Message 201

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Directive (EU) 2015/1535

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Forwarding of the response of the Member State notifying a draft (Belgium) to of France.

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4. 2026/0161/BE - C51A - Beverages

5.

6. Belgium takes note of the detailed opinion concerning the draft Royal Decree on advertising for alcoholic beverages, notified under Directive (EU) 2015/1535.
Belgium respectfully disagrees with the concerns raised and considers that the draft Decree is fully compatible with European Union law. The comments below address the main points raised in the detailed opinion.

Argumentation

1. The draft decree regulates certain aspects of the advertising of alcoholic beverages, such as:
• A ban on the advertising of alcoholic drinks in media aimed at minors;
• Prohibiting the free provision of alcoholic beverages, except when purchasing an alcoholic beverage and during tastings
• The obligation to include a health warning in advertisements for alcoholic beverages;
• Setting out technical requirements for the presentation of the health warning.

2. The rules laid down in the draft decree originate in the Convention on the Advertising and Marketing of Alcoholic Beverages (a self-regulatory code of conduct). This code already provides for a prohibition on advertising aimed at minors and for the inclusion of a health warning in the case of alcohol advertising. These rules are already in place and should therefore already be known and implemented by the implicated actors. The draft decree merely provides a statutory basis for these already existing rules.

3. As explained in the Guide on Articles 34-36 of the Treaty on the Functioning of the European Union (https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021XC0323(03)#ntr80-C_2021100EN.01003801-E0080) the CJEU makes a distinction between national rules on product characteristics (requirements to be met by goods: rules defining packaging requirements, ingredients, or similar) and selling arrangements (selling arrangements as national rules that concern the 'arrangements under which products may be sold': how, when, where a category of products may be sold). While product characteristics are considered to fall within the scope of article 34 TFEU, selling arrangements fall outside its scope and do not need to be justified unless they are applied in a discriminatory manner or restrict market access to imported goods.

Primary argument: Selling arguments outside the scope of article 34 TFEU.

5. The provisions of the draft Decree relate to advertising conditions and do not concern the characteristics of the products themselves. In other words, these rules do not relate to the intrinsic characteristics of the products, but solely to the commercial communications (advertising) surrounding them. Therefore the rules in the draft Decree are considered to be selling arrangements.

a. Selling arrangements.

6. Selling arrangements fall outside the scope of article 34 TFEU and do not need to be justified unless they are applied in a discriminatory manner or restrict market access to imported goods. This was underlined by the Keck & Mithouard Ruling (Judgment of the Court of 24 November 1993 - Criminal proceedings against Bernard Keck and Daniel Mithouard - References for a preliminary ruling: Tribunal de grande instance de Strasbourg – France - Joined cases C-267/91 and C-268/91.- ECLI:EU:C:1993:905). According to this judgment, the Gourmet International Products AB judgment (Judgment of the Court (Sixth Chamber) of 8 March 2001 - Konsumentombudsmannen (KO) v Gourmet International Products AB (GIP) - Reference for a preliminary ruling: Stockholms tingsrätt – Sweden - Case C-405/98 - ECLI:EU:C:2001:135) and the Leclerc Siplec judgment (Judgment of the Court (Sixth Chamber) of 9 February 1995 - Société d'Importation Edouard Leclerc-Siplec v TF1 Publicité SA and M6 Publicité SA - Reference for a preliminary ruling: Tribunal de commerce de Paris – France - Case C-412/93 - ECLI:EU:C:1995:26) the application of rules which restrict or prohibit certain sales practices – such as, in the present case, rules concerning the advertising of alcoholic products – to products from other Member States cannot be regarded as a measure capable of hindering trade between Member States, whether directly or indirectly, actually or potentially, as long as these rules
1. apply generally to all economic operators, without distinction as to origin, that is to say, to all economic operators operating within the national territory, and
2. affect in the same manner, both in law and in fact, the marketing of domestic products as on that of products and of those from other Member States.

7. According to the Gourmet International Products AB judgment (Judgment of the Court (Sixth Chamber) of 8 March 2001 - Konsumentombudsmannen (KO) v Gourmet International Products AB (GIP) - Reference for a preliminary ruling: Stockholms tingsrätt – Sweden - Case C-405/98 - ECLI:EU:C:2001:135) and the Keck & Mithouard judgment (Judgment of the Court of 24 November 1993 - Criminal proceedings against Bernard Keck and Daniel Mithouard - References for a preliminary ruling: Tribunal de grande instance de Strasbourg – France - Joined cases C-267/91 and C-268/91.- ECLI:EU:C:1993:905) it should be pointed out that, if national provisions restricting or prohibiting certain selling arrangements are to avoid being caught by Article 34 of the Treaty, they must not be of such a kind as to prevent access to the market by products from another Member State or to impede access any more than they impede the access of domestic products. This is not the case for the dispositions of the draft Decree. Imported alcoholic products can, like it is the case for the Belgian products, still be advertised (unless towards minors) and can still freely penetrate the Belgian market.

b. Advertising rules / restructions as selling arguments.

8. Advertising regulations are generally considered a selling arrangement by the CJEU, meaning that they fall outside the

scope of Article 34 TFEU except if they restrict market access to imported goods.

9. According to the Guide on Articles 34-36 of the Treaty on the Functioning of the European Union selling arrangements include measures relating to the conditions and methods of marketing, the time of the sale of goods, the place of the sale of goods or to restrictions regarding by whom goods may be sold, as well as in some cases measures which relate to product pricing. Selling arrangements are measures which are associated with the marketing of the good rather than with the characteristics of the good, and which fall outside the scope of Article 34 TFEU in case they meet the two cumulative conditions established in the judgment as explained in paragraph 6 (https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52021XC0323(03)#ntr80-C_2021100EN.01003801-E0080). Since the Keck & Mithouard judgment the CJEU has therefore adopted a new approach towards advertising restrictions. The usual approach followed by the CJEU today is that restrictions on advertising and promotion are to be considered as selling arrangements and, if non-discriminatory, falling outside the scope of Article 34 TFEU.

10. In this context, there is already case law concerning the classification of advertising as 'selling arrangements'. In the Herbert Karner judgment (Judgment of the Court (Fifth Chamber) of 25 March 2004 - Herbert Karner Industrie-Auktionen GmbH v Troostwijk GmbH - Reference for a preliminary ruling: Oberster Gerichtshof – Austria - Case C-71/02 - ECLI:EU:C:2004:181) it was pointed out that provisions concerning inter alia the place and times of sale of certain products and advertising of those products as well as certain marketing methods to be provisions governing selling arrangements. This was confirmed in the A-Punkt Schmuckhandels judgment (Judgment of the Court (Third Chamber) of 23 February 2006 - A-Punkt Schmuckhandels GmbH v Claudia Schmidt - Reference for a preliminary ruling: Landesgericht Klagenfurt – Austria - Case C-441/04 - ECLI:EU:C:2006:141) and the Burmanjer judgement (Judgment of the Court (First Chamber) of 26 May 2005 - Criminal proceedings against Marcel Burmanjer, René Alexander Van Der Linden and Anthony De Jong - Reference for a preliminary ruling: Rechtbank van eerste aanleg te Brugge – Belgium - Case C-20/03 - ECLI identifier: ECLI:EU:C:2005:307) wherein it was stated that provisions concerning certain marketing methods were provisions concerning selling arrangements within the meaning of Keck and Mithouard.

11. The mere fact that operators established in other Member States may incur higher compliance costs as a result of having to adapt to differing national regulatory frameworks does not, in itself, constitute a restriction on the free movement of goods within the meaning of Article 34 TFEU. Under the conditions as pointed out in the judgments mentioned in paragraph 6 any additional costs borne by foreign traders - such as the need to tailor advertising or marketing strategies for different Member States - are regarded as inherent in the current state of regulatory diversity within the internal market rather than as evidence of unequal treatment. This approach has been confirmed in subsequent case law concerning advertising restrictions, where the Court accepted that the necessity to adapt commercial practices to national rules may entail extra costs, but does not suffice to bring a measure within the scope of Article 34 TFEU in the absence of discrimination or a disproportionate impact on imported goods. Accordingly, only measures that place imported products at a specific disadvantage, or that hinder market access beyond what affects domestic products, will fall within the prohibition laid down in Article 34 TFEU.

12. The primary argument is therefore that the provisions of the draft decree are considered to be selling arrangements falling outside the scope of Article 34 TFEU. In the alternative, even if the provisions of the draft decree were deemed to fall within the scope of Article 34 TFEU, the measures could be justified on the grounds of overriding reasons in the public interest, in particular the protection of public health and consumer protection.

Secondary argument: justification by article 36 TFEU and consumer protection.

13. In case the rules of the draft Decree are, in contrary to what is stated in settled case-law, considered to fall in the scope of article 34 TFEU, those rules can certainly be justified by article 36 TFEU (public health grounds) and by consumer protection grounds.
The draft decision has a legitimate aim, is suitable for achieving that aim, necessary and proportionate as well as non-discriminatory.

- Legitimate aim: The measure can be justified on public health (explicit derogation under Article 36 TFEU) and consumer

protection grounds (case-law derogation recognized by the CJEU). Both justifications constitute legitimate interests allowing a derogation from Article 34 TFEU.

o Public Health: Article 36 TFEU: “The provisions of Articles 34 and 35 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property. Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States.”.
The draft Decree explicitly aims to protect public health, in particular by reducing (harmful) alcohol consumption, protecting minors and raising awareness of the risks associated with alcohol consumption.
The aim of protecting public health may justify legislation on advertising such as a ban on advertising towards minors and the mentioning of a health warning, provided that the measures envisaged are proportionate to the objective and do not constitute a means of arbitrary discrimination or a disguised restriction on trade between Member States (Judgment of the Court (Sixth Chamber) of 8 March 2001 - Konsumentombudsmannen (KO) v Gourmet International Products AB (GIP) - Reference for a preliminary ruling: Stockholms tingsrätt – Sweden - Case C-405/98 - ECLI:EU:C:2001:135).
Public health is recognised as an overriding reason in the public interest and as an explicit ground for justification under Article 36 TFEU, and is an area in which Member States have a wide margin of discretion. In this regard, reference may be made to an extract from the Gourmet International Products AB judgment (Judgment of the Court (Sixth Chamber) of 8 March 2001 - Konsumentombudsmannen (KO) v Gourmet International Products AB (GIP) - Reference for a preliminary ruling: Stockholms tingsrätt – Sweden - Case C-405/98 - ECLI:EU:C:2001:135): “It is accepted that rules restricting the advertising of alcoholic beverages in order to combat alcohol abuse reflects public health concerns (Case 152/78 Commission v France [1980] ECR 2299, paragraph 17, and Joined Cases C-1/90 and C-176/90 Aragonesa de Publicidad Exterior and Publivía [1991] ECR I-4151, paragraph 15)”.

o Consumer protection: In order to make informed decisions about their alcohol consumption, consumers must be properly informed about the health risks associated with the alcoholic products they are about to purchase and/or consume. This information gives them the freedom to decide what level of risk they are prepared to accept.
Further, according to settled case-law (De Agostini judgment (Judgment of the Court of 9 July 1997 - Konsumentombudsmannen (KO) v De Agostini (Svenska) Förlag AB and TV-Shop i Sverige AB - Reference for a preliminary ruling: Marknadsdomstolen – Sweden - Joined cases C-34/95, C-35/95 and C-36/95 - ECLI:EU:C:1997:344) and the Cassis de Dijon judgment (Judgment of the Court of 20 February 1979. - Rewe-Zentral AG v Bundesmonopolverwaltung für Branntwein. - Reference for a preliminary ruling: Hessisches Finanzgericht – Germany - Case 120/78 - ECLI:EU:C:1979:42)), fair trading and the protection of consumers in general are overriding requirements of general public importance which may justify obstacles to the free movement of goods.
In this context a reference can also be made to article 169 TFEU: “In order to promote the interests of consumers and to ensure a high level of consumer protection, the Union shall contribute to protecting the health, safety and economic interests of consumers, as well as to promoting their right to information, education and to organise themselves in order to safeguard their interests.”.

- Suitability: The measures are suitable for achieving the intended objectives of public health and consumer protection:
• The mandatory warning ‘Alcohol is harmful to health’ raises awareness of the risks associated with alcohol consumption.
• The technical specifications (including the size of the message, the contrasting colour and its permanent display) ensure the message is visible and thus increase its effectiveness.
• Restrictions on advertising aimed at minors reduce the exposure of a vulnerable target group to such advertising, which may lead to a reduction in consumption.

Health warnings aim to inform and alert consumers about potential risks or dangers associated with alcohol consumption. From the consumer protection perspective, the availability of information on the product label (at the point of purchase and consumption) can lead to informed consumers empowered to make informed decisions. From the public health perspective, health warnings can raise awareness of alcoholattributable risks and contribute to an overall reduction of alcohol-attributable harm through a multitude of functions that go beyond individual behaviour change, such as

increasing support for alcohol policies and decreasing product appeal (Alcohol health warning labels: a public health perspective for Europe - https://www.who.int/europe/publications/i/item/9789289061681). For health warnings on labels, several studies have shown that adding warnings to the labels of alcoholic drinks can influence reported intentions to reduce alcohol consumption and on consumer behaviour (Hobin E, Schoueri-Mychasiw N, Weerasinghe A, Vallance K, Hammond D, Greenfield TK et al. Effects of strengthening alcohol labels on attention, message processing, and perceived effectiveness: A quasi-experimental study in Yukon, Canada. Int J Drug Policy 2020;77:102666 + Davies EL, Foxcroft DR, Puljevic C, Ferris JA, Winstock AR. Global comparisons of responses to alcohol health information labels: a cross-sectional study of people who drink alcohol from 29 countries. Addict Behav 2022;131:107330). Other studies have highlighted additional behaviours, such as seeking further information, visiting websites and talking to others about alcohol-related risks. Some research has revealed that warnings are noticed and recognised by heavy drinkers regularly exposed to them and that the general public are also aware of them. Warnings have also been found to encourage people to talk about drink-driving and alcohol consumption during pregnancy and to increase the perceived risks of drinking alcohol (The effectiveness of current French health warnings displayed on alcohol advertisements and alcoholic beverages, G. Dossou , K. Gallopel-Morvan , J.-F. Diouf, European Journal of Public Health, Volume 27, Issue 4, August 2017, Pages 699–704, Published: 16 February 2017). The insights on the effects of labelling are also valuable for health warnings on advertisements.

According to settled case-law such as the Scotch Whiskey Ruling (Judgment of the Court (Second Chamber) of 23 December 2015 - Scotch Whisky Association and Others v The Lord Advocate and The Advocate General for Scotland - Request for a preliminary ruling from the Court of Session (Scotland) - Case C-333/14 - ECLI:EU:C:2015:845), Nordic Info judgment (Judgment of the Court (Grand Chamber) of 5 December 2023 - Nordic Info BV v Belgische Staat - Request for a preliminary ruling from the Nederlandstalige rechtbank van eerste aanleg Brussel - Case C-128/22 - ECLI:EU:C:2023:951) and the Cilevičs judgment (Judgment of the Court (Grand Chamber) of 7 September 2022 - Proceedings brought by Boriss Cilevičs and Others - Request for a preliminary ruling from the Satversmes tiesa - Case C-391/20 - ECLI:EU:C:2022:638) a restrictive measure can be considered to be a suitable way of ensuring the achievement of the objective pursued only if it genuinely reflects a concern to secure the attainment of that objective in a consistent and systematic manner. In the Scotch Whiskey judgment the national legislation at issue in the main proceedings was part of a more general political strategy designed to combat the devastating effects of alcohol and the imposition of an MUP, provided for by the legislation at issue, constituted one of 40 measures whose objective is to reduce, in a consistent and systematic manner, the consumption of alcohol by the Scottish population as a whole, irrespective of where that consumption takes place or the nature of that consumption. Just like in the Scotch Whiskey judgment, Belgium is putting in place this advertising legislation as only one among many other measures, this legislation with the advertisement restrictions towards minors and the obligation to mention the health warning is part of a broader policy, namely the Belgian Interfederal Strategy regarding the harmful use of alcohol (https://organesdeconcertation.sante.belgique.be/fr/documents/strategie-interfederale-en-matiere-dusage-nocif-dalcool-2023-2028). The aim of this strategy is to reduce harmful alcohol consumption in Belgium and its direct or indirect consequences. A specific aim of this strategy is also to protect minors from the harmful effects of alcohol. In this context, the strategy is dedicated to preventing first-time alcohol consumption or, at the very least, delaying the age at which this first consumption takes place. Minors must grow up in a healthy environment, and they must therefore be protected from the dangers arising from the harmful consumption of alcohol. Therefore, the policy as implemented through the draft Decree reflects a genuine concern to protect public health and is pursued in a consistent and systematic manner.

In the WHO Global Alcohol Strategy and Global Alcohol Action Plan, that has been endorsed by all WHO Member States (including Belgium) it is suggested that member states implement, as appropriate in national contexts, high-impact and effective strategies and interventions, supported by legislative measures, addressing the advertising and marketing of alcoholic beverages, through comprehensive and robust restrictions or bans across multiple types of media, including digital media. Within Europe, 10 countries use mandatory text-only warnings (including Germany, Estonia and Sweden) (The effectiveness of current French health warnings displayed on alcohol advertisements and alcoholic beverages, G. Dossou , K. Gallopel-Morvan , J.-F. Diouf, European Journal of Public Health, Volume 27, Issue 4, August 2017, Pages 699–704, Published: 16 February 2017). Moreover, alcohol marketing restrictions are one of the Best Buys as defined by WHO (The Best Buys are the most cost-effective interventions to address noncommunicable diseases, where a WHO Choice analysis found an average cost-effectiveness ratio of ≤ 1$ 100 per DALY averted in low- and lower middle-income

countries. The Best Buys are defined in Appendix 3 of the Global Action Plan for the Prevention and Control of NCDs 2013-2030. For alcohol, one of the Best Buys is: 'Enact and enforce bans or comprehensive restrictions on exposure to alcohol advertising (across multiple types of media)).

- Necessity: The measure is necessary to attain those objectives as there are no less restrictive measures available. This is effectively the case for the disposition in the draft Decree:
• Voluntary or non-standardised warnings do not provide sufficient assurance of visibility and uniformity;
• Less stringent formal requirements would significantly undermine their effectiveness.
• The current slogan used by the alcohol industry through the self regulatory convention "Alcohol abuse is harmful to health" does not reflect the scientific evidence that it is not just alcohol abuse, but any form of alcohol consumption that poses a risk (see also part 3) (Advice nr. 9781 – march 2024 – Superior Council of Health).

These measures in the draft Decree are the least restrictive measure. For example a total ban on advertising could have been imposed or stricter technical requirements regarding the health warning could have been foreseen (e.g. a larger surface than 5%). Anyway, the CJEU has stated in the Scotch Whiskey judgment (Judgment of the Court (Second Chamber) of 23 December 2015 - Scotch Whisky Association and Others v The Lord Advocate and The Advocate General for Scotland - Request for a preliminary ruling from the Court of Session (Scotland) - Case C-333/14 - ECLI:EU:C:2015:845) that "the burden of proof cannot extend to creating the requirement that, where the competent national authorities adopt national legislation imposing a measure such as the MPU, they must prove, positively, that no other conceivable measure could enable the legitimate objective pursued to be attained under the same conditions.".

- Proportionality: The obligations relate solely to the manner of communication, not to the sale or import itself. Products may be freely imported and sold; only the advertising conditions are regulated as the inclusion of the health message based on the scientific insights on the harms of alcohol (see paragraphs 15 and further) is required. Advertising restrictions are only problematic when they make access to the market virtually impossible (cfr. the Gourmet judgment). That is not the case here. After all, advertising for alcohol remains permitted (there is no total ban on alcohol advertising).

- Discrimination: The draft decree is formally non-discriminatory (the rules apply without distinction to all alcohol producers and advertisers, regardless of origin, i.e. to both Belgian and foreign companies). The draft decree makes no distinction on the basis of origin, does not protect national production and is substantively neutral with regard to brands or products.

Also, the mere fact that foreign companies may incur higher compliance costs (for example, for pan-European campaigns) does not constitute evidence of discrimination, but is inherent in the diversity of national regulations. Any greater impact on foreign undertakings stems from their commercial strategies (e.g. the use of standardised campaigns) and not from the nature of the measure itself.

When balancing the objectives pursued (public health, consumer protection) and the potential impact (costs on economic operators), the CJEU consistently finds that the balance tilts in favour of the former. In accordance with settled case-law (such as the Swedish Match judgment (Judgment of the Court (First Chamber) of 22 November 2018 - Swedish Match AB v Secretary of State for Health - Request for a preliminary ruling from the High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court) - Case C-151/17 - ECLI:EU:C:2018:938), the Artegodan judgment (Judgment of the Court (Third Chamber) of 19 April 2012 - Artegodan GmbH v European Commission – Appeal - Case C-221/10 P - ECLI:EU:C:2012:216) and the Affish judgment (Judgment of the Court of 17 July 1997 - Affish BV v Rijksdienst voor de keuring van Vee en Vlees - Reference for a preliminary ruling: College van Beroep voor het Bedrijfsleven – Netherlands - Case C-183/95 - ECLI:EU:C:1997:373)) "the objective of protection of health takes precedence over economic considerations, the importance of that objective being such as to justify even substantial negative economic consequences". The same goes for the objective of consumer protection. According to settled case-law of the CJEU (the Nelson judgment (Judgment of the Court (Grand Chamber), 23 October 2012 - Emeka Nelson and Others v Deutsche Lufthansa AG and TUI Travel plc and Others v Civil Aviation Authority - References for a preliminary ruling from the Amtsgericht Köln (Germany) and the High Court of Justice of England and Wales, Queen's Bench Division (Administrative

Court) - Joined Cases C-581/10 and C-629/10 - ECLI:EU:C:2012:657) and the Vodafone judgment (Judgment of the Court (Grand Chamber) of 8 June 2010 - The Queen, on the application of Vodafone Ltd and Others v Secretary of State for Business, Enterprise and Regulatory Reform - Reference for a preliminary ruling: High Court of Justice (England & Wales), Queen's Bench Division (Administrative Court) - United Kingdom - Case C-58/08 - ECLI:EU:C:2010:321) the importance of the objective of consumer protection, which includes the protection of air passengers, may justify even substantial negative economic consequences for certain economic operators.

15. The policy on alcohol advertising is consistent with existing and established national and international scientific findings and recommendations. There is scientific literature demonstrating a link between alcohol consumption and, on the one hand, alcohol-related health problems and deaths, and, on the other hand, all manner of social problems. The provisions of the Royal Decree are therefore motivated by a public health objective, namely the protection of the Belgian population.

The wording of the health warning reflects current scientific evidence that there is no safe level of alcohol consumption. Even light or moderate consumption increases the risk of serious conditions. Any alcohol consumption is harmful. It doesn’t matter how much you drink – the risk to the drinker’s health starts from the first drop of any alcoholic beverage. The more you drink, the more harmful it is – or, in other words, the less you drink, the safer it is (https://www.who.int/europe/news/item/04-01-2023-no-level-of-alcohol-consumption-is-safe-for-our-health). Alcohol-driven damage starts even within so-called low-risk alcohol consumption (https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(26)00138-8/fulltext).

16. Scientific research concluded that alcohol is the most harmful of the 20 legal and illegal drugs examined. This conclusion was based on an analysis of 20 substances, in which 16 criteria were assessed, including both the harm to the user and the harm to others. Alcohol also scored highest in terms of harm to society (Nutt, David J et al. Drug harms in the UK: a multicriteria decision analysis, The Lancet. 2010, Volume 376, Issue 9752, 1558 – 1565. DOI:10.1016/S0140 - 6736(10)61462 -6).

The health risks associated to alcohol consumption are clear:
- Alcohol consumption remains a leading cause of premature mortality and disease burden in the WHO European Region, accounting for one in every 10 deaths overall, and an even greater share among young people (World Health Organization. Global status report on alcohol and health and treatment of substance use disorders. Geneva 2024). Alcohol consumption is responsible for 1 in 4 deaths of 19–24-year-olds in the WHO European Region (https://www.who.int/europe/news-room/fact-sheets/item/alcohol-use). Alcohol is consumed by 66·4% of people in the European region and remains the major cause of fatal cirrhosis and liver cancer across the WHO European region (https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(26)00138-8/fulltext).
- Alcohol consumption poses a risk for more than 200 non-communicable diseases.
- There are at least 30 health conditions that would not exist without alcohol consumption, such as alcoholic liver disease, fetal alcohol spectrum disorders, alcoholic pancreatitis or alcohol poisoning (https://www.who.int/europe/news-room/fact-sheets/item/alcohol-use).
- Alcohol consumption directly affects the developing brain, particularly areas involved in decision-making ability, impulse regulation and self-control. The human brain continues to develop until around the age of 25, and during this period, it is particularly vulnerable to the effects of alcohol. For example, early onset of alcohol use is strongly associated with an increased risk of alcohol use disorders later in life (https://www.who.int/europe/news-room/fact-sheets/item/alcohol-use).

Alcohol is linked to at least seven types of cancer (Secretan B, Straif K, Baan R, et al. - A review of human carcinogens —part E: tobacco, areca nut, alcohol, coal smoke, and salted fish. Lancet Oncol. 2009; 10: 1033 -1034). Figures from the International Agency for Research on Cancer (IARC) show that in 2020, more than 4 in every 100 cases of cancer worldwide – over 741,000 cases in total – were caused by alcohol consumption (IARC (2025). Alcohol: a major preventable cause of cancer (IARC Evidence Summary Brief No. 6), https://www.iarc.who.int/wp - content/uploads/2025/10/IARC_Evidence_Summary_Brief_6.pdf). When alcohol is metabolised in the human body, it breaks down into acetaldehyde, a compound that damages DNA in multiple ways, therefore, increasing the risk of cancer. Alcohol induces oxidative stress, causing DNA, protein and cell damage as well as increasing inflammation, which are all

mechanisms that elevate cancer risk. Alcohol alters levels of multiple hormones, including oestrogen, which contributes to increased breast cancer risk (S. Carr, A.L. Espinosa Dice, G.E. Gmel Sr., A.S. Hassan, K.D. Shield, J. Rehm - A review of the relationship between dimensions of alcohol consumption and the burden of disease: 2026 update including Mendelian randomisation studies, https://onlinelibrary.wiley.com/doi/10.1111/add.70435). Alcohol causes greater absorption of other carcinogens, such as those from cigarette smoke. In Belgium, 11.5% of colorectal cancers and 7% of breast cancers are attributable to alcohol consumption (Sciensano. Ziektelast : Ziektelast door risicofactoren - Ziekelast door alcoholgebruik, Health Status Report, 30 januari 2025, Brussels, Belgium, https://www.gezondbelgie.be/nl/gezondheidstoestand/ziektelast/ziektelast -doorrisicofactoren/ziektelast -door-alcoholgebruik). Alcohol is classified as a Group 1 carcinogen by the International Agency for Research on Cancer, meaning it is known to cause cancer in humans. The risk is cumulative, so the more alcohol a person drinks over time, the higher their likelihood of developing alcohol-related cancers, such as those of the breast, liver, mouth, throat, oesophagus, and colon. Drinking even small amounts of alcohol increases the risk of cancer, and the more alcohol you drink, the higher the risk becomes. Any alcoholic beverage can cause cancer because the ethanol in alcoholic beverages and the acetaldehyde it produces in the body are carcinogenic (https://www.who.int/europe/news-room/fact-sheets/item/alcohol-use). Another study has investigated the associations between different levels of alcohol consumption and the risk of several cancer types. Cancer risks extend beyond heavy alcohol consumption to include light alcohol consumption as well. These findings suggest that there is no safe level of alcohol consumption associated with cancer risk. Light alcohol consumption was significantly associated with higher risks of esophageal, colorectal, and breast cancers. Light to moderate drinking was associated with elevated risks of esophageal, colorectal, laryngeal, and breast cancers. Heavy drinking was also found to contribute to the risk of stomach, liver, pancreas, and prostate cancers, thereby increasing the risk of almost all types of cancer (Seunghee J., Hyunjin P., Ui-Jeong K., Eun Jeong C., Hye Ah L., Bomi P., Soon Young L., Sun Ha J., Hyesook P. - Cancer risk based on alcohol consumption levels: a comprehensive systematic review and meta-analysis, https://pubmed.ncbi.nlm.nih.gov/37905315/). In the EU, light to moderate alcohol consumption was associated with almost 23 000 new cancer cases in 2017, accounting for 13·3% of all alcohol-attributable cancers and for 2·3% of all cases of the seven alcohol-related cancer types. Almost half of these cancers (approximately 11 000 cases) were female breast cancers. Also, more than a third of the cancer cases attributed to light to moderate drinking (approximately 8500 cases) were associated with a light drinking level (<10 g per day) (Rovira, P • Rehm, J - Estimation of cancers caused by light to moderate alcohol consumption in the European Union - Eur J Public Health. 2021; 31:591-596).
- Alcohol use can impact mental health by increasing the risk of disorders like depression and anxiety, and worsening existing conditions. It can lead to mood swings, impulsive behaviour, and elevate the risk of self-harm and suicide. Additionally, alcohol can disrupt sleep patterns and affect social and occupational functioning, which can aggravate mental health issues and create a cycle of deterioration (https://www.who.int/europe/news-room/fact-sheets/item/alcohol-use).

Alcohol harms individuals, families, and communities, including those who are affected by other people's alcohol consumption. Alcohol use can cause or exacerbate social, legal, medical, domestic, school, work, and financial problems (https://www.who.int/europe/news-room/fact-sheets/item/alcohol-use).

17. Yet the public remains largely unaware of these risks. For example, the negative effect of alcohol on mental health is the most widely known (71.9%), whilst only 57.1% is aware of the link between alcohol and the risk of cancer. In order to make informed decisions about their alcohol consumption, consumers must be properly informed about the health risks associated with the alcoholic products they are about to purchase and/or consume. This information gives them the freedom to decide what level of risk they are prepared to accept.
These same consumers are highly exposed to alcohol advertising, both consciously and, above all, unconsciously. There is substantial evidence linking alcohol marketing to drinking intentions, consumption and harmful drinking behaviours, and this association is particularly strong among youth (Giesbrecht N, Reisdorfer E, Shield K, et al. The impacts of alcohol marketing and advertising, and the alcohol industry's views on marketing regulations: Systematic reviews of systematic reviews. Drug Alcohol Rev 2024; 43:1402–25). As young people progress through adolescence and into young adulthood, consumption typically increases during a period when they are particularly susceptible to external influences such as social networks and advertisements for alcohol (Jernigan D, Noel J, Landon J, et al. Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. Addiction 2017; 112 Suppl 1:7–20). Meta-

analyses and longitudinal studies consistently show that exposure to alcohol marketing increases the likelihood of early initiation and binge drinking in youth (Jernigan D, Noel J, Landon J, et al. Alcohol marketing and youth alcohol consumption: a systematic review of longitudinal studies published since 2008. Addiction 2017; 112 Suppl 1:7–20 + Stautz K, Brown KG, King SE, et al. Immediate effects of alcohol marketing communications and media portrayals on consumption and cognition: a systematic review and meta-analysis of experimental studies. BMC Public Health 2016; 16) and recent reviews conclude that the relationship is likely causal (Sargent JD, Babor TF. The Relationship Between Exposure to Alcohol Marketing and Underage Drinking Is Causal. J Stud Alcohol Drugs Suppl 2020).
It is therefore all the more necessary to avoid exposure to alcohol advertising for minors and to, when people are exposed to alcohol advertising, to make them aware that alcohol can be harmful to health. That is why the health message “Alcohol is harmful to health” is proposed to be featured in alcohol advertising.

General conclusion

In light of the foregoing, it is concluded that the draft Royal Decree on advertising for alcoholic beverages is in conformity with European Union law. The provisions concern selling arrangements that fall outside the scope of Article 34 TFEU or, if they were nevertheless to fall within its scope, are sufficiently justified by overriding reasons in the public interest, in particular the protection of public health (based on the scientific insights on the harms of alcohol) and on the protection of consumers. The measure is appropriate, necessary, proportionate and non-discriminatory.
Consequently, the draft decree will be maintained.

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