

Spirits sector annex

to the self-regulatory proposal
from the European alcoholic
beverages sectors on
the provision of nutrition
information
and ingredients listing



Overview

This annex complements the collective commitment presented by the alcoholic beverage sector on the provision of consumer information. The following pages: provide essential background explaining our position; set out our commitments on how we will provide information; and give details on our specific perspective on nutrition, ingredients and off-label information.

Our Commitment

By the end of 2022, we will ensure information is available to consumers on the nutrition and ingredients of all spirits sold in the EU. The information will be provided in a clear and comprehensive manner which will ensure that the purpose of Regulation 1169/2011 to provide “a basis for final consumers to make informed choices” is fully met. We aim to provide harmonised and consistent information available to consumers anytime, anywhere and in their own language.

We will fully support our members in their efforts to provide nutrition and ingredient information. A growing number of producers is committed to providing calorie information on-label; others, including the thousands of SMEs or micro-enterprises, are more likely to use on-line mechanisms.

We firmly believe that the most meaningful way to provide energy on spirits labels is per serving size. To ensure consumers always receive meaningful information, we believe all alcoholic beverages not habitually consumed in 100ml servings should provide energy / nutrition per serving. We will work together with the Commission to further explore these elements.

Context

Only 10 years ago, finding information on ingredient or nutrition values for spirits was not straightforward. There were numerous sites hosted by producers, responsible drinking organisations and nutrition/diet companies, but access to the information was not comprehensive. Today, many more spirits producers, and others, make this information available and it is now possible to find calorie information on-line for almost every alcoholic beverage.

We appreciate that the Commission’s March 2017 report explicitly acknowledged and welcomed the sectors’ considerable efforts to improve the information provided voluntarily

While spirits are fully within the scope of the food labelling regulation, 1169/2011¹, it has long been clear that alcoholic beverages are a specific group within foodstuffs and that their specificities need to be adequately reflected when constructing rules on information on nutrition and ingredients. The Regulation lays down specific nutrition and ingredient rules for foodstuffs and, in art 16.4.3, sets out that if a legislative proposal on alcoholic beverages was felt appropriate, the Commission would ‘determine the rules’, i.e. thereby providing a route whereby rules could be introduced to overcome the known difficulties, e.g. as regards energy labelling.

Spirits, unlike most other food sectors, are subject to stringent rules on their production and composition - Regulation 110/2008. How spirits are made and what they are made from is therefore legally defined and this information is readily available to consumers. Wines and aromatised wines have similar, dedicated regulations at EU level.

In looking at how to provide information on ingredients and nutrition for alcoholic beverages, there are a number of fundamental principles that need to be taken into account:

- All alcoholic beverages compete with each other: they are all covered by the same tax laws (directives 92/83 and 84); they all contain the same alcohol component, ethanol; and they are all sold next to one another in every bar, cafe, restaurant and retail outlet.
- In whatever form they are sold, all alcoholic beverages can be part of a balanced lifestyle if consumed in moderation and all can give rise to problems if consumed to excess. Separately, there are certain groups that should not ever consume alcohol. These factors need to be taken into account in when the provision of new information is being considered.

¹ Spirits are subject to sector-specific, vertical rules in Regulation 110/2008. This legislation defines spirits produced in the EU and registers and protects a large number of ‘geographical indications’ (GI). The rules also contain certain provisions on the labelling of spirit drinks in particular circumstances.

- The alcohol content of a standard 30ml serving of spirits would be much the same as for a 100ml glass of wine and a 250ml glass of beer. These are all serving sizes that would be broadly recognisable to EU consumers.
- There are official 'low risk drinking' guidelines in many EU Member States. While they vary, they are all broadly based around serving sizes / portions / units of alcohol.
- As part of the spirit sector's commitments in the EU Alcohol and Health Forum, a responsible drinking message, preferably in the form of a website (often 'responsibledrinking.eu') appears on the vast majority of our members' packaging, advertising and promotion materials. The supporting messages on responsible drinking are on the basis of a standard serve or unit.
- Spirits are subject to controls at EU and national level, as regards licensing, excise, warehousing, transport, advertising and promotion. Our sector, which contributes €23 billion annually in excise tax and VAT receipts, faces a regulatory burden (in particular because of the excise tax controls) that is appreciably stricter than most other food sectors and all other alcoholic beverages. Care needs to be taken to ensure that the regulatory environment does not discriminate further against spirits.

Display of the Information

When using online platforms, the sector will go beyond the requirements of Regulation 1169/2011 and provide additional important information to consumers about raw materials and production, responsible consumption and health. To deliver this, we will create a comprehensive modern ecosystem allowing consumers permanent access to all the relevant information through smartphones and barcodes and QR codes. We will devote considerable resources to the development of effective off-label solutions for producers who see that mechanism as the most useful, tailored and responsive way to inform consumers. Whether consumers choose to access information via this harmonised system, or company or brand websites, they will always be able to find everything they need to make informed purchasing decisions.

Our Commitment On Nutrition Information

Nutrition Information Generally

For the information to be comprehensive and transparent, our sector commits to providing full nutrition information on-line for all spirits, as set out in article 30.1.b of Regulation 1169/2011. When provided on-label, as many of our major producers have committed to do, the information may be limited to energy, as is permitted under article 30.4, and to complement this with further information on-line.

This is an important step as many categories of spirit made in the EU are simply a distillate of their raw materials and do not contain fat, saturates, carbohydrate, sugar, protein or salt, which would justify to limit nutrition information for such spirits to energy information only. (The case is different for complex spirits, including liqueurs where there is a minimum sugar requirement, and other spirits which use flavourings and additives.) In the interests of transparency, members felt that a full nutrition declaration for all spirits categories would be more valuable for consumers.

Regulatory and Technical Aspects, Notably Energy Declarations

In the discussions when preparing a sectoral position, it became evident that the situation and views of producers and trade associations would continue to evolve even after the submission of the proposal. For example, several large producers are committed to providing calorie information on-label, and efforts are being made to expand this initiative to cover more of the market. In assessing how best this information can be provided, a number of considerations need to be taken into account:

- information should be given primarily per serving size, for instance via visual emphasis, because that is most useful for consumers. Providing calories per 100ml is misleading and requires further discussion;
- single language labels, i.e. which do not require translation, would be beneficial;

- average values on the basis of generally established data should be permitted.

We are confident that this will help to ensure that a meaningful and increasing proportion of products will contain calorie information on-label. As of 1 November 2018, those producers who choose to provide information on label will ensure that new labels of spirits will contain calorie information in line with the considerations above (*); the organisations involved will report on progress by 31 October 2019.

Separately, and within the broad commitment to provide online full nutrition labelling for all spirits, it is important to ensure that information is meaningful and allows consumers to make informed choices. The most important element for most consumers is energy. As all parties have long been aware, the legally required declaration 'per 100ml' is not suitable for most alcoholic beverages.

While it could be argued that the 100ml is useful in the non-alcohol sector (although even there we are aware of significant concerns), the situation is different with alcohol beverages. Consumers make choices both between brands and among categories: beer, cider, spirits, wine and pre-mixes. Alcohol strength and consumption patterns vary widely among those categories. Since the intention of Regulation 1169 is to provide "a high level of protection of consumers' health ... by providing a basis for final consumers to make informed choices and to make safe use of food ..." and as the 100 ml portion exceeds low-risk drinking guidelines in most Member States, it is clearly inappropriate for alcohol beverages. Rather, information should be communicated in the more relevant and comparable serving sizes which inform consumers and reinforce rather than undermine Member State health guidance.

Spirits are the least calorific alcoholic beverage and a nutrition declaration per 100ml would present hugely misleading information because spirits are always consumed in far smaller quantities. Spirits and beer are never served in 100ml portions.

In addition to the risk of greatly misleading consumers about the respective calorie content of spirits and beer, the spirits sector believes the 100ml measure is contrary to the interests of consumers for the following reasons:

(*) Note that products and labels produced prior to 1 November 2018 can continue to be used and sold in the market

CALORIES	Spirits (40% vol)	Wine (12% vol)	Beer (5% vol)
Per 100ml	224	74	43
Per serving size ² recognisable to consumers	67	74	106

- Any declaration of energy per 100ml would contradict the alcohol sector's messages on responsible drinking (used for years as part of an effort to educate consumers) and official low-risk drinking guidelines developed by Member States. The official guidelines are invariably based on the consumption of alcoholic beverages in recognisable serving sizes, themselves based on the notion of 'units'³.
- No Member State provides information on low-risk drinking in terms of 100ml servings. Any such declaration would be very difficult for consumers to understand. Those few consumers who did make the calculation would see that, for spirits, 100ml would be around 3-4 measures i.e. the maximum recommended daily intake for men in many countries and twice the recommendation for women, while for beer it would be below 1/8 of the maximum recommended daily intake, less than half of a normal serving size.
- As 100ml of spirits would often exceed the maximum recommended daily intake, we cannot exclude, at this stage, that voluntarily providing information that would contradict official guidelines could expose producers to liability in some countries.

² The serving size is based on alcohol content. The most common measurement used for low risk / sensible drinking guidelines in EU Member States is a 'unit' of 10g alcohol. This equates to broadly comparable serving sizes of 30ml of spirit, 100ml of wine and 250ml of beer.

³ see note 2.

- Articles 32.4 and 5 of 1169/2011 allow energy levels to be declared as a percentage of reference daily calorie intake. Using spirits and beer again as the example (because they illustrate the difficulties so neatly) these again show why a reference point of 100ml will mislead consumers and that serving sizes are far more helpful.⁴

Percentage of daily calorie intake (2,000 kcal)	Spirits (40% vol)	Beer (5% vol)
Per 100ml	11.4%	2.1%
Per serving size ⁴ recognisable to consumers	3.4%	5.3%

In terms of how an energy declaration would be calculated, for most spirits the energy comes essentially from the alcohol they contain, the conversion factor for which is provided in Annex XIV of R1169/2011, i.e. 1g = 7 kcal / 29 kj. For spirits such as liqueurs which contain sugar, the conversion factor is 1g = 4 kcal / 17 kj.

As an example, for single ingredient distillates, we will use the formula from our website: responsibledrinking.eu, i.e. grams of ethanol = 0.8 (alcohol density) x volume (ml) x strength (% vol) / 100. So, a standard serving (30ml) of whisky at 40% vol. would equal 67 kcal. For many categories, an average value can be used without any difficulty because the degree of variance in calorie levels is insignificant.

What Would It Mean For Consumers?

Our sector will provide full nutrition information. Those declarations will provide information per serving size because this best serves the consumer interest. To meet legal requirements, it will also be given per 100ml but this will be less prominent because it is misleading. We have encouraged other sectors also to provide energy information per serving size when it is substantially different to 100ml and / or when products are sold in single serve containers.

Examples of a nutrition list for two different spirits are shown below. The first is a distillate with no sugar or other added nutrients and the second is a more complex spirit involving a number of ingredients in addition to the spirit:

	Energy	Fat	Saturates	Carbo Hydrate	Sugars	Protein	Salt
kcal Whisky (30ml-40%vol)	67	0	0	0	0	0	0
	kj 224	0	0	0	0	0	0
kcal Cream Liqueur (30ml-17%vol)	98	3.9	2.4	7.5	6	0.8	0
	kj 408	16	9.9	31.9	25.5	3.4	0

For producers who wish to put the information on label, the requirement to do so per 100ml (even if the serving size can also be given) can act as a deterrent because they do not wish to provide misleading information, or information that contradicts responsible drinking messages. Nor do they wish to sacrifice valuable label space on such misleading information.

We firmly believe that the most meaningful way to provide energy information on spirits is per serving size. As a separate element, we would welcome a discussion with the Commission to establish how to ensure consumers always receive meaningful information, i.e. so that all alcoholic beverages not habitually consumed in 100ml servings also provide energy per portion / single serve container.

Our Commitment On The List of Ingredients

Ingredient Information Generally

Our commitment to provide meaningful information for consumers is two-fold and ensures consumers will receive more information than they would from the statutory ingredient list, i.e. our sector will go well beyond the requirements of Regulation 1169/2011. For all spirits we will provide:

- information on actual ingredients;
- information on raw materials and production process.

Regulatory and Technical Aspects

The spirit drinks regulation (110/2008) requires spirit drinks to be made only from agricultural raw materials. Synthetic and non-agricultural origin alcohol is banned. Each of the 47 categories of spirit drink defined in EU law has to bear the name of the relevant category or, for the small group which do not match one of the defined categories, the generic name "spirit drink".

The process to make the various categories of EU spirit involves the fermentation of a carbohydrate source and then distilling the resultant liquid once or more so that the alcohol and flavours are concentrated. The distillation process is common to all spirits: alcohol boils at a lower temperature than water and the repeated vaporisation and condensation of the liquid results in an alcoholic distillate that does not contain its raw materials. Some of the spirits sold to consumers are simply a distillate, to which water has been added to bring down the alcohol strength; others use the higher strength 'ethyl alcohol or distillate of agricultural origin' as the base for further processing - this can include the addition of flavours and sweetening, can involve maceration and/or further distillation - and results in many of the EU's best-known spirits.

The distillation process transforms the raw materials to such an extent that they are no longer found in the final product: a vodka made from potatoes does not contain potatoes; a rum made from molasses does not contain molasses.

The absence of the raw materials used to make distillates was demonstrated most vividly in the 3 scientific dossiers submitted by the sector to EFSA in the early 2000s which prove that, while some spirits are made from potentially allergenic raw materials, the distillates themselves are not allergenic⁵.

In creating ingredient lists for each category, a number of technical aspects are pertinent:

- Additives and Flavourings** - By definition, these are added after distillation and there should be no difficulty with the principle that spirits producers would declare them in their list of ingredients, whilst at the same time ensuring that commercial confidentiality is not compromised.
- Allergens** - While the distillates that are made from potentially allergenic raw materials have been accepted by EFSA as non-allergenic⁶, some spirits made from these distillates then add ingredients which are potentially allergenic. As is required under Regulation 1169/2011, any such allergenic ingredients would be declared on the label.
- Maturation** - While this process changes the distillate, it would be impractical and of no value to try to list the chemical changes brought about⁷.
- Processing aids** - The most common processing aid in the spirits sector is yeast, which is used in fermentation. As it is no longer present in the final product, however, there is no need for it to be declared, i.e. in line with article 20 of Regulation 1169/2011.

⁵ The allergens dossiers took around 170 samples of new-make spirit and bottled product and subjected them to laboratory analysis: while the level of detection for the allergen protein was lowered by a factor of 10 in this research, the allergen protein was not detected in any sample. The European Food Safety Authority therefore concluded that the relevant distillates did not contain allergens, and hence did not need to declare allergens, despite the potentially allergenic raw materials used.

⁶ see footnote above

⁷ A number of EU spirit drinks are required to be matured; other spirit drinks are also aged, although no statutory minimum period applies. The maturation process produces complex natural compounds which will vary with every cask. The quantity and composition of these compounds would be impossible to establish without laboratory analysis and could be described only by using scientific terminology meaningless to most consumers.

⁴ see note 2

- **Sweetening** - In the production of some spirits, notably liqueurs, minimum quantities of sugar or other sweetening substances must be used. In other spirit drinks, sweetening is (a) permitted but not subject to any prescribed minimum, or (b) permitted (for rounding) and the new spirit drinks regulation seems likely to set down maximum levels. We foresee no difficulty with the principle that the relevant spirits should indicate they contain sugar or other sweetening substances.
- **Water** - it is used in the fermentation process and almost always added after distillation to reduce the alcoholic strength. Water is often added to bring the distillate down to the strength at which some spirits mature; and more water added after maturation to meet the strength at which the spirit will be sold. Listing water as an ingredient is not a problem but it would be difficult to explain the quantity in the final product. It would be important to ensure the declaration of water in ingredients lists did not result in a QUID requirement.

What Would It Mean For Consumers?

We will create a template list of ingredients for each category definition in EU Regulation 110/2008, as well as for 'spirit drinks'. Spirits producers will be able to use the information for the category to which their spirit belongs or they can create their own list relevant to their particular brands. Whichever they choose, the information will not differ greatly.

In addition to providing a list of ingredients, we plan also to ensure that the legal definition of every category, as set out in Annex II to Regulation 110/2008⁸ is provided. That way consumers will receive details of the raw materials and the production process, i.e. far more information than is required under Regulation 1169/2011. By way of example, the template ingredient list for rum and for whisky (the first 2 definitions in the law) would look something like the following:

Rum - rum, water, sugar (when used) and colour: caramel

Whisky / Whiskey - whisky, water, colour: caramel

A similar format would be used for each of the 47 defined categories and for 'spirit drinks'.

⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:039:0016:0054:EN:PDF> Annex II is on pages 29 to 45 and contains the definitions for the 47 categories.

Our Approach To 'Off-Label' Information

The labelling law explicitly acknowledges a role for technology-based information sources.⁹ In our rapidly evolving digital technology landscape, consumers are increasingly turning to digital and mobile sources of information.

Off-label information is the norm now in many purchases. Fifteen or so years ago, a new computer came with 2 or 3 telephone directory size instruction books. That information, and indeed the instruction manuals for many devices, is now only available on-line. Banking services, transport bookings, entertainment - all of these are now fully electronic and highly integrated into consumer behaviour. Consumers are familiar with finding information through their smartphones.

Consumer behaviour demonstrates the ubiquity and utility of digital information:

- Internet usage has risen from 8% in 1998 to 81% of the EU 28 population in 2016¹⁰. And a separate report estimated that in 2017 it was almost 86%¹¹. The number of Google searches has increased from 1.2 billion in 2007 to 9 billion in 2016¹² - consumers are finding out more about everything via search engines.
- More than 80% of people use their smartphones to research purchases they are about to make in a store¹³. A separate survey found that over two thirds of consumers did so whilst in the shop¹⁴.
- Globally, there are now more mobile internet users than desktop internet users. And 90% of the time spent on mobiles is on apps¹⁵.

⁹ See, e.g., recitals 51 and 58, and articles 2.2.a, 12.3 and 16.2.

¹⁰ <http://databank.worldbank.org/data/reports.aspx?source=2&series=IT.NET.USER.ZS&country=#>

¹¹ <http://www.internetworldstats.com/stats9.htm>

¹² <https://www.statisticbrain.com/google-searches/>

¹³ <https://hostingfacts.com/internet-facts-stats-2016/>

¹⁴ [The Truth about Online Consumers: 2017 Global Online Consumer Report.](http://www.truthaboutonlineconsumers.com/2017-global-online-consumer-report/)

¹⁵ <https://hostingfacts.com/internet-facts-stats-2016/>

- DG Connect's Digital Agenda (2010)¹⁶ specifically indicates that its actions are, among other things, because "Consumers expect, rightly, that they can access content online at least as effectively as in the offline world". The Commission's 2014 report¹⁷ highlighted both that the digital economy is growing at 7 times the speed of the rest of the economy and that there are now more mobile subscriptions in the EU than people.

A further advantage to the provision of information off-label is that it allows much more detail to be conveyed and in a more flexible way, tailored to the needs of individual consumers. For example, in addition to nutrition and ingredient, information provided via an app could:

- be delivered in the language the consumer speaks, irrespective of where he / she happens to be in the EU;
- instantly deliver information on calorie levels per portion / serving size, and 100ml;
- contextualise that information by including 'low risk drinking' guidelines that apply in the country of purchase and display a responsible drinking message;
- provide additional messages such as 'don't drink and drive', 'don't drink when pregnant' and 'don't drink if under 18'.

The spirits sector is convinced that the off-label option will appeal to consumers and will provide them with far more information, which they can tailor to suit their personal needs, in a way a label could never manage. In this regard it is worth noting the research¹⁸ on labelling itself: what consumers want from labels; how they use the information; what they find most helpful; how they find information; and how long they look at labels. There is a recurring theme that consumers find it hard to find information and that labels can be unfriendly.

¹⁶ [A Digital Agenda for Europe." 2010 - http://ec.europa.eu/transparency/regdoc/rep/1/2010/EN/1-2010-245-EN-F2-1.Pdf](http://ec.europa.eu/transparency/regdoc/rep/1/2010/EN/1-2010-245-EN-F2-1.Pdf)

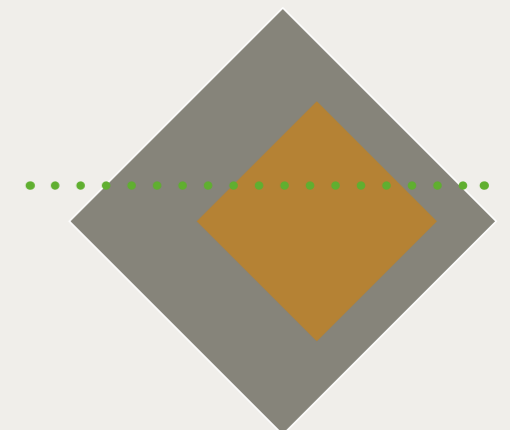
¹⁷ [The EU Explained: Digital Agenda for Europe - http://eige.europa.eu/resources/digital_agenda_en.pdf](http://eige.europa.eu/resources/digital_agenda_en.pdf)

¹⁸ From 2002 until 2014 one of our members maintained a summary of the research on labelling in the EU and elsewhere. This informal summary reviewed 18 different studies during that period, noting the broad conclusions from the research and, where relevant, the areas of relevance for spirit drinks. A copy is available on request.

The phenomenon of 'too much information kills information' is well-established. That said, there are already several spirits producers (with significant market shares) which are putting nutrition and/or ingredient information on their labels. That will not change and nor would we want it to.

EU label rules can also complicate single market freedoms. The ability to move goods between Member States brings a requirement for labels in the local language and to show national requirements. It is hard to accommodate everything comfortably on the label, especially for goods sold in numerous countries. The result is that information is often provided in a small font. While the labels are legal, they are not very 'consumer-friendly', a further example of 'legal' labels not necessarily being in the consumer interest.

The provision of information on ingredients and nutrition on label will be particularly difficult for micro-producers and SMEs, which form the overwhelming number of companies in the spirit sector. While label size is one issue there is a further element in that small producers generally do not have significant budgets for advertising, promotion and marketing, in which case the label is the mechanism through which the brand's 'story' is told. We therefore hope that there can be more flexibility for SMEs to overcome these difficulties.



What We Will Do

spiritsEUROPE is working closely with the European Travel Retail Confederation regarding the development of mechanisms to provide easier access to information online. The following section from ETRC explains the concept. As the system is being built to be an add-on to the standard barcode product information and traceability system, the scalability to other retail channels beyond the development phase is technically feasible.

ETRC, the European Travel Retail Confederation, has been contracted for the development of a pilot project to create a digital platform for information to consumers in duty free and travel retail, across several product categories including alcohol beverages. For this pilot, which results will be available during the second semester of 2018, the consumer front-end will be designed as a responsive website, and product information will be accessible in several languages via a barcode on the packaging scanned by the consumer via a smartphone, scanner facilities in-store and on-line, ensuring that the information is available to all consumers at any time.

The advantage of the innovative solution being developed and proposed by ETRC is its ability to provide information by means other than on the

package or on the label but accessible directly from the product itself, in multiple languages and in a format that is useful and relevant to consumers in a travel environment.

Product information will be provided directly by the suppliers as the responsible business operators, focusing on regulatory information that does not serve any marketing purposes, displayed on the consumer interface in a standardised format with clear landmarks across all product categories so that consumers can easily find the information they are looking for. For alcohol products, relevant information on nutrition and ingredients will be clearly communicated as part of the present commitment.

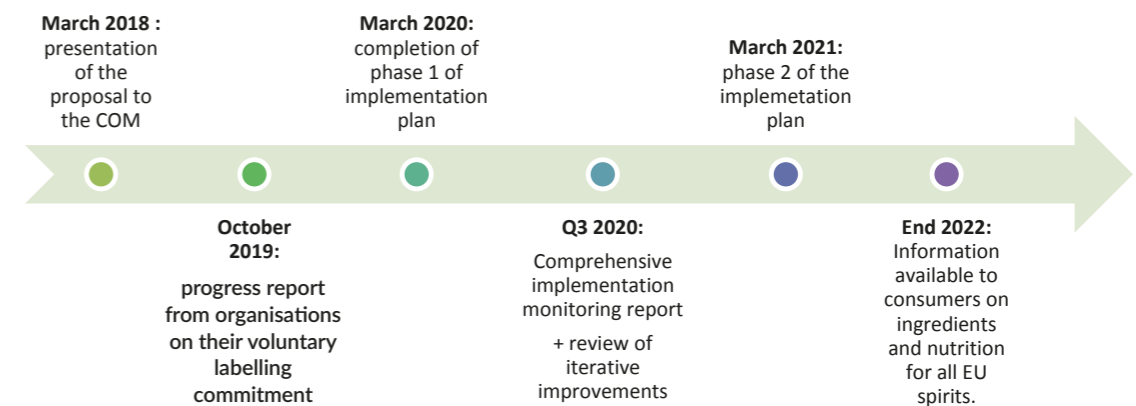
Implementation

spiritsEUROPE and Copa-Cogeca are strongly committed to the development, implementation, monitoring and evaluation of the proposal¹⁹. We will develop implementation guidelines to support members and in particular SMEs, to ensure the communication platforms present information on nutritional and ingredients in a comparable manner. We will also share this information with other spirits associations outside the EU to facilitate a broader exchange of information.

Our actions will be guided by the “[principles for better self- and co-regulation](#)”. The [European Commission endorsed of the Principles](#) in the May 2015 [Better Regulation Package](#) and included them in both the [better regulation guidelines](#) and [toolbox](#), making self- and co-regulation a mainstream topic in the [European Commission's better regulation processes](#).

- Monitoring - conducted in a way that is sufficiently open and autonomous to command respect from all interested parties.
- Evaluation - to allow participants to assess whether the action may be concluded, improved or replaced.
- Resolving disputes - by ensuring they receive timely attention. Non-compliance should be subject to a graduated scale of sanctions.
- Financing - we will provide the means necessary to fulfil the commitments.

Implementation timeline



They stem from evidence-based good practice emerging from different initiatives.

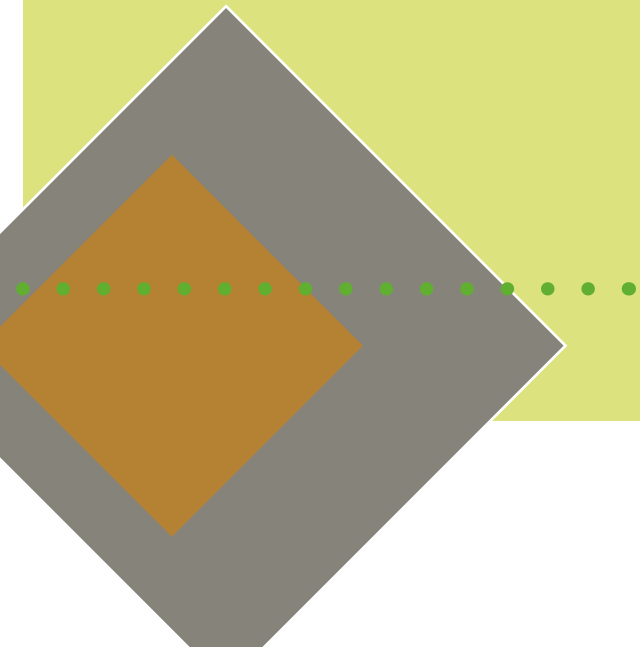
For the implementation, these are:

- Iterative improvements - a prompt start, with accountability and a process of “learning by doing”, with sustained interaction between all participants.

¹⁹ The sector specific sections will be under the sole responsible of the respective sector organisation for approval, dissemination, implementation. The monitoring and evaluation duties, both methodology and costs, will be shared on a proportional basis between the Founders.

spiritsEUROPE will report on its activities in supporting members to undertake this commitment. We will also collate and compile the initiatives of our various members with a view to informing the Commission and stakeholders as described above.

In addition to feedback from members and users of the guidance, and feedback on the usability of the communication platforms, the European Commission's views will help inform the iterative improvements in each of the implementation phases.



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