



March 17, 2024

Alexis Taylor
Under Secretary for
Trade and Foreign Agricultural Affairs
U.S. Department of Agriculture

RE: Codex Alimentarius Commission request for information on the labeling of alcoholic beverages

Dear Under Secretary Taylor:

Consumer Federation of America, Breast Cancer Prevention Partners, and Alcohol Justice appreciate the opportunity to submit these comments on the above referenced request for information. Consistent with the U.S. Codex Office's (USCO's) duty under the Food Safety Modernization Act (FSMA) "to develop and advance science-based food standards to protect the health of consumers and ensure fair practices in the food trade worldwide,"¹ the USCO should support strong standards for alcohol labeling in the Codex Alimentarius Commission ("Codex"). In particular, the USCO should support standards that ensure consumers have access to basic information about all beverages' energy, macronutrient, alcohol content, ingredients, and standard servings, and further support standards that provide for updated health warnings that address the significant public health costs associated with alcohol.

Background

A recent review estimates the global economic burden of alcohol consumption—including money spent towards illness, crime, and unemployment—at approximately 1.5% of global GDP, or upwards of 800 "international dollars,"² for all of the earth's 8 billion inhabitants.³ The alcohol industry stokes this consumption with an estimated \$7 billion on advertising each year.⁴ Government mandated labeling plays an important role in educating consumers about the health effects of alcoholic beverages. Yet many national governments fail to require even the most basic information on alcohol labels, such as alcohol content and allergens.⁵

¹ FDA Food Safety Modernization Act, Pub. L. No 111-353, § 305(c)(5), 124 Stat. 3885, 3958 (2011).

² Dollars adjusted for purchasing power outside the U.S.

³ Baumberg B. The global economic burden of alcohol: a review and some suggestions. *Drug Alcohol Rev.* 2006 Nov;25(6):537-51. doi: 10.1080/09595230600944479

⁴ *Big Alcohol Exposed: Big Investments in Advertising Onslaught*, Movendi International (May 28, 2021), <https://movendi.ngo/news/2021/05/28/big-alcohol-exposed-big-investments-in-advertising-onslaught/>

⁵ V. Poznyak, Coordinator, Mgmt. of Substance Abuse: Dep't of Mental Health & Substance Abuse, *Alcoholic Beverages – No Ordinary Food Commodities*, Presentation at Codex Committee on Food Labeling (Oct. 17, 2017), https://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FMeetings%252FCX-714-44%252FSIDE%20EVENTS%252FCCFL44-Alcohol-Vladimir_Poznyak_WHO.pdf.

As “a collection of internationally adopted food standards and related texts presented in a uniform manner,”⁶ Codex has an important role to play in guiding national governments towards effective policies on alcoholic beverage labeling. Yet Codex is conspicuously silent with respect to alcoholic beverages. The extent to which national laws treat alcoholic beverages consistently with the Codex General Standard for the Labelling of Prepackaged Foods (CXS 1-1985), and the Guidelines on Nutrition Labelling (CXG 2-1985), varies widely.⁷

In the United States, alcoholic beverage manufacturers have long shown that they can comply with basic labeling requirements. Federal law has required all alcoholic beverages to contain a health warning statement since 1989, although the U.S. Treasury Department’s Alcohol and Tobacco Tax and Trade Bureau (TTB), responsible for implementing that requirement, has neglected its duty to advise Congress on the need for updates to the statement.⁸ Some alcoholic beverage labels—those on products such as hard ciders, wine coolers, and hard seltzers, which fall under the U.S. Food and Drug Administration’s (FDA’s) jurisdiction—are also required to display ingredients, nutrition facts, and major allergens.⁹ For the other beverages regulated by TTB, voluntary labeling guidance applies. However, in response to an ongoing lawsuit filed by the Center for Science in the Public Interest, Consumer Federation of America and the National Consumers League, TTB has committed in writing to publish three mandatory rulemakings on nutrition, ingredients and allergen labeling for alcoholic beverages.¹⁰ Finally, most alcoholic beverage labels must include a numerical alcohol content statement (typically expressed as percent alcohol by volume), although exemptions apply to some beverages such as “table wine.”¹¹

The USCO should support the application of existing Codex standards to alcoholic beverages.

The U.S. experience demonstrates that alcoholic beverages can comply with the same nutrition, ingredients, and allergen labeling rules that apply to all other beverages and food. TTB determined in 2008 that it lacked authority over certain alcoholic “malt beverages,” assigning FDA authority over those products. A decade and a half later, manufacturers of alcoholic beverages subject to the labeling rules of other beverages show no signs of suffering from a competitive disadvantage. Indeed, “hard seltzers,” “ciders,” and other FDA regulated alcoholic beverages have grown considerably.¹²

⁶ *About Codex*. Codex Alimentarius. Retrieved March 7, 2024, from <https://www.fao.org/fao-who-codexalimentarius/about-codex/en/>

⁷ Poznyak, *supra* note 5.

⁸ See https://consumerfed.org/press_release/cancer-warning-needed-on-alcohol/

⁹ *Labeling of Certain Beers Subject to the Labeling Jurisdiction of the Food and Drug Administration: Guidance for Industry*, U.S. Dep’t of Health & Hum. Servs.: Food & Drug Admin. (Apr. 2023), <https://www.fda.gov/media/90473/download?attachment>.

¹⁰ Letter from Amy R. Greenberg, Dir., Reguls. & Ruling Div., Dep’t of the Treasury, Alcohol & Tobacco Tax & Trade Bureau, to Peter Lurie, Pres. & Exec. Dir., Ctr. for Sci. & the Pub. Int., Susan Weinstock, Chief Exec. Officer, Consumer Fed’n of Am., and Sally Greenberg, Exec. Dir., Nat’l Consumers League (Nov. 17, 2022) (available at: <https://www.cspinet.org/sites/default/files/2022-11/2022-11-17%20TTB%20Response%20to%20CSPI%20Letter.pdf>).

¹¹ *Wine Labeling: Alcohol Content*, Alcohol and Tobacco Tax and Trade Bureau (Sept. 26, 2019), <https://www.ttb.gov/labeling-wine/wine-labeling-alcohol-content#:~:text=For%20wines%20to%2014.13.5%25%20By%20Vol.>

¹² See, e.g., <https://www.bevindustry.com/articles/95988-ready-to-drink-cocktails-becoming-a-favorite-with-consumers>

Nothing sets apart these alcoholic beverage categories as more amenable to standard labeling requirements. The European Union has recently begun requiring disclosure of ingredients, allergen, energy, and nutrition information on wines.¹³ Although the EU rule allows wine manufacturers to provide this information online through a QR code, many are opting to disclose it through labeling. Indeed, as wine enthusiasts have pointed out, this transparency offers a competitive advantage to some producers in addressing consumer concerns about a litany of common additives used in winemaking.¹⁴

The USCO should support restrictions on nutrition and health claims for alcoholic beverages and support member states' right to require more stringent health-related labeling requirements.

“Question 1” in the Codex request for information asks whether the U.S. and other members would “agree to develop specific provisions on mandatory labelling tailored to alcoholic beverages” with respect to six categories. The USCO should “strongly agree” to support member states’ efforts to develop mandatory requirements in all six listed categories.

In particular, the USCO should support “standard drink” labeling requirements. In addition to alcohol by volume (%ABV), research has shown that “standard drink” labels, which present the amount of alcohol in a given product in terms of “standard drinks” per container, improve drinkers’ accuracy in estimating alcohol consumption, compared with labels that indicate solely “%ABV.”¹⁵ Accurately tracking alcohol consumption plays a critical role in avoiding many alcohol-related harms, such as drunk driving. Although the U.S. rules do not currently provide for standard drink labeling, consumer advocates have long supported standard drink labeling rules (including by petitioning TTBB to adopt them in 2003), and the U.S. should support other countries enactment of these rules through the Codex. Indeed, many countries already require this information. For example, Australia requires that alcoholic beverages “include on the label a statement of the number of standard drinks.”¹⁶

Because only so much information can fit on to a single label, countries may opt to require labeling disclosures related to some of the elements listed in question 1, but not others. Whether labeling rules require “health-related information” on the legal age limits for purchasing alcohol, versus for example, a cancer warning, may be best left to each member state’s discretion. As alluded to earlier, the USCO should support requiring “nutrition-related information” on alcoholic beverages just as the FDA has done so for the past decade and a half. Similarly, the USCO should support restrictions on fortification claims and other deceptive and misleading marketing tactics on labels.¹⁷

One item of “health related information” that deserves particular consideration is a cancer warning. Alcohol’s cancer burden is high, and research shows that even moderate drinking significantly increases the risk of breast cancer and several other cancers. Yet public awareness remains low, with fewer than half of survey respondents in the U.S. identifying alcohol use as a cancer risk

¹³ *EU Wine Label Requirements in 2023: A Guide for Wineries*, Scantrust: Blog (Dec. 11, 2023), <https://www.scantrust.com/eu-wine-label-requirements-2021-2117/>.

¹⁴ See, e.g., *Why I Support Ingredient Labeling for Wine*, Vinography: A Wine Blog (Feb. 6, 2024), <https://www.vinography.com/2024/02/why-i-support-ingredient-labeling-for-wine>.

¹⁵ Montana Osioy, et al., How Much Did You Actually Drink Last Night? An Evaluation of Standard Drink Labels as an Aid to Monitoring Personal Consumption, *23 Addiction Resch. & Theory* 163, (2014) <https://www.tandfonline.com/doi/full/10.3109/16066359.2014.955480>.

¹⁶ *Labelling of Alcoholic Beverages*, Food Standards. Retrieved March 7, 2024, from <https://www.foodstandards.gov.au/consumer/labelling/Labelling-of-alcoholic-beverages>

¹⁷ See, e.g. <https://consumerfed.org/when-the-truth-is-misleading/>

factor, and a similar lack of awareness persisting abroad. So while the U.S. health warning statement does not include any mention of cancer, the USCO should nonetheless support other countries' right to require such warnings.

The USCO should support both the application of existing labeling standards to alcoholic beverages and the development of standards specific to alcohol.

“Question 2” and “Question 3” in the Codex seek feedback on what options Codex should take “for the development of specific provisions on mandatory labelling tailored to alcoholic beverages,” and in particular, whether “whether alcoholic beverages fall under the Codex definition of food,” similar to other “drinks.” As discussed, the U.S. experience shows that alcoholic beverage labels can comply with the same basic labeling requirements for other beverages and foods. Moreover, the plain language of the Codex General Standard for the Labelling of Prepackaged Foods (CXS 1-1985) and the Guidelines on Nutrition Labelling (CXG 2-1985), do not support the exclusion of alcoholic beverages. However, given the variability in labeling practices among member countries, an amendment or other official action to clarify that these standards indeed apply to alcoholic beverages could be a helpful and administratively uncomplicated option.

At the same time, alcohol poses special challenges to public health that merit special labeling standards, as provided for under U.S. laws like the Alcoholic Beverage Labeling Act of 1988. A new Codex standard specifically for alcoholic beverages should therefore enshrine best practices for health warning messages, standard drink labeling, drinking guidelines, and other aspects of labeling that relate uniquely to alcohol. These standards should not displace requirements for basic information about ingredients, macronutrients, and allergens, but rather add to them.

The USCO should operate more transparently and oppose efforts to obstruct better alcohol labeling standards in the name of trade harmonization.

Consistent with its mission under FSMA, the USCO should oppose efforts to keep consumers in the dark about alcohol in the name of free trade. We question the 2017 transfer of the USCO from under the authority of the Under Secretary for Food Safety to your office, and believe the USCO's food safety mission better aligns with the Department's prior organization. Last year, we were dismayed to learn that U.S. trade officials had raised objections to Ireland's new alcohol labeling law within the context of the World Trade Organization's Technical Barriers to Trade Committee.¹⁸ After writing to Commerce Secretary Gina Raimondo to protest the U.S. obstructionism, we learned that these objections centered around a claim that Ireland acted too quickly in finalizing its proposed labeling measure after the end of the WTO 90-day comment period. Commerce Department officials also indicated to consumer advocates that the U.S. would not raise further objections to the law in an upcoming meeting of the TBT committee in November of 2023. Over four months after that November meeting, however, the public still does not have access to the U.S. comments made on the Ireland labeling law.¹⁹

¹⁸ Letter from Public Health Advocates to Gina M. Raimondo, Secretary of Commerce on the U.S.'s Position on Ireland's Public Health Bill (June 20, 2023) <https://consumerfed.org/wp-content/uploads/2023/06/Consumer-and-Public-Health-advocates-letter-to-DOC-re-Ireland-alcohol-law.pdf>

¹⁹ See [Trade concern details - ePing SPS&TBT platform \(epingalert.org\)](https://epingalert.org/)

Like U.S. trade officials' comments in the WTO's TBT committee, the USCO's comments to Codex should be easily accessible to the public. Full transparency should assure consumers that the USCO is not acting as a mouthpiece for regulated industry. Toward that end, we encourage the USCO to post the comments that it has submitted in response to this request for information, along with other recent comments articulating USCO positions on Codex matters.

Conclusion

Thank you for your consideration of these comments. Alcohol poses special risk by virtue of its ubiquity, the prevailing misperceptions of the hazards associated with its consumption, and its outsized harms to public health. Labeling can help. The USCO should support Codex standards that enable consumers to make more informed choices.

If you have questions or would like to further discuss any of the points raised in this letter, please contact Thomas Gremillion via email: tgremillion@consumerfed.org or telephone: 202-939-1010 and we will be glad to meet with you and your colleagues.

Sincerely,

Alcohol Justice
Breast Cancer Prevention Partners
Consumer Federation of America