



TRIS notification 2024/0032/B Royal Decree on advertising of beverages containing alcohol

EFOW, the European Federation of Origin Wines (www.efow.eu), is a Brussels-based organisation representing wines with an Appellation of Origin and Geographical Indication from the European Union. As the voice of the European origin wines towards European and international institutions, it is actively advocating for a better protection and promotion of these wines within the EU and throughout the world.

Its current members are the national associations in charge of origin wines from France (CNAOC), Italy (FEDERDOC), Spain (CECRV), as well as the Port and Douro Wines Institute (IVDP) from Portugal.

“Because origin matters”

The appellation wine sector is a perfect example of a sector that is constantly modernising while preserving the traditions and skills rooted in its different terroirs. These high-quality products, with their great variety and originality, cannot be relocated or copied. This model is based on an atomised network of small and medium-sized businesses, often family-run, which create numerous direct and indirect jobs in rural areas, including thousands of jobs in wine tourism. The wine sector's contribution to the economy of the EU's territories is considerable and indispensable, as in many regions of the EU there is no viable agricultural alternative to winegrowing.

For centuries, wine production has been a way of life in many parts of Europe. It is a tradition that is part of a shared culture and heritage. The fruit of long-term labour, wine requires passion and in-depth knowledge of soil use, grape varieties, science and business skills. Many of Europe's wine-growing regions are on UNESCO's list of World Heritage Sites, offering unique environments and fostering biodiversity.

On 19 January 2024, Belgium notified the European Commission (“Commission”) of its intention to adopt secondary legislation on advertising of beverages containing alcohol (“the draft decree”), under the Technical Regulations Information System (“TRIS”) notification process. In particular, the draft decree aims at:

- Prohibiting advertisements for beverages containing alcohol in the media primarily aimed at minors;
- Prohibiting the free distribution of beverages containing alcohol except with the purchase of a beverage containing alcohol and during tastings;
- Imposing a health warning on all advertisements for beverages containing alcohol.

EFOW would like to provide its remarks to the TRIS notification 2024/0032/BE of the Royal Decree on advertising of beverages containing alcohol.

Incomplete TRIS notification

The draft decree notified by Belgium authorities is incomplete and fails to provide information about the content or the format of the health message, further clarification of the scope of the legislation, and remains silent about the date of entry into force and date of application, and whether a transition period would be allowed.

This lack of clarity is in total contradiction with the provisions of EU Directive 2015/1535, which guarantee that the Member States and the European Commission have all the information they need to detect, analyse, and measure potential obstacles within the internal market in order to avoid their negative effects.

These missing elements restricts the European Commission, the Member States and stakeholders' ability to assess the draft decree. Therefore, the Belgian government should withdraw its draft decree and only resubmit it once it contains the actual details upon which the European Commission and Member States can take an informed position.

Unclear Definition of "Advertising"

In Article 1 of the draft decree, the definition of “advertising” and especially its last sentence “the affixing of a mark or logo shall also be regarded as advertising” can be interpreted as applying to absolutely all media, platforms, and forms. The scope is not clear, leading to legal ambiguity. This uncertainty impede stakeholders' capacity to precisely anticipate the potential impact of the forthcoming legislation.

It is crucial to clarify this definition to ensure good understanding of the draft decree. The definition to be provided in any revised decree must be precise and clearly framed.

Moderate and responsible drinking information and health warnings

Article 7 states that “All advertising for beverages containing alcohol shall contain a health information message, the content and form of which shall be laid down by the Minister. Only health information messages laid down by the Minister may be mentioned on advertisements; any other health message, educational slogan or other wording is prohibited.”

Currently, health warnings for wine and alcoholic beverages are not yet regulated within the EU legislation. The Commission has set up the objective to reduce harmful use of alcohol. Europe's Beating Cancer Plan mentions the possibility to rethink health warnings. Moreover, the European Parliament adopted the report on “strengthening Europe in the fight against cancer” which states that “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.”

Considering the current inadequately defined scope of the draft decree, Article 7 could also be understood as applying to the labelling of alcoholic beverages.

EFOW is supportive of the new regulation on wine labelling on ingredients and nutritional declaration. But unilateral initiatives by Member States, such as the draft decree notified by Belgium, could undermine these EU-wide efforts and the EU Single market.

Barrier to trade in breach of EU law that undermines the Single Market

The requirements proposed in the draft decree about the definition of advertising will impose obligations on Geographical Indication wine producers selling their wines in Belgium. Depending on the interpretation of these advertising regulations, it will necessitate modifications of the labelling of these wines to comply with Belgian laws.

Such adjustments will involve modifying labels that were previously compliant with regulations in the exporting Member State. These adaptations, with the editing and the printing of thousands new labels will further increase the financial and environmental cost of importing wines on the Belgian market, and the administrative burden on businesses, in particular SMEs.

Therefore, the draft decree would restrict the access of products from other Member States to Belgium and reduce the fluidity of the single market. This constitutes a measure having an effect equivalent to a quantitative restriction and a barrier to trade, which is prohibited by Article 34 TFEU.

In addition, should this be allowed and if other Member States follow suit in adopting similar unilateral measures, the resulting divergences would cause significant barriers to trade all across the EU and would lead to a fragmentation of the single market.

As a consequence, Belgium must withdraw its draft decree.

In the light of the above, the draft decree's unclear provisions prevent from anticipating precisely the potential impact of the forthcoming legislation and its impact on the European Geographical Indication wine producers and the single market. EFOW therefore urges the European Commission and Member States to block the adoption of the draft decree. If the Belgian government was to resubmit a draft decree, it should consider the listed elements and provide clear technical specifications that can be properly assessed by stakeholders', the Commission and Member States.

