

## Group Briefing

### December 2018

# Impact of Public Health (Alcohol) Act 2018 on Sport Sponsorship in Ireland

**Ireland Client Service Law Firm of the Year 2018**  
Chambers Europe Awards

**Ireland Law Firm of the Year 2018**  
International Financial Law Review (IFLR)  
Europe Awards

**Advised on Equity Deal of the Year 2018 – Allied Irish Banks IPO**  
International Financial Law Review (IFLR)  
Europe Awards

**Ireland Law Firm of the Year 2018**  
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**Ireland Law Firm of the Year 2017**  
Chambers Europe Awards

**Best Firm in Ireland 2018, 2017 & 2016**  
Europe Women in Business Law Awards

**Best National Firm for Women in Business Law 2018, 2017 & 2016**  
Europe Women in Business Law Awards

**Best National Firm Mentoring Programme 2018, 2017 & 2016**  
Europe Women in Business Law Awards

**Best National Firm for Minority Women Lawyers 2018**  
Europe Women in Business Law Awards

This document contains a general summary of developments and is not a complete or definitive statement of the law. Specific legal advice should be obtained where appropriate.

Sponsorship by alcohol brands was worth an estimated €30 million to Irish sports in 2014 and it is likely that this figure has since increased.

When asked, Irish adults associated Guinness, Heineken and Carlsberg with the four most popular sports in Ireland. More recently, Guinness and Heineken were recognised as brands that people immediately associated with sponsorship of sport in Ireland over the summer of 2018. The Irish sponsorship market was predicted to increase by 12% to €201 million in 2018 but the introduction of the Public Health (Alcohol) Act 2018 (the “Act”) is likely to have a significant effect on their figures.

The Act, signed into law on 17 October 2018, provides that the Minister for Health has the authority to regulate the advertising, marketing and sponsorship of alcohol products and brands. The Act will have a material impact on the sponsorship of sports events in Ireland. Delayed commencement for certain sections of the Act will allow for a phased introduction of alcohol advertising restrictions during sporting events and removal of alcohol sponsorship for sporting venues. These sections will commence on 12 November 2021.

The Act will prohibit the advertising of

an alcohol product in or on a sports area during a sports event. A “sports area” is defined as an area, whether indoors or outdoors, where participants participate in sporting activities or competitors compete in sporting competitions, and includes a playing pitch or area, a swimming pool, an athletics track, a dog or horse racing track or a motor racing track. Sponsorship of sports events by alcohol companies is also prohibited where the majority of those taking part are children, or the event is primarily aimed at children. Arguably, therefore, alcohol sponsorship of senior rugby, football, GAA and similar tournaments is not prohibited, however the branding will not be allowed within the ‘sports area’ during the event nor on television or radio during the watershed hours described below.

The Act will also introduce a broadcast watershed, amounting to a ban on alcohol advertising around television programmes (from 3am to 9pm) and radio programmes (on a week day between the hours of midnight and 10am or 3pm and midnight) during certain hours. The marketing and advertising of alcohol in print media

(both domestic and foreign publications) is also restricted in relation to volume and type of publication under the Act. A commencement date has not yet been set for these sections of the Act. The Act is similar in many respects to the French *Loi Evin* which imposed a complete ban on alcohol sponsorship of sporting events in France.

“Advertising” is afforded a broad definition in the Act and includes any form of communication with the aim of, or direct or indirect effect of, promoting an alcohol product, including:

- a. a statement of the name of a manufacturer or importer of an alcohol product;
- b. the name of any brand of alcohol product;
- c. a statement of any trade description or designation, or a display or other publication of a trademark, emblem, marketing image or logo which may reasonably be regarded as a recommendation of the product to the public; and
- d. a statement of the properties of the product on a label, container, wrapper or package used for the product or in a leaflet, circular, pamphlet or brochure issued to the public or given to a purchaser of the product.

Under the Act, advertisements, when they are allowed, cannot contain anything other than the new mandatory health warnings and the details of a website, to be established and maintained by the HSE, providing public health information in relation to alcohol consumption as well as “*any or all*” of the following information:

- a. an image of, or reference to, one or more alcohol products (whether of the same or different kinds) either in a container or containers (which may be opened or unopened) or in a glass or glasses;
- b. details of whether the product concerned is intended to be diluted with a non-alcoholic beverage and where it is intended to so be diluted,

- c. an image of, or reference to, the country and region of origin of the product concerned;
- d. an image of, or reference to, the method of production of the product concerned;
- e. an image of, or reference to, the premises where the alcohol product concerned was manufactured;
- f. the price of the product concerned;
- g. a brand name or variant thereof, trade mark and brand emblem of the product concerned;
- h. a corporate name and corporate emblem of the product concerned;
- i. an objective description of the flavour, colour and smell of the product concerned;
- j. the name and address of the manufacturer (or his or her agent) of the product concerned;
- k. the alcoholic strength by volume of the product concerned;
- l. the quantity in grams of alcohol contained in the product concerned; and
- m. the energy value expressed in kilojoules and kilocalories of the product concerned.

In 2013, 49% of members of the Vintners Federation of Ireland (VFI) were recorded as sponsoring local sports teams and 10% of all horse racing sponsorship came from alcohol brands. In the same year sponsorship by alcohol brands was worth over €9 million to the Irish Rugby Football Union (IRFU) and made up “a significant portion” of the Football Association of Ireland’s (FAI) total €6 million sponsorship pool. Major sporting events such as the Guinness Pro 14 Series and the Heineken Champions Cup may now have to rethink their sponsorship strategies in Ireland to comply with the new legislation.

This legislation has come as no surprise to the horse racing industry in Ireland. Unibet took over from Hennessy as the title sponsors of the former Hennessy Irish Gold Cup in 2017. Similarly the Ryanair Gold Cup has replaced the Powers Gold Cup at Fairyhouse since 2015. The legislation will force brands to become more creative. Guinness has continued to revitalise its ‘Made of More’ activation campaign over the last six years to promote their brand without having direct sponsorship on or during sporting events. In June 2018, Guinness launched their ‘Bound Together’ campaign in association with the GAA to celebrate the Irish GAA community with integrated media campaigns.

Pre-emption of this legislation may have

#### KEY POINTS

- i. Delayed commencement of the Act will allow for a phased introduction of alcohol advertising restrictions during sports events and removal of alcohol sponsorship for sporting venues;
- ii. The Act will prohibit the advertising of an alcohol product in or on a sports area during a sports event;
- iii. Sponsorship of sports events by alcohol companies is also prohibited where the majority of those taking part are children, or the event is primarily aimed at children;
- iv. The Act will introduce a broadcast watershed i.e. ban on advertising around television and radio programmes during daytime hours;
- v. “Advertising” includes any form of communication with the aim of, or direct or indirect effect of, promoting an alcohol product;
- vi. It is an offence to (i) manufacture for sale, (ii) import for sale, or (iii) sell in the State, an article of clothing intended to be worn by a child, where the article promotes alcohol consumption or bears the name of an alcohol product.

been the catalyst for new sponsorship deals seeking to fill the void to be left by alcohol brands exiting their sponsorship posts. Airlines, financial institutions, sports brands, insurance brands, technology companies and supermarkets make up 80% of the sponsors of the four most popular sports in Ireland: Gaelic football, hurling, rugby and soccer. This new legislation will likely put an end to 'legacy' sponsorships and see more partnerships.

The restriction imposed on advertising during events does not apply to a person in or on a sports area from

wearing clothing containing the name, trademark or logo of any brand of alcohol product. Ambush marketing aside, this allows alcohol brands to be kit sponsors for sports teams. An important consideration, however, is whether that piece of kit would be worn by a child, as it is an offence from 12 November 2018 under the Act to (i) manufacture for sale, (ii) import for sale, or (iii) sell in the State, an article of clothing intended to be worn by a child, where the article promotes alcohol consumption or bears the name of an alcohol product or the trade mark, emblem, marketing image or logo, by reference to which an alcohol

product is marketed or sold. As such, what may be perceived as a loophole for alcohol sponsorship is closed by the risk of the kit unintentionally being sold to a child. It is likely that kit sponsorship is more appropriately seen as to allow for foreign teams to play and fans to travel to Ireland without running the risk of falling foul of the Act just by showing up at the event.

The impact of the Act on sponsorship levels of sports in Ireland remains to be seen. Sponsorship may move towards the music, arts and entertainment industry?

## KEY CONTACTS

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