeling requirements would represent a major obstacle to the entry of products from other countries into Ireland, in view of the mandatory specific labeling. The new labeling of imported products with the health warnings prescribed in the Draft Regulation would result in the exclusion of non-Irish producers and distributors from the Irish market, as this process would add costly complexity for third-country producers who export for Ireland in an already high-cost inflationary environment. The labeling requirements included in the Irish Bill would create a barrier to trade and entry into the Irish market, which is incompatible with Articles 34 and 35 TFEU.

In addition, small and medium-sized foreign companies will be heavily affected, given the need to create labels exclusively for the Irish market for their products, generating significant costs and administrative burdens that companies will find it difficult or even impossible to absorb.

Furthermore, if allowed to do so, it would create a precedent for other Member States to follow similar unilateral health alert measures, resulting in significant barriers to trade within the EU and consequently leading to a fragmentation of the single market. This, in turn, could lead to a substantial loss of competitiveness and consumer choice in the Irish market.

Such import restrictions constitute a barrier to trade and are prohibited in the EU's Single Market<sup>3</sup>. While there are some exceptions – such as to protect human health – Ireland has not provided any evidence that the proposed labeling requirements are proportionate. Ireland has also failed to demonstrate that the measure is adequate to protect human health and that it does not go beyond what is necessary to achieve that objective.

It is unclear whether the Irish government has considered other, less disruptive measures to convey relevant health information to consumers. However, an EU Member State that intends to adopt measures such as those proposed in the Draft Regulation must assess the nature and scale of the restriction on the free movement of goods against other measures that are less harmful to trade.

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<sup>3</sup> Article 34 from TFEU: Quantitative restrictions on imports and all measures having equivalent effect shall be prohibited between Member States. Source: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E034:EN:HTML>. Access: September 1<sup>st</sup>, 2022.



#### **4. Possible Commitment of Europe's Cancer Plan<sup>4</sup>**

The Commission intends to “*proposing a mandatory indication (...) of health warnings on labels before the end of 2023*”. However, the European Parliament adopted the resolution of 16 February 2022 on “strengthening Europe in the fight against cancer”. In point 16 of the resolution, the European Parliament supports the provision of better information to consumers, improving the labeling of alcoholic beverages to include information on moderate and responsible consumption and the introduction of mandatory indication of the list of ingredients and nutritional information.

By requesting differentiated labeling for its country, Ireland weakens the joint efforts of the European Union in the sense of implementing and strengthening the Plan to Combat Cancer in Europe. Inconsistencies between EU Member States will confuse consumers and risk not getting the maximum impact and efficiency from such measures.

EU Member States should therefore refrain from adopting legislation in areas that the Commission plans to regulate and harmonize across the EU.

#### **5. If adopted, flexibility must exist for information to be provided 'Off Label' via an 'On Label' QR code or website reference**

If such measures are actually taken, we believe that providing flexibility for the required information to appear “off the label” on a website via a QR code or website reference provided “on the label” will have minor impacts. This is because by allowing the continued use of EU-wide labels, while allowing for the inclusion of the proposed requirements, there is a decrease in the impact on the European Union's Single Market.

EU lawmakers have adopted wine-related rules, for example (Regulation (EU) 2021/2117, December 2, 2021) to allow the ingredient list and nutrition information to be provided by “electronic means identified on the packaging or on a label attached thereto.” Providing information through easy-to-use online tools empowers adult consumers to make informed and responsible choices.

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<sup>4</sup> Source: [https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/european-health-union/cancer-plan-europe\\_pt](https://ec.europa.eu/info/strategy/priorities-2019-2024/promoting-our-european-way-life/european-health-union/cancer-plan-europe_pt). Access: September 1<sup>st</sup>, 2022.



**6. The alcohol and energy content must be provided based on the requirements already existing in the European Union**

Ireland's proposal provides that the quantity of grams of alcohol in a container and the energy value expressed in kilojoules and kilocalories in a container must appear on the label. The EU Food Information for Consumers regulation, on the other hand, provides that the energy value and the amount of nutrients must be expressed per 100 g or per 100 ml and, in addition, can be provided per serving or consumption unit (Articles 32 and 33 of the Regulation of EU 1169/2011).

Given that a standard drink in Ireland is 10 grams of alcohol, the requirement to provide such information per container does not provide consumers with basic information about the alcohol content in a serving of spirits, wine or beer in a way that they can measure and moderate their consumption to help them make responsible consumption decisions.

Furthermore, grams of alcohol are not a measure that is understood by consumers and will create confusion if adopted in Ireland. In fact, EU Regulation No. 1169/2011, which seeks to harmonize health information, among other things, requires that the alcohol content be presented by volume. As such, consumers are familiar with alcohol content measured in percentage of alcohol by volume rather than by grams of alcohol.

**Finally, ABRABE recognizes the positive intention of the proposal to combat the excessive use of alcohol. However, as pointed out above, we understand that it will not fulfill its goals completely. Furthermore, we know that, if implemented, it will constitute a real trade barrier to other countries.**

**Therefore, we ask the European Commission, regarding the TRIS procedure, to issue a detailed opinion on the draft Irish regulation to block its adoption.**