



Submission to Food Standards Australia New Zealand - Application A1256

16 November 2022

Alcohol Healthwatch is an independent charitable trust working to reduce alcohol-related harm. We are contracted by Te Whatu Ora / HealthNZ to provide a range of regional and national health promotion services. These include: providing evidence-based information and advice on policy and planning matters; coordinating networks and projects to address alcohol-related harms, such as alcohol-related injury and fetal alcohol spectrum disorder; and coordinating or otherwise supporting community action projects.

Thank you for the opportunity to provide feedback on the application to amend the Australia New Zealand Food Standards Code: Printing requirements for corrugated cardboard outer packaging.

If you have any questions on the comments we have included in our submission, please contact:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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Introduction

1. On 31 July 2020, the Australia New Zealand Food Standards Code (the Code) was amended to include new requirements for pregnancy warning labelling on packaged alcoholic beverages, developed under Proposal P1050 – Pregnancy warning labels on alcoholic beverages. This mandate followed decades of calls for effective labelling by professionals and families with lived experience of Fetal Alcohol Spectrum Disorder (FASD) dedicated to preventing the lifelong harms from prenatal alcohol exposure.
2. Decisions regarding the mandated label were based on a conservative estimate of at least 1800 babies born in Aotearoa New Zealand each year with Fetal Alcohol Spectrum Disorder (FASD). The economic health-related costs were estimated at approximately \$95,977.55 for each person living with FASD over their lifetime.¹ However, this total cost estimate did not take into account the social, emotional, health and economic impact on families/caregivers and costs associated with the wider secondary harms of FASD. Many of these lifelong costs have never been quantified.
3. Research has estimated however that the lost productivity costs associated with FASD in New Zealand range from \$49 million to \$200 million per year (2013 costs).² In addition, it is estimated that 10-36% of the prison population has FASD³, with the annual cost to house a prisoner estimated at approximately \$150,000.⁴
4. We strongly maintain that the costs associated with FASD continue to greatly outweigh any increased costs of printing the three-colour Alcohol Pregnancy Warning Label on Corrugated Cardboard Cartons (CCCs). We note that the proposed amendment to the label is believed to bring about cost savings to the alcohol industry – as the larger black label is cheaper than the three-colour label. These industry savings could be redirected to increase alcohol marketing and public relations activities, resulting in further harm to the population.

Maintain best practice requirements for labelling, with no compromise

5. FASD is a lifelong disability. Persons living with FASD and their families/caregivers continue to struggle on a daily basis without funded support in Aotearoa New Zealand.
6. The 2021 Report of the Disability Rights Commissioner and Children's Commissioner to the Prime Minister noted the following⁵:

“In our view, those living with FASD in New Zealand may experience an egregious breach of their human rights under international and domestic laws through being excluded from obtaining sufficient support.”
7. Alcohol Healthwatch believes that the seriousness of FASD means that there must be no compromise in the implementation of the best practice pregnancy health warning label on all alcohol products.

8. The mandated label has already been recognised as an important component of a comprehensive approach to preventing FASD and supporting healthy pregnancies. As stated in the FSANZ report to Application A1256, the design of the mandated label was underpinned by scientific and consumer research. FSANZ notes that for a warning label to be effective, it has to be noticed. Both the prescribed colour and contrast features are important design components of the mandated label.
9. Alcohol Healthwatch is very concerned that the proposed amendments in relation to labelling on CCC, while making the warning label bigger, will reduce the visibility and therefore effectiveness of the mandated label. We believe that the proposed changes significantly weaken the mandated label, and while the industry states that they're not trying to challenge the original FSANZ ruling, their suggested solution lacks colour, which is vitally important for an effective warning label.
10. Alcohol Healthwatch is concerned that this amendment essentially proposes to trade colour for size, without a clear and compelling scientific rationale for this. We believe that any trade-offs between legibility, attention and warning recognition need be made clearer. Whilst 'bigger is generally better' for warning labels, size needs to be considered in relation to other displayed information on the package. It is important to recognise that this label is likely to be found on the largest alcohol packages sold – hence, represents a small area of the total package. Visibility therefore becomes of paramount importance.
11. Alcohol Healthwatch is concerned that the lack of red colour in the proposed label may result in reduced noticeability, especially if the text colour is the same colour as the rest of the text on the packaging. Consumers recognise red as a colour to indicate warning.
12. Alcohol Healthwatch recommends that all features of the best practice label must be adhered to and that increasing the margins to mitigate the blurring issues is the only way to achieve this. This results in alcohol producers paying the increased costs of printing, which they are free to pass on to the consumer.

Proposed labelling will affect a substantial minority of products

13. It is estimated that around 9.5% of wine, 12.5% of RTDs and 8% of beer is in a CCC at retail point of sale.⁶ The Brewers Association note that the volume of products packed in CCCs may be as low as 15-20% of some products to over 70% for other products.⁶
14. Alcohol Healthwatch is strongly concerned that there have been no independent efforts undertaken to verify these estimated figures.
15. There is also insufficient information provided in the application about the breakdown of these proportions by place of purchase – i.e. supermarkets, grocery stores, bottle stores, online only retailers, etc. There is also no indication as to their prevalence of use specifically in Aotearoa New Zealand or Australia. This has significant implications for being able to examine the equity implications of the application in the context of Aotearoa New Zealand.

16. We strongly disagree with the statement that “The impact and scope of the proposed amendment is therefore limited to a very small proportion of packaging used for alcoholic beverages.” We believe that 10% or more of product does not constitute a very small proportion of the large alcohol market.
17. Around 10% of wines and RTDs are believed to use CCC. In Aotearoa New Zealand, both wine and RTDs have special appeal to women.
18. RTD consumption in New Zealand has increased over time and is especially prevalent among women. Research from 2013 to 2016 showed that women in Aotearoa New Zealand aged between 18-44 years were 40% more likely to drink Ready To Drinks (RTDs) than men.⁷
19. In relation to wine, 40% of women in Aotearoa New Zealand between 18-24 years reported consuming wine, which increases with age.⁷
20. It is concerning that the products most preferred by women are likely to be more impacted by the proposed weakening of the label.

No guarantee that the prevalence of corrugated cardboard use won't increase over time

21. Alcohol Healthwatch strongly disagrees that “While it is possible producers that are currently using non-CC outer packages could switch to a CC outer package to use the alternative pregnancy warning mark, FSANZ considers this is unlikely to occur”.
22. There is no accompanying and compelling evidence base that supports the perception that the prevalence of CCC use in the industry will not increase over time. Similarly, there are no measures put in place should the industry decide to move towards more CCC packaging and hence more products using the amended label.
23. The application for change notes that aside from printing errors, sustainability and cost are the main reasons for using CCCs packing.
24. The benefits of CCCs are noted in the FSANZ report “The strength, durability, protection and light weight attributes, and cheaper cost, makes the CC irreplaceable as outer packaging for heavy and fragile products”.
25. In addition to the points noted by FSANZ, we believe that other factors may result in increased use. These are described below.

a) Sustainability as a driver of purchase

26. It is known that consumers are driven more and more by sustainability and may be more inclined to purchase products based on sustainability.⁸ As sustainability becomes a key driver for purchase, there may be a move towards greater use of CCC packaging.

27. It is noted by ISWR Drinks Market Analysis that there is a growing importance of sustainability across all fronts. It is cited:⁹

“Across almost every category, sustainability has become an important consideration within beer, wine and spirits, and is having an impact on everything from production methods to ingredient sourcing. And while environmental considerations aren’t new to the industry, there’s never been a time when they have been quite as important.”

28. The important role of sustainability in driving decisions regarding packaging is only likely to become stronger. Whilst, at present, the printing finish on CCC is a lower quality than other for other packaging, this could change over time giving rise to an increase in the use of CCC packaging.

b) Growth in online alcohol sales

29. It is noted that purchases of 6 or more bottles of wine are likely to be packed in CCC packaging.⁶ For online deliveries, subscription services and wine clubs, it is stated that it's even more likely these will be packaged in CCC packaging at the time they arrive to the consumer.

30. The significant growth of online alcohol sales in New Zealand has clear implications regarding the prevalence of CCC packaging.

31. Since the pandemic commenced in April 2020, there has been a significant growth in applications for online alcohol retailers in New Zealand. For example, New Zealand’s largest city (Auckland) saw a growth in online-only alcohol retailers (i.e. remote sellers) from 136 in December 2019 to 200 in October 2021 (a 47% increase).¹⁰

32. Similarly, an increasing proportion of New Zealanders are reporting that they are buying alcohol online. In the April 2020 lockdown, 17% of past 4-week drinkers reported buying alcohol online, significantly increasing to 29% during the August 2021 lockdown. One half of those buying alcohol online in the August 2021 lockdown reported doing so for the first time.¹¹

33. By demographic group, increases in buying online are shown below:¹¹

- Māori (38% in August 2021), higher than 24% in April 2020;
- NZ European/Other (28% in August 2021), higher than 16% in April 2020;
- 18-24 years old (35% in August 2021), higher than 17% in April 2020;
- 25-49 years old (35% in August 2021), higher than 20% in April 2020; and
- 50-64 years old (20% in August 2021), higher than 9% in April 2020.

34. Māori drinkers reported significantly higher levels of online purchases for the first time (27%) when compared to non-Māori drinkers (14% among Pacific peoples, 13% among NZ European/Other).¹¹

c) Industry movement towards large package sizes

35. The Brewers Association application notes (page 12) that “virtually all 16, 18, 24 and 30 unit packets of all alcohol is CCCs”, and 12 packs “may or may not be packed in CCCs”.⁶
36. This means that packages with the greatest number of standard drinks would be less likely to have the mandated three-colour warning label.
37. Our own research has shown that many of the cheapest beers (per standard drink) were found in 24-packs. This is concerning given the large quantity of alcohol sold at a low price. In New Zealand, research also finds that Pasifika drinkers are more likely to buy cheap alcohol, followed by Māori drinkers.¹² By drinking pattern, heavy drinkers and more frequent drinkers, including young heavy drinkers, have been found to purchase a greater proportion of cheap alcohol.¹³ Population-wide alcohol harm reduction approaches, such as effective labelling, continue to be important to reduce the disproportionate harm experienced by these groups.
38. Nielsen in the United States suggest that “Large-format alcohol packages are growing in popularity”.¹⁴ Data from Nielsen, cited in Forbes, showed that in the 2020 lockdown consumers were trading up to larger pack sizes, demonstrated by the average order sizes among mail order retailers increasing up by 20% and larger pack sizes were up by 53%.¹⁵
39. In 2020, Nielsen stated that¹⁴:
- For wine and spirits in particular, there has been unprecedented demand for larger pack sizes far beyond the norm. Comparing the year ended Feb. 29 to the seven-week COVID-19-impacted period ended April 18, sales growth in percentage points was nearly 10X higher for boxed wine and 23X higher for 1.75-liter spirits. The beer category has also seen consumers trading up to larger pack sizes, with double-digit sales growth among 30-packs (+21%) and 24-packs (+20%) in the week ended April 18.
40. The lingering influence of the pandemic is believed to impact packaging decision-making in the years to come. This means that there may be an increased likelihood of larger format packaging used by the industry, and hence, a greater use of CCC and prevalence of a weaker amended label.

Transition period

41. We are disappointed that this application is seeking further delays to implementation, following a very generous three-year transition period. It also appears that this issue was previously raised by some submitters during consultation in 2019.
42. Whilst we do not support the additional six-month extension and would prefer all labels are compliant by August 1, 2023, we would also not support any further extension to the proposed transition period for CCCs (i.e. no implementation date after 1 February 2024).

Recommendation

43. For the reasons outlined in this submission, we are recommending the 3-colour Alcohol Pregnancy Warning Label to remain, with increased size and margins to mitigate the printing errors. The industry should invest in higher quality printing in order to comply with the requirements.

References

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