

FEV POSITION ON
Irish Public Health (Alcohol) (Labelling) Regulations 2022
TRIS Notification 2022 441 IRL

FEV – Federación Española del Vino (Spanish Wine Federation): FEV is a private organization created in 1978 to represent and defend the Spanish wine industry and boost the trade of all wines and products elaborated from grapes. It brings together more than 850 companies through 16 regional organizations and 234 direct members, representing approximately 75% of the value of bottled wine in Spain.

A. FRAMEWORK

The 2018 Public Health (Alcohol) Act (PHAA) was signed into law on 17 October 2018.

Some sections of the legislation will require commencement orders from the Minister, following which the various transition periods will kick in. Other sections of the Act require the drafting of secondary legislation (regulations) for implementation, which will be subject to assessment by the European Commission.

On 21 June 2022, Ireland notified, under the Technical Regulations Information System ("TRIS") and Food Information to Consumers ("FIC") notification processes, the European Commission of its intention to adopt secondary legislation on labelling of alcoholic beverages.

The draft regulation provides the detail for the obligation under section 12 in relation to the requirements for health warnings, health symbols and health information. In particular, the Draft Regulations require all alcoholic beverages sold in Ireland to carry two significant health warnings.

The proposed wording for the two health-related warnings is as follows:

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

The health warnings, health symbols and health information, should be set out in the form provided for in Schedule 1.



Image 1: Schedule 1 as proposed by the Irish Draft Regulations

In addition, the draft regulation foresees the mandatory indication, for alcoholic beverages, of the quantity in grams of alcohol and the energy value expressed in kilojoules and kilocalories contained in the container concerned.

B. FEV POSITION

The Draft Regulations as proposed have a number of serious flaws:

1. Risk undermining coherent EU legislation harmonisation

Members States should not adopt legislation on matters already harmonised by EU legislation.

a. Health Warnings, health symbols and health information

While health warnings for alcoholic beverages are not yet regulated in EU law, the European Commission has already announced its intention to do it in the framework of its Communication to the European Parliament and the Council - “Europe’s Beating Cancer Plan”¹.

In particular, and in order to reduce the harmful alcohol consumption, the European Commission will propose by 2023, mandatory health warnings for alcoholic beverages.

In the framework of this initiative, the European Parliament has adopted a resolution of 16 February 2022 on “strengthening Europe in the fight against cancer”². At point 16 of the resolution, “the European Parliament supports the provision of better information to consumers by improving the labelling of alcohol beverages to include moderate and responsible drinking information and introducing the mandatory indication of the list of ingredients and nutritional information, and in addition, by introducing digital labelling.

These elements should be taken into consideration on future initiatives related with this matter.

Consequently, unilateral Member State initiatives in the field of health warnings such as the Irish draft regulation, will undermine, at this stage, the harmonisation of rules in the European Union as well as the impact and efficiency of such measures.

b. Alcohol and Energy labelling

The quantitative labelling requirements are inconsistent and incompatible with current EU rules.

Alcohol content labelling (Regulation 12 (iv) to be expressed in grams of alcohol contained in the container concerned and Energy / calorie labelling (Regulation 12 (v) on the energy value expressed in kilojoules and kilocalories contained in the container concerned) included in the Irish draft regulations (2022) are inconsistent and incompatible with provisions harmonized by Regulation 1169/2011 and by wine and aromatised wine products labelling provisions contained in relevant EU regulation.

In particular, Regulation (EU) No 1308/2013 and Regulation (EU) No 1151/2012, as amended by Regulation (EU) 2021/2117³, include provisions for compulsory information on the nutrition declaration of wines and aromatized wine products.

2. A barrier to trade in breach of EU law that undermines the Single Market

Requirements to be met by imported products regarding the Irish Draft Regulation will force manufacturers and importers to adapt the products in question to the rules in force in Ireland. If unjustified, making it necessary to alter the label under which the imported beverage is lawfully marketed in the exporting

¹ https://health.ec.europa.eu/system/files/2022-02/eu_cancer-plan_en_0.pdf

² [BECA Activity Report \(europa.eu\)](https://ec.europa.eu/health/beca-activity-report_en)

³ Regulation (EU) 2021/2117 of the European Parliament and of the Council of 2 December 2021 amending Regulations (EU) No 1308/2013 establishing a common organization of the markets in agricultural products, (EU) No 1151/2012 on quality schemes for agricultural products and foodstuffs, (EU) No 251/2014 on the definition, description, presentation, labelling and the protection of geographical indications of aromatized wine products and (EU) No 228/2013 laying down specific measures for agriculture in the outermost regions of the Union

Member state, is to be considered a measure having an effect equivalent to a quantitative restriction, which is prohibited by Article 34 TFEU.

While some exceptions exist – such as to protect human health – Ireland has not provided any evidence that such labelling requirements are proportionate. Ireland has failed to demonstrate that the measure is appropriate to protect human health and that it does not go beyond what is necessary to attain that objective. This is required should Ireland want to rely on one of the exceptions. It is not clear whether the Irish government has considered other less disruptive measures to convey relevant health information to consumers. However, a Member State that intends to adopt a measure such as the Draft Regulations needs to assess the nature and scale of the restriction on the free movement of goods resulting from that measure by comparison with other possible measures which are less disruptive of trade within the EU.

3. Inaccurate and disproportionate health warnings not substantiated by evidence

Cancer is a multi-factorial disease, the cancer risk cannot be evaluated in isolation, and studies suggest that lifestyle factors are important risk factors for cancer. In addition, while scientific evidence shows that excessive consumption of alcoholic beverages carries an increased cancer risk, it also shows that drinking wine in moderation, with a meal, as part of healthy lifestyles and dietary patterns, in particular the Mediterranean diet, does not seem to increase your cancer risk⁴. There is no scientific data to support an increased risk of cancer when wine is consumed in moderation, with meals, as part of Mediterranean diet and as part of a healthy lifestyle⁵.

The Irish government has not to date produced any scientific evidence of a “direct link” between the *unqualified* consumption of alcohol and *fatal* cancers or causation of liver disease, as suggested by the wording of the proposed health warnings. The warnings fail to reflect the complexities that arise in considering the health risks for consumers of alcohol, which vary significantly on the amount of alcohol consumed, the type of alcoholic beverage, the pattern of consumption and the dietary pattern in which alcoholic beverages are consumed. Thus, the warnings do not accurately inform consumers.

Consequently, the wording in the Draft Regulations is inaccurate, disproportionate and risks being alarmist, especially in light of the evidence regarding the moderate consumption of wine in the context of a healthy diet and lifestyle.



In light of the above, FEV requests the European Commission and EU Member States to issue, under the TRIS procedure, a detailed opinion on the Irish Draft Regulation to block its adoption.

⁴ Most observational, epidemiological studies have shown a small increase in the risk of breast cancer for women who consume any alcoholic beverages compared to non-drinkers. According to these scientific studies, the increase is small for consumers of no more than one drink/day – an increase in relative risk (not absolute risk) between 5% and 10% - but the risk may be higher for women consuming greater amounts. Underreporting – that is women drinking more than they report - could contribute to these results. Since breast cancer is the most common cancer among women in Western countries, even a small increased breast cancer risk from light drinking women may be relevant. The risk of breast cancer is dose-dependent: it increases with the number of drinks consumed. For a light to moderate amount of wine consumed with meals, the risk has been shown to be relatively small.

<https://www.wineinformationcouncil.eu>

⁵ https://www.wineinformationcouncil.eu/index.php?option=com_k2&view=item&id=3163:wine-consumption-in-the-context-of-a-healthy-lifestyle-and-cancer-risk&Itemid=640