

FoodDrinkEurope comments on the Belgian Royal Decree on advertising of beverages containing alcohol

FoodDrinkEurope, the organisation representing the EU food and drink manufacturing sector, welcomes the opportunity to comment on the notification of the Belgian Royal Decree on advertising of beverages containing alcohol ([2024/0032/BE](#)).

FoodDrinkEurope would like to highlight the following issues and concerns with regard to the proposed decree.

1. Non-compliance with the Treaty on the Functioning of the European Union

The definition of “advertising” in Article 1 of the Decree goes beyond the intended scope. The definition of what constitutes “advertising” in Article 1 of the Decree to include “the affixing of a mark or logo shall also be regarded as advertising” does not correspond to the scope of the [Interfederal Alcohol Plan](#), nor the European Audiovisual Media Services Directive, which defines audiovisual communications in its Article 1 as:

- *“Images with or without sound which are designed to promote, directly or indirectly, the goods, services or image of a natural or legal person pursuing an economic activity; such images accompany, or are included in, a programme or user-generated video in return for payment or for similar consideration or for self-promotional purposes. Forms of audiovisual commercial communication include, inter alia, television advertising, sponsorship, teleshopping and product placement”.*

The definition proposed in the draft Decree would encompass a variety of things that do not pertain to advertising, such as physical labels on bottles, signposts near production sites, non-alcohol products which have the same brand as an alcohol product etc. Such a definition would mean that the requirement to feature the health information message provided for in article 7 of the draft Decree would apply to these situations as well, which we believe is not the original intention of the Interfederal Alcohol Plan. The inclusion of packaging and/or merchandising in the scope of the draft Decree would be particularly problematic due to its direct impact on the free movement of these goods in Belgium, as the labels but in the case of merchandising, the products themselves would have to be modified to comply with the rules.

While such barriers to trade may be allowed in the EU Single Market on grounds of public health, we believe that such a broad scope beyond advertising (i.e. “audiovisual commercial communications” as defined in the AVMSD) is neither necessary nor proportionate to the objective pursued by the Belgian authorities, which to our knowledge, have not provided scientific evidence of the necessity of such a broad definition.

2. The introduction of a health message information and the lack of the mutual recognition clause

The draft Decree in its Article 7 requires that all advertising of alcoholic beverages sold on the Belgian market carry on the health information message of the Belgian Health Ministry and prohibits any other educational message than the one provided by the Minister. As the definition under Article 1 of the Decree seems to include labelling and packaging as well, this means all alcoholic beverages will need to carry this message and represents one of the unintended consequences of the unclear definition of “advertising”. Since no mutual recognition clause is included in the text, operators selling to consumers in Belgium are expected to comply with the provisions of the draft Decree, without any possibility of adjusting the above templates to conform with EU law or to other existing national provisions, such as the French mandatory health message or well-established pregnancy logo or the Lithuanian logo.

Since the health information message is still to be decided by the Health Ministry at a later stage, we call upon the Health Ministry to consult and involve relevant authorities and stakeholders when laying down the wording. This should also take into account the new slogan recently announced by the Belgian industry, as well as ensure recognition of other information messages. We also call upon the European Commission to carefully evaluate whether the proposed wording, when notified by the Belgian Health Minister, is in fact science-based and proportional.

In light of the above, we respectfully ask the European Commission to consider the detrimental impact that the proposed provisions would have on the functioning of the EU Single Market and would welcome clarifications from the Belgian government on the above-mentioned aspects and the evidence supporting the proposed provisions. We thank you for taking our comments into consideration and we remain at your disposal for any additional information or clarifications needed.
