

**TRIS NOTIFICATION 2022/441/IRL (Ireland)**  
**Notification of Draft Regulations Under Section 12 of the Public Health (Alcohol) Act 2018**

*August 2022*

**Who We Are**

As sectoral representatives the British Beer and Pub Association (BBPA), the Scotch Whisky Association (SWA), the Wine and Spirit Trade Association (WSTA) and the National Association of Cider Makers (NACM) represent the full extent of UK alcohol producers, importers, exporters and retailers both on and off-trade.

Our members are proud of their reputation as responsible producers and retailers and which continues to be demonstrated through our work with Government and other stakeholders, on an individual and sectoral basis, and through numerous voluntary initiatives over the years. We believe that this approach has yielded great success to ensure that manufactures and operators within the UK alcoholic beverage sector continue to play their part in tackling harmful consumption of alcohol and ensuring consumers are informed of the nature and characteristics of their favourite alcoholic beverages. This includes efforts to ensure that consumers have access to evidence-based information about the health-risks of excessive consumption, support for labelling that gives clear warnings against under-age drinking, driving and drinking and drinking during pregnancy as well as the development of e-labels which further increases the accessibility of consumer information.

**Background**

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

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

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

In addition, the Draft Regulations also 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:

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

**Our Position**

As representatives of the UK alcoholic drinks sector, we are concerned over the extent of the proposals laid out in the Draft Regulations as submitted to the Commission through the TRIS & FIC notification process as follows:

1. Constitute a barrier to trade in breach of EU law and risk undermining the single market

The proposed labelling requirements will hinder access for products from other markets into Ireland as it would be prohibited for retailers to place products without these labels on the Irish market. For 2021 the value of beer, cider and Scotch whisky exported into Ireland was

approximately £100m<sup>1</sup>, the vast majority of which was produced and packaged within the UK. Unless alcoholic beverages are re-labelled with the health warnings and additional information prescribed by the Draft Regulations, non-Irish producers and distributors would be effectively excluded from the Irish market.

Re-labelling products will increase cost and complexity for both EU and non-EU producers exporting into Ireland in an already high-cost inflationary environment. This will be felt strongest by small and medium-sized enterprises which may be unable to continue operations in the Irish market. This in turn could lead to a substantial loss of competitiveness and consumer choice in the Irish market.

Such restrictions on imports constitute a barrier to trade and are prohibited in the EU Single Market.<sup>2</sup> While some exceptions exist – such as to protect human health<sup>3</sup> – Ireland has not provided any evidence that the proposed labelling requirements are proportionate. Ireland has also 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.

It is not clear 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 within the Draft Regulations, must assess the nature and scale of the restriction on the free movement of goods by comparison with other possible measures which are less trade-disruptive. We are not aware that any such assessment has been undertaken.

In this context, dematerialisation should be considered by the Irish authorities as an alternative means of achieving the same objectives as those set out in the notification ("to ensure that Irish consumers are directly informed of these risks and that they are supported in making healthier choices concerning their alcohol consumption") but in a more effective way. Digital labelling allows companies to provide detailed information, scientifically established, easy to access and in the language of the consumer in different markets, without the need to change the packaging or negatively impact movement of products within the Internal Market.

## 2. Inaccurate and disproportionate health warnings not substantiated by evidence

Associations between alcohol consumption and health harms, particularly in relation to cancer, are complex and multifactorial and therefore require that such risks are communicated to consumers in an unambiguous and contextualised form.<sup>4 5</sup> The wording in the Draft Regulations is inaccurate, disproportionate and alarmist, especially considering evidence supporting that the majority of adults in the EU and UK consume alcohol responsibly.

The Irish government has to date not 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 greatly depending on the volume and pattern consumed. The warnings neither provide information on the precautions which may be taken to use the product safely. Thus, the warnings do not accurately inform

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<sup>1</sup> Based on HMRC data - <https://www.uktradeinfo.com/trade-data/ots-custom-table/>

<sup>2</sup> See Article 34 TFEU.

<sup>3</sup> See Article 36 TFEU.

<sup>4</sup> Risk and Regulation Advisory Council, A practical guide to public risk communication: The five essentials. 2009.

<sup>5</sup> Spiegelhalter, D., *Risk and uncertainty communication*. Annual Review of Statistics and Its Application, 2017. 4(1): p. 31-60.

consumers. Lastly, disproportionate warnings are likely to undermine the credibility of the source of information and the effectiveness of other warnings on the label.

### 3. Risk undermining coherent EU-wide action planned for Q4 2022 and 2023

The Commission intends to “*propose a mandatory indication (...) of health warnings on labels before the end of 2023*” in the framework of the comprehensive body of work already underway under the “Europe’s Beating Cancer Plan”.<sup>6</sup>

In the framework of this initiative, the European Parliament has also adopted a resolution of 16 February 2022 on “strengthening Europe in the fight against cancer”. 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.

Unilateral Member State initiatives, such as the Draft Regulations proposed by Ireland, will undermine these EU-wide efforts to harmonisation. Inconsistencies across EU Member States will confuse consumers and risk failure to achieve maximum impact and efficiency of such measures. EU Member States should therefore refrain from adopting legislation in areas that the Commission plans to regulate and harmonise across the EU.

### **Our Asks**

Based on the specifics laid out above and to:

- prevent significant disruption to trade with Ireland, and
- address unjustified, disproportionate and unsubstantiated claims in relation to alcohol consumption and health, and
- avoid contradiction with existing harmonised EU legislation and superseding the intention of the Commission to legislate further in this area (on alcohol and health warnings and consumer information)

We ask the European Commission, under the TRIS procedure, to issue a Detailed Opinion on the Irish Draft Regulation to block its adoption.



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<sup>6</sup> Commission’s Communication on “Europe’s Beating Cancer Plan”, COM(2021) 44 final, 3 February 2021.