Consumer Federation of America

September 22, 2022

RE: TRIS notification 2022/441/IRL of Draft Regulations under Section 12 of the Public Health Alcohol Act, 2018

To whom it may concern:

Consumer Federation of America (CFA) writes to express strong support for Ireland's Public Health (Alcohol) (Labeling) Regulations 2022 (TRIS Notification 2022/441/IRL, June 6, 2022). CFA is an association of non-profit consumer organizations established in 1968 to advance the consumer interest through research, advocacy, and education. Today, more than 250 of these groups participate in the federation and govern it through their representatives on the organization's Board of Directors.

For too long, consumers in the United States have not had the benefit of an updated health warning statement on alcoholic beverages, nor of the most basic information characterizing the content of alcoholic beverages. In 2003, CFA and other consumer and public health advocates petitioned federal regulators to require information on alcohol labels, including the amount of alcohol in fluid ounces per suggested serving, the number of calories, and ingredients.[1] More recently, CFA and its partners petitioned federal regulators to act pursuant to the Alcoholic Beverage Labeling Act of 1988 (ABLA) and to recommend that Congress update the health warning statement on alcohol to include a cancer warning.[2] We vigorously dispute the notion that Ireland's proposed law will confuse consumers because it deviates from alcohol labeling practices adopted in the United States, as suggested in recent alcohol industry trade association comments. In fact, the available evidence indicates that U.S. labeling requirements leave consumers confused, precisely because they lack the elements soon to appear on beverages for sale in Ireland. Reforms like those proposed in Ireland will significantly help to raise awareness about the risks associated with alcohol consumption, and support more informed decisions by consumers who choose to drink alcohol.

An established body of scientific research demonstrates several ways in which consumers fail to accurately perceive the risks associated with alcohol consumption. Although public health authorities in the United States and elsewhere have made progress in raising awareness of certain harms, such as the dangers of driving while under the influence of alcohol, better labeling and other educational tools are sorely needed to correct ongoing misperceptions. One particularly acute area of consumer misperception relates to cancer risk.

[1] *See* https://www.cspinet.org/sites/default/files/attachment/031216IngLabelingPetition.pdf
[2] *See* https://consumerfed.org/testimonial/consumer-public-health-groups-petition-for-cancer-warning-on-alcohol/

I. Ireland's proposed cancer warning is accurate and appropriate because an established and growing body of scientific research conclusively demonstrates that drinking alcohol, even in moderation, significantly increases cancer risk.

Public health officials have long recognized an association between alcohol consumption and cancer. Before the passage of the ABLA, U.S. Surgeon General C. Everett Koop warned of an association between alcohol consumption and cancer.[3] The original version of the ABLA first introduced into Congress in 1988 would have required the rotation of five warning labels, one of which stated: "WARNING: The consumption of this product, which contains alcohol, can increase the risk of developing hypertension, liver disease, **and cancer**."[4] In recent decades, researchers have shown that cancer risk increases not just with excessive alcohol use, but at all levels of consumption.

Today, no credible authority disputes the consensus that even "moderate" alcohol consumption significantly increases cancer risk. Comprehensive systematic literature reviews conducted by the American Institute for Cancer Research / World Cancer Research Fund have found strong evidence that "as little as one drink per day significantly increases risk for breast, head and neck, and esophageal cancers, and as little as two drinks per day increases the risk of colorectal cancer."[5] According to one frequently cited review, "The highest risks are associated with the heaviest drinking, but a considerable burden is experienced by drinkers with low to moderate consumption, due to the distribution of drinking in the population."[6] Indeed, according to one leading study, "moderate drinking"—defined as daily consumption of up to 1.5 drinks per day—accounts for 26–35 percent of alcohol-attributable cancer deaths in the United States each year."[7]

Alcohol's cancer burden in the United States is severe. An estimated 18,200 to 21,300 cancer deaths in the United States each year are attributable to alcohol consumption.[8] American Cancer Society researchers have estimated that alcohol use is the third leading modifiable cancer risk factor, after cigarette smoking and excess body weight—ahead of factors including UV radiation exposure, processed meat consumption, and human papillomavirus (HPV) infection.[9] This public health burden led the most recent U.S. Dietary Guidelines Advisory Committee to recommend significant changes in the guidance for Americans who choose to drink alcohol.[10] In particular, the most recent Dietary Guidelines for Americans (2020-2025) now make clear that at all levels of consumption, "drinking less is better for health than drinking more" because "[e]vidence

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[3] Causes & Consequences of Alcohol Abuse: Hearings on S. 2047 Before the Senate Comm. on Governmental Affairs, 100th Cong., 2d Sess. 289 (1988).

[4] S. 2047, 100th Cong., 2nd. Sess. (1988) (emphasis added).

[5] World Cancer Research Fund/American Institute for Cancer Research. Continuous Update Project Expert Report 2018. Alcoholic drinks and the risk of cancer, www.dietandcancerreport.org.

[6] Connor J. Alcohol consumption as a cause of cancer. *Addiction*. 2017;112(2):222-228. doi:10.1111/add.13477

[7] Nelson DE, Jarman DW, Rehm J, et al. Alcohol-attributable cancer deaths and years of potential life lost in the United States. Am J Public Health. 2013; 103(4) at 641–648, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3673233/pdf/AJPH.2012.301199.pdf

[8] Ibid.

[9] Farhad Islami et al., *Proportion and number of cancer cases and deaths attributable to potentially modifiable risk factors in the United States*, 68 CA CANCER J. CLIN. 31, 36 (2018), https://doi.org/10.3322/caac.21440.

[10] Dietary Guidelines Advisory Committee. 2020. *Scientific Report of the 2020 Dietary Guidelines Advisory Committee: Advisory Report to the Secretary of Agriculture and the Secretary of Health and Human Services.* U.S. Department of Agriculture, Agricultural Research Service, Washington, DC at 11-25, https://doi.org/10.52570/DGAC2020.

indicates that, among those who drink, higher average alcohol consumption is associated with an increased risk of death from all causes compared with lower average alcohol consumption."[11]

This more strident language in the Dietary Guidelines for Americans reflects a large and growing body of research that leaves no doubt alcohol consumption actually causes cancer, rather than simply being associated with it. So-called Mendelian randomization studies provide particularly direct evidence of alcohol's causal link to cancer. These studies take advantage of the fact that a sizeable minority, particularly among East Asians, possess a genetic variant that renders the individual intolerant to alcohol. People with the genetic variant experience an "alcohol flush" reaction and other unpleasant symptoms after consuming alcohol. Because these people reliably do not drink alcohol, researchers can avoid confounding variables that have plagued previous studies into alcohol consumption's long-term health effects.[12] In one recent, and particularly notable Mendelian randomization study, researchers took advantage of the fact that among certain Chinese populations, women largely abstain from alcohol, with just 2% drinking regularly, while men drink much more heavily. In these populations, "men genetically predisposed to forego alcohol have much lower cancer risk, but for women, who are not inclined to drink otherwise, the genetic variants do not predict cancer risk."[13]

In addition to Mendelian randomization, studies of unprecedented scale have clarified the link between alcohol and cancer. One recent study[14], which analyzed 2009 and 2011 health questionnaires for over 4.5 million South Korean adults, concluded that when a person increased her alcohol consumption, at any level, cancer risk rose. At the same time, reported decreases in alcohol consumption—including cessation altogether—diminished cancer risk.[15] Given the scientific consensus around alcohol and cancer, and the growing body of evidence showing that even "light" drinking increases cancer risk, Ireland's proposed warning— "There is a direct link between alcohol and fatal cancers"—is entirely accurate and appropriate.

II. Ireland's proposed cancer warning will improve public health because most consumers do not recognize that alcohol causes cancer.

Ireland's proposed cancer warning will serve an important purpose in raising awareness precisely because the alcohol industry has succeeded so well in obfuscating the cancer risk associated with its product. Most U.S. consumers are not aware that alcohol consumption increases cancer risks. One long-running survey by the American Institute for Cancer Research has consistently shown that less than half of U.S. consumers identify drinking alcohol as a cancer risk factor.[16] A National Cancer Institute survey found that just 34.1% of respondents identified

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[11] USDA, *Dietary Guidelines for Americans 2020-2025*, https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf, at 49.

[12] Pierce, Brandon et al., Mendelian randomization studies of cancer risk: a literature review (2018), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6053056/

[13] Im, PK, Yang, L, Kartsonaki, C, et al. Alcohol metabolism genes and risks of site-specific cancers in Chinese adults: An 11-year prospective study. Int. J. Cancer. 2022; 150(10): 1627- 1639. doi:10.1002/ijc.33917

[14] Yoo JE, Han K, Shin DW, et al. Association Between Changes in Alcohol Consumption and Cancer Risk. *JAMA Netw Open.* 2022;5(8): e2228544. https://pubmed.ncbi.nlm.nih.gov/36001313/

[15] Ibid.

[16] *2019 AICR Cancer Risk Awareness Survey*, AM. INST. FOR CANCER RESEARCH, https://www.aicr.org/assets/can-prevent/docs/2019-Survey.pdf;

"cancer" as a "health condition" that "can result from drinking too much alcohol."[17] In another recent survey of nearly four thousand U.S. adults, just 20.3% of respondents recognized that drinking wine increases cancer risk; and some 10% erroneously indicated that drinking wine *decreases* cancer risk.[18] At the same time, 65.1% of respondents in the study supported adding health warning labels to alcoholic beverage containers, and awareness of the alcohol−cancer link was associated with higher support for adding warning labels.[19]

In recent comments, the Distilled Spirits Council has argued that the "[t]he science regarding cancer and alcohol consumption is far from settled,"[20] and that "[t]he association between alcohol and the risk of developing cancer or liver disease is complex and . . . certainly not 'direct' . . ."[21] The comments provide no support for these assertions. The industry's willingness to advance these specious claims helps to explain why consumers remain so unaware about alcohol's contribution to cancer cases and deaths. Indeed, one U.S. college uses the example of alcohol causing cancer as an exercise in how to investigate whether a claim is "fake news" on the internet.[22] With so many college students unaware of the link, a pedagogic opportunity presents itself in demonstrating that trustworthy public health authorities agree that alcohol indeed causes cancer. Ireland's proposed warning will provide accurate and unambiguous information to consumers about alcohol's contribution to cancer risk. In doing so, it will help to defend against the industry's fake news and raise awareness among consumers far and wide.

III. By requiring that labels state the calories and grams of alcohol contained in a product, Ireland's proposed law will help consumers to make informed decisions and avoid excessive consumption.

As noted, in 2003, CFA joined consumer and public health advocates in submitting a petition to require that alcoholic beverage labels disclose information including the calories and amount of alcohol (in ounces) for each beverage container and for each of the servings contained within. Giving consumers calorie counts allows for better dietary planning, and raises awareness of alcoholic beverages' caloric loads for the large number of consumers who underestimate the extent to which alcohol can contribute to weight gain.[23] Notably, federal law in the U.S. has long required that many alcoholic beverage labels contain a "Nutrition Facts" panel with calorie and other nutrient counts.[24] Even where an alcoholic beverage label is not required to disclose calories, federal menu labeling rules require that this information be available to consumers in most food service venues.[25]

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[17] *2019 Health Information National Trends Survey*, National Cancer Institute, National Institutes of Health, U.S. Department of Health and Human Services, https://hints.cancer.gov/view-questions-topics/question-details.aspx?PK_Cycle=10&qid=1678.

[18] Seidenberg AB, Wiseman KP, Eck RH, Blake KD, Platter HN, Klein WMP. Awareness of Alcohol as a Carcinogen and Support for Alcohol Control Policies. *Am J Prev Med.* 2022;62(2) at 174-182. https://pubmed.ncbi.nlm.nih.gov/34654593/

[19] Ibid.

[20] *See* Christine LoCascio letter re Public Health (Alcohol) Bill 2015 (TRIS Notification 2018/22/IRL, January 19, 2018) (April 20, 2018). ("DiSCUS 2018 comments"), p.2.

[21] Robert Maron and Amanda Berger letter Ireland Public Health (Alcohol) (Labeling) Regulations 2022 (TRIS Notification 2022/441/IRL, June 6, 2022) (Aug. 23, 2022) ("DiSCUS 2022 comments"), p.2.

[22] https://open.maricopa.edu/english102open/chapter/fake-news/

[23] *See* https://www.cspinet.org/sites/default/files/attachment/031216IngLabelingPetition.pdf

[24] *See* 21 C.F.R. §101.11(b)(2)(9) https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-101

[25] Menu Labeling Requirements, https://www.fda.gov/food/food-labeling-nutrition/menu-labeling-requirements, 21.C.F.R. §101.11(b)(2)(i)(A)(1), https://www.ecfr.gov/current/title-21/chapter-I/subchapter-B/part-101/subpart-A/section-101.11

Surveys show that consumers overwhelmingly support rules requiring alcoholic beverage labels to disclose calorie counts and other information commonly found on food labels.[26]

Just as consumer confusion around the number of calories in alcoholic beverages causes inadvertent weight gain, consumer confusion around the amount of alcohol in alcoholic beverages causes inadvertent inebriation. Numerous studies have documented disturbing variability in popular conceptions of a "standard drink."[27] New products that blur the lines between beer, wine, and spirits categories exacerbate the potential for confusion. The Dietary Guidelines for Americans defines a "standard drink" as "14 grams or 0.6 fl oz of pure alcohol, "which is equivalent to 12 fl oz of 5% ABV beer, 5 fl oz of 12% ABV wine, or 1.5 fl oz of. 40% ABV (i.e., 80 proof) distilled spirits."[28] But what about a 16-ounce glass of 9.2% ABV imperial stout? How many standard drinks is that? Most consumers do not want to use a calculator at the bar. Labeling bottles with a straightforward measure of the amount of alcohol contained—i.e., grams of alcohol per serving and per container—will provide obvious benefits for consumers seeking to avoid driving under the influence and any number of other consequences that may result from inadvertent drunkenness.

In its most recent comments, the Distilled Spirits Council of the United States asserts that "[g]rams of alcohol is not a measure that is understood by consumers and will create confusion if adopted in Ireland."[29] Again, the trade group provides no support for this counter-intuitive claim. Consumers do not have trouble understanding and planning around measures of added sugar, saturated fat, fiber, protein, etc., in grams. Consumers may need some time to become familiar with grams of alcohol as a measure, but compared to multiplying multi-digit numbers with decimals, Ireland's requirement will significantly reduce the potential for confusion.

IV. Ireland appropriately requires disclosure on alcoholic beverage labels, rather than allowing companies to refer consumers to a website.

Just as effective alcohol labeling should spare consumers from unnecessary math to understand the product's alcohol content, it should spare them from having to connect to the internet to access basic facts about the product. Giving alcohol companies the "flexibility" to post information online with just a QR code or web address on the label, as the DiSCUS trade group has suggested, would critically weaken the efficacy of Ireland's proposed rules. According to one study, only 1.2 percent of participants scanned a product's QR code in an experimental setting.[30] This is hardly surprising, considering that consumers spend an average of 35 seconds looking at a food product before placing it in their basket, according to one marketing research report.[31] And of course, many consumers could not access labeling information through a QR code even if they

[26] *See, e.g.,* https://nclnet.org/groups_unite_in_pressing_for_a_standardized_useful_alcohol_facts_label/ (describing 2008 poll of over 1,003 adult Americans in which 74% of respondents indicated "amount of alcohol" per serving should be required on labels).

[27] *See, e.g.,* Kerr WC, Stockwell T. Understanding standard drinks and drinking guidelines. Drug Alcohol Rev. 2012 Mar;31(2):200-5. doi: 10.1111/j.1465-3362.2011.00374.x.

[28] Part D. Chapter 11: Alcoholic Beverages at 1, https://www.dietaryguidelines.gov/sites/default/files/2020-07/PartD_Ch11_AlcoholicBev_first-print.pdf

[29] DiSCUS 2022 comments, *supra* note 21, p.6.

[30] Li, Tongzhe et al. (2019), To Scan or Not to Scan: The Question of Consumer Behavior and QR Codes on Food Packages, https://ageconsearch.umn.edu/record/287977/?ln=en. Even after the participants were given a smartphone equipped with QR scanning software, barely half were enticed by the novelty.

[31] *See* https://www.futurelearn.com/info/courses/understanding-food-labels/0/steps/142486

wanted to, because they do not have a smart phone or access to the internet. These considerations recently led a federal court in the U.S. to rule that regulations allowing disclosure of genetically engineered (GMO) foods through a "QR" code were unlawful. As the court explained, the regulatory agency's own study "determined that access problems abounded."[32]

Even if consumers had the capacity and the inclination to use QR codes to access alcohol content and calorie information about alcoholic beverages, giving companies the "flexibility" to keep this information off the label would pose an intolerable conflict with consumers' privacy rights. As one recent news article explains, "not only are QR codes providing customers with the convenience they've grown accustomed to, they are also providing businesses with important information."[33] The businesses use this information to target advertisements and otherwise refine marketing campaigns to sell more product. The alcohol industry already spends billions each year to push its product on consumers. Consumers should not have to contribute to these efforts with their data just to access basic facts about what they are buying.

V. Conclusion

Nothing is confusing about Ireland's proposed alcohol labeling rules, nor do they present any inconsistencies with ongoing public health initiatives to mitigate the harms caused by alcohol, such as the World Health Organization's Global Alcohol Strategy.[34] The proposed labeling rules are well supported by scientific research and easily justify any imposition on "free trade" that may result. Concluding otherwise is a disservice to consumers and to the democratic process.

Thank you for consideration of these comments.

Sincerely,

Thomas Gremillion
Director of Food Policy
Consumer Federation of America

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[32] *See Natural Grocers v. Vilsack*, Order Re Summary Judgment, Case No. 20-cv-05151-JD (N.D. Cal. Sept. 13, 2022) *available at*: http://www.centerforfoodsafety.org/files/ge-labelng-sj-decision_73582.pdf

[33] Bean, Jay, "QR Codes Are Providing Customers With Convenience And Businesses With Data", https://www.forbes.com/sites/forbesbusinesscouncil/2021/10/21/qr-codes-are-providing-customers-with-convenience-and-businesses-with-data/?sh=45fe56397871

[34] Global Strategy to Reduce the Harmful Use of Alcohol, https://www.who.int/teams/mental-health-and-substance-use/alcohol-drugs-and-addictive-behaviours/alcohol/governance/global-alcohol-strategy#:~:text=The%20vision%20behind%20the%20global,and%20their%20ensuing%20social%20consequences.