



17 Kildare St.,
Dublin 2.
26th November 2021

Charlie McConalogue TD,
Minister for Agriculture, Food, and the Marine
Department of Agriculture, Food, and the Marine,
Agriculture House,
Kildare Street,
Dublin 2
D02 WK12

Dear Mr McConalogue,

As you will be aware from recent media reports, there is an ongoing attempt by the Irish Whiskey Association (IWA) and IBEC to register the term “Irish Whiskey” as a Certified Mark in the United States of America.

ISME queries why IBEC and the IWA are doing this, and why they have been allowed by Government to proceed with this application.

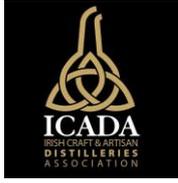
The IWA and IBEC have no statutory, regulatory or enforcement roles whatsoever with respect to Irish Whiskey or the Irish Whiskey industry. Irish Whiskey enjoys Geographical Indication (GI) protection; this status was granted by the European Union to the EU Member State Ireland.

The associated regulatory, compliance and enforcement management roles are properly delegated by EU Member State Ireland to the Department of Agriculture, Food and the Marine for management of the associated Technical File and Irish Whiskey labelling approval and regulation.

Irish Whiskey producers are GI-Verified for each stage of Irish whiskey production outlined in the Irish Whiskey Technical File. This verification process is administered for EU Member State Ireland by the Irish Revenue Commissioners. Each approved Irish Whiskey producer already pays an annual fee through the Irish Revenue Commissioners for their verification approval and certification renewal each year.

There is, and rightly so, just one global standard in existence for Irish Whiskey. This is the GI associated Technical File and Protection status. It is approved by the European Union, granted to EU Member State Ireland and administered and managed for EU Member State Ireland, by the Department of Agriculture and Revenue Commissioners of the Irish State.

ISME are incredulous that the Irish Government, the Department of Agriculture, and the Revenue Commissioners have allowed the situation to develop that a private commercial trade association such as the IWA, largely controlled and influenced by foreign multinationals, may imminently secure



sole intellectual-property or certification rights to the Irish Whiskey sector in the United States of America.

This unthinkable situation would potentially allow the Irish Whiskey Association to:

- Control which Irish Whiskey Brands may be sold in the United States.
- Charge a fee to these brands for annual licensing and auditing, which may prove too exorbitant for small Irish brands to pay.
- Dictate their own regulations and qualifications beyond those required for GI certification, and outside the Irish Government-approved regulations on labelling, production processes etc. to the detriment of non IWA members.
- Potentially endanger the hard-won GI status of Irish Whiskey on the basis that an unprotected status may easily become a lost status, due to poor control and management standards by the recognised and authorised protector, the Irish State.

ISME requests immediate action by the Irish Attorney General and the Ministers of Agriculture, Food and the Marine, Finance, Enterprise Trade and Employment and Foreign Affairs to instruct the Irish Whiskey Association and IBEC to withdraw their application to the US Authorities seeking to register Irish Whiskey as a Certified Mark.

Should this IWA application achieve approval, then a most serious situation could ensue. We believe an independent, commercial trade association, which represents less than 50% of all Irish whiskey brands, will have formed an effective oligopoly. This would potentially encourage the exercise of cartel-like power over other smaller Irish Whiskey brands and non-IWA member competitors attempting to sell into the Irish Whiskey sector's largest international market in the USA.

This is wrong. This application must be therefore stopped immediately.

In all the circumstances outlined above, and in view of the existing GI-classification enjoyed by Irish Whiskey, we do not believe that the IWA's attempt to introduce a certification requirement for the US market meets the lawful threshold for standardisation set out for trade associations in the CCPC *"Notice on Activities of Trade Associations and Compliance with Competition Law."*¹ We have therefore referred a complaint on the matter to the CCPC.

ISME requests that:

- The Minister of Agriculture, Food and the Marine write at once to the IWA instructing them to withdraw their application, pointing out firmly that the IWA has NO statutory role or rights whatsoever in protecting, controlling or enforcing standards in the Irish Whiskey Sector.
- Write to the United States Patent and Trademarks Office (USPTO) to inform them that the Irish Whiskey Association has NO statutory role or rights in protecting, controlling or enforcing

¹ <https://www.ccpc.ie/business/wp-content/uploads/sites/3/2017/05/N-09-002-Notice-on-Activities-of-Trade-Associations-and-Compliance-with-Competition-Law.pdf>



standards in the Irish Whiskey Sector, and that responsibility and rights in this regard rest solely with the EU and Irish State.

- While we acknowledge the efforts of members of the IWA in consolidating the Irish Whiskey Technical File, references to independent commercial trade associations such as the IWA and IBEC in that File are inappropriate, and must be removed forthwith from the Irish Whiskey Technical File associated with the Geographical Indication Protection of Irish Whiskey.

Stuart McNamara
ICADA Chair
ISME

CC Taoiseach Micheál Martin TD
Tánaiste Leo Varadkar TD, DE TE
Minister Simon Coveney DFA
Minister Pascal Donoghue DF IN
Martin Fraser, Secretary General, Department of the Taoiseach
Dr Or laigh Quinn, Secretary General, DE TE
Joseph Hackett, Secretary General, DFA
John Hogan, Secretary General, DF IN