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Folketingets EU-Oplysning
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Vedr. EU's definition af Vodka

Til medlemmer af Folketingets Europaudvalg og deres stedfortrædere

Jeg skriver på vegne af European Vodka Alliance (EVA). EVA er en uformel organisation bestående af branche interessenter, som er imod restriktioner for de råmaterialer, der bruges til at producere vodka med.

EU Kommissionen er netop ved at behandle området omkring definition af forskellige alkoholtyper, heriblandt vodka, hvor enkelte medlemslande foreslår at vodka kun må produceres af begrænsede råmaterialer.

Formålet med dette brev er for det første, at vi ønsker at fremsætte vores argumenter imod sådanne restriktioner. For det andet ønsker vi at få en bedre forståelse for holdningen på dette område fra Folketingets Europaudvalg.

Vores argumentation er opsummeret nedenfor:
(Den komplette argumentation findes i vedlagte dokument på engelsk.)

- A. I henhold til at bevare den nuværende bestemmelse om, at vodka kan produceres af enhver form for råmateriale, foreslår Kommissionen ikke noget nyt. Rent faktisk har det altid været muligt at producere vodka i EU baseret på enhver form for uforarbejdet landbrugsråvarer. Dette er endog muligt selv i de lande, hvor der nu søges om restriktioner.
- B. Tradition, kan i sig selv ikke retfærdiggøre og begrunde en restriktion over for brugen af råmaterialer i produktionen af vodka. Først og fremmest er "tradition" ikke et legitimt grundlag for interne markedsforhold. Dernæst har de pågældende medlemslande slet ikke en sådan tradition. De fleste af medlemslandene er først for nylig begyndt at bruge betegnelsen "vodka" til at beskrive deres traditionelle spiritus. Alle landene har lavet traditionel spiritus af andre råvarer end korn og kartofler indtil nu.



GUINNESS

SMIRNOFF

J&B

BAILEYS

Tanqueray



Jose Cuervo



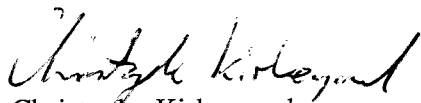
GORDON'S

- C. Forbugerbeskyttelse kan ikke retfærdiggøre og begrunde en restriktion over for brugen af råmaterialer. Markedsundersøgelser viser, at de fleste forbruger ikke ved hvad vodka er lavet af, og dem der ved det, mener ikke at det gør nogen forskel.
- D. Vi er tilhængere af, at reglementer skal være med til at beskytte og opretholde kvaliteten af vodka i EU. Men kvaliteten er ikke afhængig af hvilke råmaterialer der bliver brugt i produktionen. God vodka kan og bliver lavet, ikke kun af korn og kartofler, men også af andre råmaterialer. – Dårlig vodka kan og bliver ligeledes lavet af korn og kartofler.
- E. De manglende retfærdiggørelser og begrundelser gør, at forslaget om restriktioner er i strid med både EU lov og WTO regler.
- i. Hvad angår EU lovgivning, så har den til hensigt at sikre den frie bevægelighed på det interne marked. Den kan ikke bruges som et middel til at dække over landbrugsmæssig protektionisme.
 - ii. Hvad angår WTO, tillader alle vores vigtigste handelspartnere (især USA), at vodka produceres af enhver landbrugsmæssig råvare. En restriktion af råmaterialer i produktionen af vodka i EU vil derfor være en teknisk barriere for handel.

I alle tilfælde mener vi ikke, at en restriktion af råmaterialer i produktionen af vodka er begrundet og retfærdiggjort, som det er blevet fremsat af de syv nordiske og baltiske medlemslande. Resultatet vil være, at omkring to tredjedele af al vodka lavet i andre EU lande bliver udeukket fra markedet.

Jeg er bekendt med, at Danmark hidtil støtter denne restriktion og har indikeret at den virker hensigtsmæssig. Såfremt det er i jeres interesse, vil jeg gerne hilse enhver mulighed for at få en bedre forståelse for jeres argumentation velkommen, samt at fremlægge yderligere beviser som understøtter EVAs holdninger.

Med venlig hilsen



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europaean vodka alliance

Championing Europe's Diverse Vodka Traditions

POSITION

on

Proposals for a Regulation of the European Parliament and the Council on the definition, designation, presentation and labelling of spirit drinks

The "Vodka raw materials" issue

Background

This issue arises in the context of proposals for a Regulation of the European Parliament and the Council on the definition, description, presentation and labelling of spirit drinks.

These proposals, which would revise and replace Council Regulation 1576/89, contain definitions of the principal categories of spirit drinks and, inter alia, of vodka. They state that spirit drinks that do not conform to this definition cannot bear the sales denomination "vodka" and drinks which do not fall into a defined category must bear the denomination "spirit drink".

Under Regulation 1576/89, and in the Commission's proposals, vodka can be made from any ethyl alcohol of agricultural origin. In this regard vodka is treated no differently from other alcoholic beverages which do not derive their characteristic taste from the raw materials (eg gin, akvavit, anis).

A number of Member States¹ are now seeking to change this definition to restrict the production of vodka to two raw materials – either cereals or potatoes. This would prevent vodka producers currently using other raw materials (eg sugar beet, molasses or grapes) from using of the sales denomination "vodka" to describe their products.

Preliminary Observations

1. The Commission's proposals are brought under Article 95 of the Treaty for the establishment and functioning of the internal market: that is to say, the creation of an area without internal frontiers where the free movement of goods, persons, services and capital are ensured.

¹ Estonia, Finland, Latvia, Lithuania, Poland and Sweden

These proposals are not part of any agricultural market organisation. Annex I to the Treaty excludes “*liqueurs and other spirituous beverages*” from the list of agricultural products in the Treaty and it would, therefore, be wrong in Law to attempt to introduce “quasi-agricultural” provisions in the guise of an internal market measure.

2. Regulation 1576/89, and the Commission’s proposals that would replace it, are a form of “minimum harmonisation”. They set out “European Definitions” of the main categories of spirit drink: but do not prevent Member States from introducing stricter production regulations and/or definitions with regard to spirit drinks for which they register a protected Geographical Indication of origin (a “GI”).

The European definition of each category is broader than any one national definition. The Regulation therefore seeks to accommodate different traditions and methods of production in different Member States through the GI system.

The “internal market” purpose of the European definition is to ensure that spirit drinks made elsewhere in the EU cannot be denied free movement within the internal market as a result of these national definitions and regulations.

3. The Commission’s proposals do not change anything regarding the raw materials for vodka production.
 - Regulation 1576/89 currently permits vodka to be made from any “ethyl alcohol of agricultural origin”.
 - In 1989 the national Law of all twenty five current Member States (including in particular, Sweden, Finland, Poland and the Baltic Member States) permitted vodka to be made from any agricultural raw materials².
 - The definitions of vodka in our major trading partners permit vodka to be made from any agricultural raw materials.

It follows that the current proposals do no more than maintain the status quo ante as reflected in Regulation 1576/89. Moreover that Regulation reflects the position as it was in the National Laws of (all twenty five) Member States in 1989; and reflects the international norm.

It is for those who would propose a change to the Law to justify that proposal in terms of the establishment and functioning of the internal market. It is, therefore, for the above Member States to demonstrate that a restriction on the permissible raw materials for vodka production is a necessary and proportionate means of ensuring free movement.

A non-argument

Before dealing with the substance of this issue, we must first consider the argument that not to restrict the raw materials for vodka production would be in some way “unfair” as other spirits such as whisky and rum are defined by reference to a single raw material. This argument misrepresents the purpose of these proposals and misunderstands the nature of the spirits market.

² Technically this remains true today in that Laws adopted in Sweden (1993) and Poland (1998) restricting the raw materials to cereals and potatoes do so only in relation to vodkas bearing the GI “Swedish” and “Polish” respectively.

Regarding the proposals:

- Defining whisky, rum etc by reference to their raw materials reflects the characteristics of the product which must derive their taste from the raw materials used. The definitions of these, and other 'eaux de vie', require them to have a taste derived from the raw materials used and require that they are distilled below a maximum strength to ensure that this taste is retained. Furthermore there is no "flavoured whisky" or "flavoured rum" category precisely because the flavour of these products is a definitive characteristic. Consumers expect a product labelled "whisky" or "rum" to have a particular flavour and the definitions ensure that products sold under these denominations have the definitive characteristics which consumers are entitled to expect.
- Vodka does not, and is not required to, have a distinctive taste or character derived from the raw materials. Indeed, the definition is based on the removal rather than the retention of any residual flavour and specifically requires any such characteristics to be "selectively reduced". Moreover vodka must be distilled above a minimum strength to eliminate the impurities that would impart such a flavour: and there is a proposal for a flavoured vodka category which shows that the "flavour is not a definitive characteristic.
- In the circumstances defining vodka by reference to the raw materials used is inappropriate: doubly so when very different raw materials (cereals and potatoes) would be permitted while other, no less dissimilar, raw materials would be prohibited. Spirit drinks fall into one of two groups. Those which derive a definitive taste from particular raw materials for which the raw materials appear in the definition: and those which do not; and which can be made from any ethyl alcohol of agricultural origin.

Regarding the spirits market:

- The popularity of whisky and rum is not due to the restriction on the raw materials that can be used in their production. Nor has the absence of any restriction on raw materials prevented vodka from becoming the fastest growing category in the international spirits market.
- In the whisky market the strongest consumer association with quality does not reside in the denomination "whisky" but in the protected geographical indications associated with it: in particular Scotch, Irish and American. Whiskies are made in other Member States including Sweden (*Lodhian, Mackmyra*), Poland (*Dark Whisky, Old Family Whisky*) and Finland (*Teerenpeli*). These whiskies may be of equally high quality but have yet to establish an international reputation. But markets are dynamic processes and no-one had heard of Swedish vodka before 1979..
- The focus on a restricted list of raw materials is misplaced – not least because the raw materials used have no bearing on the character or on the quality of the vodka. Poor quality vodka can be, and is made, from cereals and potatoes and high quality vodka from other raw materials.

We support moves to introduce a clear definition of vodka in order ensure high quality and to protect the reputation of EU spirits. However this cannot be achieved by restricting the raw materials from which it is produced. The proposed restriction on raw materials is

designed only to permit certain producers (who claim to be the guarantors of quality) to “corner” the vodka market for their industry and their agricultural producers.

Economic interests

Stripped of emotion this issue reduces to the question, “whose interests are being served?” As usual there would be winners and losers

The winners.

The intended beneficiary of the proposed restriction on raw materials would be producers who currently make vodka from cereals and/or potatoes; and more particularly those who distil direct from the raw materials rather than producing vodka from “ethyl alcohol of agricultural origin” acquired on the open market.

The benefit to these producers does not flow from the protection of traditional practices. Producers in the Member States seeking this restriction (eg in Sweden and Poland) are already protected and constrained by the rules governing their protected geographical indication. The benefit flows from imposing the same burden on their competitors. Examining this in more detail:

Industrial producers

The distillers in the Member States now seeking a restrictive definition of vodka were, until recently, state-owned monopolies. In Sweden and Finland the dominant vodka producers remain in state-ownership. Moreover, despite recent privatisations in the Baltic Member States and in Poland the industry remains highly concentrated and distillation is undertaken in a relatively small number of large ‘industrial scale’ plants.

Agricultural suppliers

Perhaps because of their history as state-owned enterprises these large distillers have generally purchased their raw materials from local farmers/co-operatives. However, there is no reason why this practice should not continue regardless of whether the definition of vodka is amended or not.

It is clearly in the interests of these producers and suppliers to tailor the “vodka” definition to their current production practices. However, the benefit to them flows from the elimination of competitors elsewhere in the EU who produce vodka from alcohol derived from other raw materials (or from alcohol purchased on the open market where the raw materials cannot be ascertained) and subsequently acquiring their current market share.

The Losers

The principal losers if a restrictive definition were adopted would be those producers of vodka from raw materials other than cereals or potatoes (or from alcohol where the raw materials cannot be ascertained).

Vodka producers

The Member States that advocate a restrictive definition of vodka estimate:

- a) That 85% of the vodka produced in the EU is made in their territory; and
- b) That only 10% of the vodka produced in the EU is produced from raw materials other than cereals or potatoes.

These figures can only be estimates, since trade statistics do not record the raw materials from which vodka is produced. Moreover, it is not clear whether they include flavoured vodkas and vodka based cocktails which would also be affected by the raw material proposal. However, insofar as these figures broadly reflect the reality it means that:

- 10% of EU vodka production (estimated to be more than 50 million litres) much of which is produced by small and medium sized enterprises across the EU would be denied its traditional sales denomination.
- Mathematically if 15% of EU vodka production is in Member States where raw materials other than cereals and potatoes are used; and insofar as 10% of EU production is from these 'other' raw materials, it follows that **two thirds** of production in these member States is from raw materials other than cereals or potatoes.
- This estimate is consistent with figures showing that approximately 30% of the vodka consumed in the UK; 73% of the vodka produced in Germany; and 95% of the vodka produced in the Czech Republic, is made from raw materials other than cereals or potatoes.

Denying these producers and products the sales denomination "vodka" – to which they have always been entitled and which consumers readily understand – and requiring them to use the term "spirit drink" (proposed Article 7(2)) would seriously compromise the marketing of these vodkas and in all probability drive them from the market.

It has been suggested that people would be able to give their products an alternative sales denomination – and so they would not suffer undue economic hardship. However, in this regard:

- These proposals are founded on the recognition that sales denominations have a reputation with consumers, and therefore a value to producers, which should be protected.
- The value of the denomination "vodka" can be illustrated by considering the situation where a customer walks into a bar and orders a "vodka and orange". Products that are not entitled to the sales denomination "vodka" could not be served. The possibility of customers asking for a "spirit drink and orange" does not offer a credible alternative market.

It would be wrong to deprive producers of the long-established right to sell in the generic "vodka" market.

Alcohol suppliers

Many small producers of vodka do not distil vodka direct from the raw materials. Rather they purchase “ethyl alcohol of agricultural origin” from large-scale producers and use this as the raw material for their vodka. In many cases these producers do not know – and have no need to know – which agricultural raw materials were used to produce this alcohol.

If a restrictive list of raw materials were introduced into the vodka definition two things would happen:

- a) First, these vodka producers would be obliged to stipulate the raw materials from which the neutral alcohol was to be produced – and to require alcohol suppliers to keep separate stocks of alcohol derived from different raw materials.
- b) Secondly, these suppliers would no longer be selling “ethyl alcohol of agricultural origin” but rather a specific distillate of cereals (or potatoes as the case may be).

The full implications of these changes need to be further evaluated. However, the investment necessary to be able to keep separate stock of alcohol depending on the raw materials; and the running costs associated with doing so, are unlikely to be justifiable in every case. One can anticipate that some neutral alcohol producers will exit the beverage market and concentrate on bio-ethanol and that the price of neutral alcohol for the beverage market will therefore rise.

Legal implications

A change to the definition of vodka which restricts the raw materials from which vodka can be made would be contrary to EU Law and to WTO rules.

EU Law

The legal base for these proposals is Article 95 of the treaty – that is to say they propose an internal market measure. As the Court observed in *Case C-376/98 Federal Republic of Germany v European Parliament and the Council of the European Union*, measures taken under this Article must have as their object the establishment and functioning of the internal market: i.e. the removal of internal barriers so as to ensure the free movement of goods, persons, services and capital.

The current Regulation already establishes an EU definition of “vodka” and there are, therefore, no barriers to the free movement of “vodka”. Therefore the only basis on which the proposal to restrict the raw materials for vodka production could amount to a single market measure would be if Member States would, otherwise, be justified in introducing a restriction in their national Laws and blocking the importation of vodka made from other raw materials in other Member States.

In such circumstances a further harmonisation could be necessary. However National Laws and harmonising measures could only be justified if:

- a) The proposed national measure was pursuing a legitimate public policy objective and was “proportionate” – that is to say it imposed the minimum restriction on free movement

necessary to achieve that end. Equally, with regard to EU Law, the subsequent harmonising measures would also have to be “proportionate”.

- b) In this context it is clear that the protection of domestic vodka producers or agricultural interests would not be a legitimate public interest. Annex I to the Treaty specifically excludes spirituous beverages from the scope of the Agricultural provisions of the Treaty. Therefore the only potential public interest that might justify such a measure would be the need to ensure a high level of consumer protection. In this regard:
- There are no public health or safety issues that turn on the raw materials used to produce vodka;
 - There is nothing to suggest that consumers either know or care what vodka is made from. Only 1% of vodka drinkers state that “what it is made from” is a relevant factor in choosing a vodka³.
 - In any event, if there were a danger that consumers might be misled, they could be adequately protected by less restrictive measures, and more proportionate measures, such as labelling.

The question of proportionality is always debatable. However, for a Member State to block the importation of products that have always been freely available throughout the EU – and in the Member State concerned - without any detriment to the consumer would be very hard to justify.

Harmonising the vodka definition to avoid this possibility in such a way as to deprive a great many established products of the use of their established sales denomination would be even harder to defend.

WTO Rules

The restriction on the raw materials for vodka production would be a technical barrier to trade under WTO rules. The current EU Regulation permitting vodka to be made from any “ethyl alcohol of agricultural origin” is in line with the definition of vodka in the vast majority of third countries. Thus both the USA (the largest vodka market by value) and Russia (the largest vodka market by volume) have definitions which permit any agricultural raw materials – as do India, Brazil (and other Latin American Countries), The People’s Republic of China, Australia and New Zealand.

For the EU to now introduce a restrictive definition would be a barrier to trade because:

- a) Vodkas produced in third countries from raw materials other than cereals and potatoes would be denied access to the internal market; and
- b) All vodkas imported from third countries would have to undertake a process of due diligence to establish that they had been produced from cereals or potatoes.

As such the restriction could only comply with WTO rules if it could be justified by reference to a legitimate public policy objective such as consumer protection. Failing which the restriction could:

- Lay the EU open to a WTO complaint from a third country;

³ Market research conducted in Spain, Sweden, Poland and the United Kingdom by Taylor Nelson Sofres plc in 2005

- Entitle third Countries such as the USA, with whom the EU enjoys a very favourable balance of trade in vodka (and other spirits) to retaliate. It should be noted that the US definition of vodka not only permits it to be made from any agricultural raw materials but also requires it to have no distinctive flavour. Insofar as the Nordic Member States are now arguing that their vodkas have distinctive flavours derived from the raw materials those vodkas may not conform to the US definition. and/or
- Enable third countries such as India where we are seeking greater market access for EU spirits to continue to prevaricate on the basis that the EU is closing off its market to their vodka.

In both EU Law and WTO rules the legal issues turn on the supposed justification of the proposed restriction.

Justification

From the above it is clear that any restriction on the raw materials for vodka production would be compatible with the Law only – and to the extent that – it can be justified as being taken in pursuit of a legitimate public policy objective and proportionate to that end. It is therefore necessary to examine the justification presented by the Member States seeking the restriction. These fall under the following heads:

The need to protect the reputation of traditional products

These Member States claim to have a particular tradition of vodka production which entitles them to define the product; and, moreover, that that tradition is founded on a restricted list of raw materials which is fundamental to the character and reputation of the product and of the denomination “vodka”. Neither proposition is actually true. Thus:

- None of the Nordic Member States used the sales denomination “vodka” on their products before the 1970s⁴. Prior to that the sales denominations were Brannvin (Sweden) and Viina (Finland). Denmark first produced vodka in 1989 however the Danish brand Danzka was recently withdraw from the market.
- Brannvin in Sweden and Viina in Finland have historically been produced from raw materials other than cereals or potatoes. Most notably from sulphite waste liquor (a by-product of the paper industry). Indeed Sweden continues to make Brannvin from other raw materials such as sugar beet.
- None of the Baltic Member States used the sales denomination “vodka” for their products prior to the 1990’s and none has registered a GI under the sales denomination “vodka”. Latvia has registered a GI under their traditional denomination “Degvins” and Lithuania has registered a GI under their traditional denomination “Degtine” implying that these are the sales denominations for their traditional products.

The fact that some of the traditional spirits produced in these Member States conform to the definition of vodka – and so can use that denomination – does not mean that the definition of vodka should now conform to those spirits.

⁴ Sweden’s Vin&Sprit tried to launch a vodka brand “Explorer” in the USA in the 1950’s but this was not a success.

These Member States are free to call their products “Swedish vodka” or “Latvian Vodka” should they so choose – and can apply for a protected geographical indication in those terms if they consider that they are so entitled.

- Poland is the only Member State with a history of producing and selling spirits under the denomination “vodka” (or more accurately “wodka”). However in this regard:
 - In the past in Poland the name “wodka” was not reserved for the spirit now denominated “vodka” in the international market. “Wodka” has traditionally had a broad meaning in Polish – translating as “spirits” – and could be applied to any beverage with more than 20% alcohol regardless of the raw materials used.
 - The spirit now bearing the denomination “vodka” in the international market would properly be called “Czysta wodka” (clear spirit) in Polish. In the past this product has been made in Poland from raw materials other than cereals and potatoes – including sugar beet, molasses and fruits.
 - Polish Law has always permitted vodka to be made from any agricultural raw materials. Only in 1998 were restrictive rules introduced in relation to the GI “Polish vodka”: these require Polish vodka to be made from Polish cereals or potatoes.

In all the circumstance there is no tradition of vodka production in the EU that could ground a measure to now restrict the raw materials from which “vodka” can be made.

Fair competition

It has been argued that to permit vodka to be made from raw materials other than cereals or potatoes would amount to a distortion of competition; and would destabilise the market. The idea that the status quo could “destabilise the market” is unsustainable and the argument has no merit whatsoever.

- There is no restriction on raw materials at present and there is strong competition between different vodkas.
- The fact that some producers may use cheaper raw materials (eg beet molasses) is not a distortion of the market but a manifestation of competition. Denying producers access to cheap raw materials, on the other hand, would impose an artificial constraint of certain types of competition (analogous to the position noted by the Court in *Case C-376/98 Federal Republic of Germany v European Parliament and the Council of the European Union*)
- Denying producers the possibility of using more expensive raw materials – eg grapes – could not possibly distort competition.

A distortion of competition could only arise if subsidised alcohol (eg grape alcohol produced under the CAP wine regime) were to be allowed onto the vodka market. Since this is not permitted under the relevant EU Regulations – and proposals to permit it would be vigorously opposed – there is no prospect of this happening.

Proposing a measure that is calculated to eliminate a significant number of one's competitors; and seeking to justify it on grounds of fair competition displays a remarkable insouciance.

Preventing fraud

It is also argued that restricting the raw materials used to produce vodka is necessary in order to prevent a particular 'fraud' in which importers of neutral alcohol (which bears an import duty) dilute their product to below 80% abv and rename it "vodka" (which does not).

Accepting for the purposes of the argument that this fraud takes place, the fact is that introducing a restrictive list of raw materials for vodka production would not prevent it. Even if the diluted alcohol were no longer entitled to the denomination "vodka" it would nonetheless qualify as a "spirit drink" and would continue to benefit from the "zero-for-zero" tariff provisions.

The argument does, on the other hand, demonstrate quite clearly that the proposed restriction would act as a barrier to trade in "vodka" – and so re-enforces the concerns regarding compatibility with WTO rules.

Consumer protection

In the final analysis none of the above arguments could amount to a justification for denying 10% of EU production – and a significant number of producers in third countries – the use of the sales denomination "vodka".

Even were there to be an issue regarding the traditional specification of "vodka" (which is denied) this would turn on the fact that consumers were being misled as to the nature of the product. Consumer protection is, therefore, the sole material issue. In this regard we would state at the outset:

- a) That there is no issue of quality which turns on the raw materials used. There are high quality vodkas made from raw materials other than cereals and potatoes – and relatively poor quality vodkas made from cereals and potatoes. The raw materials are no guarantee of quality.
- b) That there are no issues of consumer health or safety which turn on the raw materials used. While recognising that there are public health issues relating to the abuse of alcohol we can state with confidence that there is no public health issue which is altered in any way as a result of using different agricultural raw materials.

The sole issue is, therefore, whether consumers expect "vodka" to be made from particular raw materials and would be misled to their detriment if it were to be produced from other raw materials. In this regard we can state that:

- It has always been possible to produce vodka from other raw materials throughout the EU and most of the World: even in those Member States now seeking a restrictive list of raw materials. Thus there would be no basis for such an expectation on the part of consumers.
- Consumer research does not reveal any such expectation. Research in different Member States⁵ show that:

⁵ Market research conducted in Spain, Sweden, Poland and the United Kingdom by Taylor Nelson Sofres plc in 2005

- When asked what vodka mainly tastes of NO vodka drinkers refer to the raw materials. The vast majority either don't know or refer to "nothing" or "alcohol" when describing the taste. The sole exception being Poland where the most common response is "bad".
- When asked for the three factors they consider important when choosing a vodka only 1% of vodka drinkers refer to "what it is made from" as being a relevant consideration.
- In most Member States, when asked what vodka is made from over two thirds of consumers do not know. The exception to this rule is Poland – where consumers generally refer to cereals and potatoes – but also to other raw materials (perhaps reflecting the wider historical usage of the word).
- One might add that in most Member States the vast majority of the vodka consumed in drunk in cocktails and mixed drinks – making any taste attributable to the vodka (let alone the raw materials) largely irrelevant.

In sum, therefore, there are no grounds for suggesting that consumers have any expectation with regard to the raw materials from which vodka is produced – and to the extent that they know what it is produced from they do not care. Given that only 1% of consumers consider "what it is made from" to be relevant to their choice of vodka the suggestion that consumers generally might be misled to their detriment cannot be sustained.

Moreover, even if there were a remote possibility of consumers being misled – this is addressed by the Commission's proposal that requires the raw materials to be indicated on the label. To the extent that this is necessary it would clearly be a more proportionate measure than the elimination of 10% of current EU vodka production.

Concluding remarks

The European Vodka alliance concludes that there is no possible justification for a restriction on the raw materials from which vodka can be produced. There is no tradition of producing "vodka" from particular raw materials – and the suggestion that consumers expect vodka to be made from particular raw materials has been disproved by market research.

In the absence of any such justification – and in particular in light of the evidence that consumers cannot discern, and are not concerned about, the raw materials from which vodka is produced – the proposed restriction would be an unwarranted intervention in the market and unlawful both in terms of EU Law and in terms of WTO rules.