**Irish Public Health (Alcohol) Bill**

**SpiritSuisse contribution on TRIS Notification 2018/22/IRL**

Dear Sir, dear Madam,

In January 2018, the Irish Government notified to the European Commission, under the TRIS procedure, new amendments to its draft Public Health (Alcohol) Bill initially notified in 2016. These changes include:

* mandatory cancer warning on alcoholic beverages labels and advertising materials[[1]](#footnote-1);
* a requirement that health warnings take up at least one third of printed materials for the labelling of alcohol products[[2]](#footnote-2);
* a ban on all alcohol broadcast advertising before 9pm[[3]](#footnote-3).

These new elements are to be added to the provisions initially present in the version of the Bill notified in 2016 (TRIS notification 2016/42/IRL and WTO notification G/TBT/N/IRL/2), and to which 10 EU Member States already opposed. This first notified draft covered:

* minimum unit pricing of alcohol products;
* health labelling of alcohol products;
* the regulation of advertising of alcohol products;
* the regulation of sponsorship by alcohol companies;
* structural separation of alcohol products in mixed trading outlets;
* the regulation of the sale and supply of alcohol in certain circumstances.

SpiritSuisse, as non-EU trade association, welcomes the opportunity to share its comments on the Irish Public Health (Alcohol) Bill, as re-notified through the European Union TRIS notification process due to the adoption of 3 additional mandatory requirements for labelling, advertising and broadcast watershed.

Our association is supportive of national initiatives which aim at addressing harmful use of alcohol. Nevertheless, without questioning the public health objectives pursued by the Irish authorities, we regret that the draft Bill comes as a challenge to the free movement of goods within the European Single Market and creates disproportionate and unnecessary obstacles to international trade. We would also like to underline that the measures have not been justified by the Irish government.

In addition, by aiming at reducing *per capita* alcohol consumption figures, we consider that the Bill misses what should be the relevant objective: reducing harmful use of alcohol.

**SpiritSuisse comments on TRIS Notification 2018/22/IRL**

1. **Irish Bill introducing disproportionate and unjustified measures**

**On the justification:**

SpiritSuisse regrets that the Irish Government has not presented scientific or evidence-based arguments to justify the introduction of either the requirement for a label referring to the direct link between alcohol and fatal cancers and/or the requirement that at least one third of alcoholic beverages labels be devoted to health warnings.

**On the disproportionality:**

In the ‘Message’ section of the TRIS Notification, Part 9 entitled “brief statement of grounds”, the Irish authorities state that “*There is irrefutable evidence that alcohol causes cancer and that there is a direct causal link between certain fatal cancers and alcohol misuse.”* However, while consuming alcohol may be a risk factor for some cancers, it is not necessarily the cause of individual cancers.

The association between alcohol and cancer risk is complex and cannot be adequately explained in a single warning label. About 7 of the estimated 200 cancers are reported to be alcohol-related, i.e. alcohol intake increases the risk of those types of cancer.

A focus on one health issue alone does not give a full or accurate picture to help consumers make an informed choice about their drinking. Warning labels should be proportionate to the risks faced by consumers, but cancer labels alone do not allow consumers a proportionate view of the effects of moderate alcohol consumption.

Besides, the proposed warning would be unprecedented within the European Union on a legally sold foodstuff[[4]](#footnote-4). Eating processed meat, salt-preserved foods and drinking very hot beverages are respectively associated with an increased risk of colorectal, stomach and oesophageal cancers.

* On the basis of the above, SpiritSuisse **considers that the notified cancer warning, directly linking alcohol consumption with fatal cancer, would be disproportionate, unjustified and hence not consistent with Article 36 of the Treaty on the Functioning of the European Union (TFEU).**
1. **Irish Bill challenging the free movement of Swiss goods within the European Single Market**

**Barrier to trade N°1: The ‘Irish-only’ label**

The requirement of a **warning informing consumers on the direct link between alcohol and fatal cancers** (unlike a targeted communication on the dangers of alcohol during pregnancy or a targeted communication on excessive alcohol consumption), constitutes an unprecedented labelling initiative.

Where one could understand the political choices of new labelling requirement for health, economic and cultural considerations, such initiative should be proportionate and in line with the European free movement of goods principle.

We are convinced that the cancer warning labelling requirement, together with the requirement that health warnings take up **at least one third of printed materials for the labelling of alcohol products**, are disproportionate[[5]](#footnote-5) and regret that these measures would prevent Swiss wine and spirits to circulate freely within the European Single Market.

Indeed, such requirements would impose Swiss alcoholic beverages producers to prepare specific labels for the Irish market.

* SpiritSuisse considers that the labelling requirements included in the Irish Bill would **create a barrier to trade and entry in the Irish Market, and have the equivalent effect to quantitative restrictions, which is incompatible with Article 34 and 35 of the TFEU.**

**Barrier to trade N°2: Bill preventing foreign operators’ products to be known by Irish consumers**

According to the new amendment to the Bill, regarding the ‘Content of advertisements’, a **cancer warning will have to be included in every advertisement for alcohol products**.

Not only do we find such cancer warning requirement disproportionate and unjustified[[6]](#footnote-6), but we are also concerned that together with the advertising restrictions initially notified in 2016 – severely restricting advertising content and placement – would in addition make the very limited advertising option carry a mandatory cancer warning. This would prevent foreign operators from gaining the foothold on the Irish market, while favouring operators whose brands are already established in the country.

* SpiritSuisse regrets that advertising restrictions previously notified, and now coupled with cancer warning on alcohol advertising, **would prevent foreign operators from making their products known by Irish consumers and would give unfair advantage to products that are already well-established within the Irish market.**

**SpiritSuisse remaining concerns on TRIS Notification 2016/42/IRL**

The new measures of the Bill, as re-notified on TRIS, come in addition to:

* Minimum unit pricing for alcoholic beverages;
* Health labelling of alcohol products (danger of alcohol consumption, and danger when pregnant);
* Advertising restrictions (placement, content, in publication);
* Sales restrictions (structural separation of alcohol products in mixed trading outlets; promotion; reduced price prohibition).

As raised by many countries through the WTO TBT process, the previously notified version of the Bill was already, and remains problematic. Without entering into details into these provisions, as they are not the one notified here, SpiritSuisse would like to stress that we still consider them as creating unnecessary obstacle to international trade and challenging the free movement of goods with the European Single Market, and as being disproportionate and unjustified.

From what we understood, the Irish Government did not engage into bilateral or multilateral discussions with third countries having commented on the notified Bill, nor did it decide to change the content of its proposed legislation, or provide more justifications to justify the measure foreseen. Therefore, we call on the Commission to request Ireland to reply to the concerns previously raised by third country via the TBT notification process.

**SpiritSuisse calls for future WTO TBT notification of the amended Bill**

SpiritSuisse hopes to count on the Commission, on behalf of Ireland, to notify the final version of the Bill through the WTO TBT notification process, hence providing to EU trading partners the possibility to officially share comments on the technical standards it includes, which according to us creates unnecessary obstacles to international trade.

1. Section 12(1)(iii) and Section 13(2)(c). [↑](#footnote-ref-1)
2. Section 12(10)(a). [↑](#footnote-ref-2)
3. Section 19. [↑](#footnote-ref-3)
4. At international level, only Korea requires a cancer warning on alcoholic beverages. However, this warning does not link cancer development with alcohol consumption *per se*, but with excessive consumption of alcohol. [↑](#footnote-ref-4)
5. For more information on the disproportionality of the measure, see Part. 1. [↑](#footnote-ref-5)
6. For more information on the disproportionality of the measure, see Part. 1. [↑](#footnote-ref-6)