

SUBMISSION TO FOOD STANDARDS AUSTRALIA NEW ZEALAND ON PROPOSAL P1025 – CODE REVISION

1. INTRODUCTION

- 1.1. Winemakers Federation of Australia welcomes the opportunity to provide comments on the draft food regulatory measure (**Draft Code**) prepared under Proposal P1025 to reform the Australia New Zealand Food Standards Code (**P1025**).
- 1.2. Winemakers Federation of Australia (**WFA**) is peak national body for Australia's winemakers and plays a significant role in the development of policy that directly and indirectly benefits the wine sector.
- 1.3. WFA consults widely through its membership base and through the Wine Industry Technical Advisory Committee (WITAC) provides advice to the WFA Board on a range of technical and regulatory issues. WFA prepares applications to and comments on proposals from FSANZ on a regular basis.
- 1.4. WFA works to create an environment for wine businesses to be sustainable and viable and to lift the profile of Australian wine. a clear and transparent regulatory framework is vital for an efficient industry.

2. GENERAL COMMENTS

- 2.1. The Draft Code introduces a new range of complexity and is difficult to read. Despite the objective to modernise the Code by presenting it as a single, unified instrument which more clearly imposes obligations on operators, it fails to improve the ability of industry to understand and therefore comply with the Code's obligations.
- 2.2. The code appears to be written by lawyers, for lawyers, for the purpose of legal proceedings on the basis of the offence provisions, rather than to improve

readability and ease of understanding. From a user's perspective, it is critical that basic concepts should be clear, consistent and as concise as possible.

3. **SPECIFIC COMMENTS**

3.1. S19.04 Maximum levels of non-metal contaminants.

- a) WFA have been arguing for some time that levels of Methanol for wine should be expressed in terms of g/l and not g/litre of ethanol.
- b) **Limits based** on a per unit volume of wine is a more effective tool than a limit per unit volume of ethanol in the wine and will not mean that lower alcohol products are discriminated against.

3.2. *Alcohol content AND standard drinks.*

- a) The general labelling provision DRM1.33 lists the requirements for a food product containing alcohol in sub-clause (x) as being 'a statement of the alcohol content' **or** 'a statement of the number of standard drinks in the product.'
- b) Given that both items are mandatory, we submit that the conjunction 'and' should replace 'or' for clarity.

4. **MANDATORY DECLARATIONS**

Definition of 'present'

- 4.1. DRM 1.57 concerns the requirement to include a labelling declaration where certain foods are 'present' in the food product. Although subsection 2 notes that the food may be present as either an ingredient, a substance used as a food additive or a substance used as a processing aid, we recommend that the term 'present' is defined in order to clarify to users when a declaration is necessary. The purpose of the provision is to alert consumers who may have an allergy or sensitivity to a particular food. In operation however, it is severely restricting the range of products from which an allergenic individual can choose from for, in many cases, no

meaningful reason. For example, in the absence of any definition for what constitutes 'present' in the Code currently, wine producers are forced to label the presence of allergens for all wines produced using milk or egg products regardless of whether the allergens are actually present in the final product.. Not only does this impose cost on producers through unnecessary label requirements, it also limits the choice of products available to consumers with allergies.

- 4.2. In order to address this issue, both the European Commission and the Canadian Government have designed their allergen labelling provisions in such a way as to establish a mechanism for determining whether allergens are "present" in the final product. Health Canada developed guidelines to establish acceptable processing practices that are shown to avoid the presence of allergens in the final product (wine).
- 4.3. WFA supports this approach as providing a practical mechanism for producers to determine whether or not they need to make an allergen declaration on their label.
- 4.4. WFA also supports the establishment of a limit of detection beyond which allergens may be considered "not present" for the purposes of the labelling requirement. The OIV resolution *Revision of the Limit of Detection and Limit of Quantification Related to Potentially Allergenic Residues of Fining Agent Proteins in Wine* (OIV-Oeno 502-2012) establishes limits of detection for egg and milk products used in wine production of 0.25 mg/L. The European labelling standard adopts the OIV limit of detection and prevents producers from stating that their product 'may contain' an allergenic substance for this purpose. WFA believes that a limit of detection (or at least greater clarity around detectability in the food product for the purposes of determining 'presence') should be considered as a priority by the Code Review.

5. **GENERAL LABELLING OF ALCOHOLIC BEVERAGES**

Standard Drinks

- 5.1. DRM 2.64 specifies that alcoholic beverages must contain a standard drinks statement. Standard drink is defined as “the amount of a beverage which contains 10 grams of ethanol when measured at 20°C.” Further, the statement must be accurate to: for a package containing 10 or less standard drinks—the first decimal place; or (b) for a package containing more than 10 standard drinks—the nearest whole number of standard drinks.
- 5.2. For wine and fruit wine (including sparkling forms), and wine products and fruit or vegetable wine products containing more than 6.5% alcohol by volume the alcohol statement must be accurate within +/- 1.5% alcohol by volume.
- 5.3. However, from the wording in DRM 2.64, is not clear from that the number of standard drinks should be calculated on the *labelled* alcohol content

6. PRODUCT SPECIFIC STANDARDS

Wine and Wine Product

- 6.1. The note to the Draft standard for wine and wine products correctly refers the reader to the *Wine Australia Corporation Act 1980* :

Note: For Australia, the *Wine Australia Corporation Act 1980* (Cth) is also relevant to the regulation of wine and geographical indications in relation to wine.

However, more accurately the note should detail that the Act establishes regulations for vintage, varietal and geographic indication labelling requirements for wine and wine products and this Act **needs to be read in conjunction** with the Food Standards Code.

- 6.2. The current Standard 2.7.4 provides the definition of ‘wine’ and ‘wine product’ before detailing the limited list of foods which may be added to wine during production. The proposed standard includes a definition of ‘wine product’ (which is to apply across the Code) before stating that “a food that is sold on the basis that it is ‘wine’ must consist of wine, or wine with [the foods permitted to be added *during production*]. The section concludes with a definition of ‘wine’ which is to apply for

the purposes of the section. The definition of wine for the purposes of the Code is clarified in the footnote as being 'a food that may be sold as wine under this section.'

- 6.3. The proposed amendments are confusing, as they introduce a new layer of complexity to what is currently a very straightforward standard. Given that the purpose of the Code Review is to reduce ambiguity and enhance the compliance experience of users, we recommend that this provision should be reviewed for clarity.

7. **CONCLUSION**

- 7.1. WFA believes that the Draft code needs to be reviewed with the objective of assisting industry to comply with the Code rather than for lawyers to prosecute under the Code. WFA would welcome an opportunity to participate further in the Code Review process and would welcome further discussion on the issues we have raised. [REDACTED]

Yours sincerely

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