

PRESS RELEASE



Safeguarding the EU Single Market: spiritsEUROPE calls for investigation into the Irish new alcoholic beverages labelling rules

Brussels – 16 May 2023- *spiritsEUROPE has submitted a formal complaint asking the European Commission to open an infringement procedure against Ireland for breaching EU law with its planned new regulation on labelling rules for alcoholic beverages. The proposed measures risk fragmenting the Internal Market by deviating from EU harmonised labelling rules. They also represent a disproportionate trade barrier not justifiable under EU law based on the public evidence put forward.*

spiritsEUROPE believes that the draft regulation - which would require additional Ireland-specific labelling information, including text-based health warnings on alcoholic beverages - represents a disproportionate trade barrier hampering the free movement of goods. In practice, the new rules would prevent economic operators from selling alcoholic beverages legally sold in all other EU Member States in Ireland unless the products were re-labelled with additional information on the grams of alcohol and on the number of calories in the container, as well as health warnings text and pictogrammes. This would make it considerably more complex and more expensive for non-Irish producers and distributors from within and outside the EU to make their products available to Irish consumers.

The planned restrictions would therefore undermine the integrity and functioning of the EU's Single Market and hamper trade with third countries – a fundamental concern that has equally been raised by other food and beverage industry organisations as well as a record number of thirteen EU Member States and several non-EU countries among our main trading partners.

“For good reasons, the right to restrict the freedom of movement of goods in the Single Market is subject to strict rules: trade barriers must be justified and proportionate, meaning that no other options, less restrictive of the trade between Member States are available to Ireland. We believe Ireland has failed to demonstrate the admissibility of their measures on both these criteria,” said Ulrich Adam, Director General of spiritsEUROPE

“In addition, the Commission is bound to present new, harmonised labelling rules for alcoholic beverages soon. In such a situation, common practice has it that plans for deviating national rules should be paused”, Adam added.

In its complaint, spiritsEUROPE outlines why the draft measures cannot be justified under Article 36 of the Treaty and constitute a disproportionate barrier to trade in the Single Market.

“We fully acknowledge and respect Ireland’s right to take action to ensure a high level of protection of the public health of its citizens. Numerous meaningful, proportionate, and evidence-based public health measures to help reduce alcohol-related harm are available. However, it would appear that Ireland conducted an insufficient analysis of the proportionality of their particular policy choices on labelling, as other suitable, yet less restrictive options to trade clearly exist.” concluded Ulrich Adam.

The matter has further been complicated by the fact that the evidence submitted by Ireland to the European Commission to justify its measures has remained inaccessible to the public.

“We believe the public has a right to know which evidence has been collected and examined by Ireland and the European Commission to consider the planned measures justified and proportionate. In the interest of transparency and better law making, we believe the assessment should be made accessible to the public in full”, Adam concluded.

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NOTES TO EDITORS

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- spiritsEUROPE proudly represents the EU spirits sector, one of Europe’s most valuable agri-food export sectors and, with it, the interests of 31 associations of spirits producers as well as 11 leading multinational companies. More information can be found on our [website](#).
- Significant reactions from EU Member States and stakeholders when Ireland notified the [Draft Regulations](#) (Public Health (Alcohol) (Labelling) Regulations 2022) under the TRIS and FIC processes. Comments and detailed opinions were submitted by Croatia, Czech Republic, Denmark, France, Greece, Hungary, Italy, Latvia, Poland, Portugal, Romania, Slovakia, and Spain, highlighting the serious risk for the Health Warnings to create trade barriers within the EU internal market. (see “contributions” tab [here](#)).
- [EFSA Guidelines on risk communication](#) to help Member States in the proportionality assessment test.

Q1. What are the key elements of the planned Irish labelling law on alcoholic beverages?

Following the adoption of the Irish 2018 Public Health (Alcohol) Act (PHAA) on 17 October 2018, Ireland notified, on 21 June 2022, under the Technical Regulations Information System (TRIS) and Food Information to Consumers (FIC) notification processes, the European Commission of its intention to adopt secondary legislation on labelling of alcoholic beverages.

Section 12 of the Act provides that labels on alcohol products must contain:

- i. A warning to inform people of the danger of alcohol consumption.
- ii. A warning to inform people of the danger of alcohol consumption when pregnant.
- iii. A warning to inform people of the direct link between alcohol and fatal cancers.
- iv. The quantity of grams of alcohol contained in the product.
- v. The number of calories contained in the alcohol product.
- vi. A link to a health website which gives information on alcohol and related harms.

The TRIS process ended on 22 December 2022, with 9 EU Members States submitting detailed opinions and 6 comments, but with no opposition by the European Commission. Ireland notified on 6 February at WTO level (Reference: G/TBT/N/IRL/4) its Draft Regulations. The deadline for third countries to present comments expired on 7 May 2023.

Q2. What is the complaint about?

The complaint asks the European Commission to open a formal infringement procedure against Ireland for breaching EU law with a new regulation on labelling rules for alcoholic beverages. The proposed measures represent a deviation from EU harmonised rules and a disproportionate trade barrier under EU law that would not be justifiable in light of the public evidence put forward by Ireland.

Q3. What will happen next?

According to the rules of procedure, the European Commission has 15 days to confirm receipt of the complaint and 12 months to assess it to decide whether to initiate a formal infringement procedure against Ireland.

Q4. What are you asking the European Commission to do?

We are asking the European Commission to assess the complaint and initiate a formal infringement procedure against Ireland. In the complaint, we demonstrate why the Irish draft proposal appears to constitute an unjustified and disproportionated barrier to trade between Member States.

Q5. What are you asking Ireland to do?

We are asking Ireland to put its proposal on hold and await EU harmonized labelling rules for alcoholic beverages.

Q6. What harmonised EU labelling rules for alcoholic beverages is the European Commission expected to propose?

The European Commission has announced its intention to come up with new harmonized labelling rules for alcoholic beverages as part of its upcoming revision of the Food Information to Consumers (FIC) Regulation 1169/2011. In addition, the European Commission announced in the Europe's Beating Cancer Plan that it would look into a proposal for harmonized labelling rules for health-related information on alcoholic beverages.

Q7. Why should Ireland put its proposal on hold?

As the Commission is bound to present new, harmonised labelling rules for alcoholic beverages soon, common practice has it that plans for deviating national rules should be paused.

Q8. Is the evidence submitted by Ireland to the European Commission to justify its measures and the European Commission's assessment of the measures publicly available?

The evidence submitted by Ireland to the European Commission and the European Commission's assessment of the measures have remained inaccessible to the public to date. Upon request, the Commission only released a fully redacted version of the document. In the interest of transparency, we believe the assessment should be made accessible to the public in full.

Q9. What are the key concerns outlined in your complaint?

We fully acknowledge and respect Ireland's right to take action to ensure a high level of protection of the public health of its citizens. Numerous meaningful, proportionate, and evidence-based public health measures to help reduce alcohol-related harm are available. However, it would appear that Ireland conducted an insufficient analysis of the proportionality of their particular policy choices on labelling, as other suitable, yet less restrictive options to trade clearly exist. In the complaint, we outline why the draft measures cannot be justified under Article 36 of the Treaty and constitute a disproportionate barrier to trade in the Single Market.

The proposed warnings by Ireland are very general and unqualified warnings. They are drafted in absolute terms and fail to communicate to consumers that any health risks must be assessed considering the level of consumption, as well as many other elements (e.g. lifestyle, age, gender, genetics). They do not provide either information on the precautions which may be taken to consume the product safely.

Such text-based labels would disproportionately affect non-Irish producers of alcoholic beverages, which will have to produce units or labels specifically for the Irish market. They are unjustified and disproportionate barriers to trade when other, more proportionate and less disruptive means are at the disposal of the Irish authorities to raise awareness about the risks associated with excessive consumption of alcohol.

Q10. What are the other “meaningful, proportionate, and evidence-based public health measures” that could have been put in place by Ireland to address the harmful use of alcohol?

It is for Ireland to prove they have considered all the policy instruments available and decided that no other alternatives less trade restrictive was available.

Several other means of risk communication are capable of being more thorough, nuanced and effective, and less trade restrictive. The European Food Safety Authority (EFSA) [Risk Communications Guidelines](#) provide a number of best-case examples of public authorities actions aimed at informing the broader public about food risks.

Let’s consider a recent, similar example. In February 2023, the European Commission decided to open an infringement procedure against France with the following rationale: “The provision of waste sorting instructions to consumers is currently not governed by harmonised EU rules. National laws adopted in this field shall not create unnecessary burden internal market trade. In this context, the imposition of national-specific labelling requirements risks undermining the principle of free movement of goods and can lead to counterproductive environmental effects. Such measures can also lead to increased material needs for additional labelling and additional waste produced due to larger than necessary sizes of the packaging. The French authorities do not seem to have conducted a sufficient analysis of the proportionality of their policy choice as other suitable options, less restrictive of trade between Member States, are available.” Just like France, Ireland does not seem to have considered any of the above-mentioned alternative measures to reach its objective of informing consumers and assist them to make healthier choices.

Q11. What are your views on the roles of product labels to empower consumers to make informed, responsible choices?

The spirits sector is fully committed to provide consumers with the information they are looking for. In 2019, spiritsEUROPE signed a pioneering self-regulatory commitment (the so-called Memorandum of Understanding/MoU) welcomed by the European Commission in which the sector pledged to go above and beyond existing legislative obligations to provide calorie information on bottles and comprehensive ingredients and nutritional information via product-specific e-labels. Since then, the sector has successfully delivered on its commitments. In 2021, the sector, together with the wine sector, launched its pioneering digital labelling platform, U-Label.

- For more information on the MoU, click [here](#)
- For more information on U-Label, click [here](#)
- For more information on the sector’s position on how to empower consumers to make informed, responsible choices, click [here](#)