

Submission to Proposal P1050 – Pregnancy warning labels on alcoholic beverages

Accolade Wines

A. Name and contact details (position, address, telephone number, and email address):

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B. For organisations, the level at which the submission was authorised:

C. Summary (optional but recommended if the submission is lengthy):

Accolade Wines is one of Australia and New Zealand's largest winemakers, producing wine in South Australia, Western Australia, Tasmania, Victoria and New Zealand. Accolade exports wine to over 140 countries.

Accolade Wines has had the benefit of reviewing early drafts of submissions from Alcohol Beverages Australia (ABA) and Australian Grape and Wine on Proposal P1050. We are supportive of these submissions, particularly with regards to their points on the evidence base used in arriving at the proposed labelling scheme under P1050. We do have some supplementary points to raise from our own experience and perspective, which are summarised in this section.

As a responsible producer, Accolade Wines is supportive of efforts to reduce the rates of FASD. Through our representation on the board of the National Wine Foundation, we have supported the DrinkWise Australia FASD Awareness Program in concert with the Australian Government.

Accolade supports pregnancy warnings on containers and voluntarily adopted the *DrinkWise* (for our Australian product range) and *Cheers* (for New Zealand product range) pregnancy warning label schemes after they were developed. We believe these initiatives have been largely successful in raising awareness of the guidelines on alcohol consumption for pregnant women. The fact that 98.8% of pregnant women in Australia either abstain from drinking alcohol or decrease their consumption indicates a high level of awareness of the Australian government's advice set out in the *Australian Guidelines to Reduce Health Risks from Drinking Alcohol* that for women who are pregnant or planning a pregnancy, not drinking is the safest option.

We understand that FSANZ is responding to the Ministerial Food Forum request to consider mandatory pregnancy warning labelling expeditiously. Having said that, we note that the proposal presented in the P1050 Call for Submissions (CFS) is an example of "Explicit Government Regulation" as set out in *the Australian Government Guide to Regulation*¹.

¹ Page 29, The Australian Government Guide to Regulation,
https://www.pmc.gov.au/sites/default/files/publications/Australian_Government_Guide_to_Regulation.pdf

However, as per this guide, other less burdensome regulatory options could be considered while still maintaining a mandatory system, including “Co-Regulation” and “Quasi-Regulation”.²

Despite Accolade's size, Accolade Wines was not invited by FSANZ to participate in the consultations held in June/July on the proposed options. We believe the policy development process would have been better served by broader engagement during this period as well as a longer period for submissions following the release of the CFS. Fifteen working days does not allow a broad cross section of the wine industry to consider fully a 98 page document.

Accolade Wines markets more than 600 SKUs in Australia and New Zealand. With that in mind, if we accept even the lowest cost scenario modelled in the CFS for P1050, moving to the proposed scheme would cost Accolade Wines \$2.5m. Under the worst case modelled in the CFS, the cost to Accolade would be \$4.5m.

It is clear that businesses like Accolade that have acted responsibly by voluntarily adopting the DrinkWise and Cheers schemes will be disproportionately disadvantaged by having to redesign labels again to move from incorporating the existing voluntary schemes to the proposed mandatory scheme. Furthermore, the impact will be even more keenly felt for those producers (like Accolade) with a large offering of SKUs. Making the existing voluntary scheme mandatory instead would only create costs for those producers who have not adopted it.

Accolade's view is that the CFS has not demonstrated sufficient evidence that the cost on industry and consumers of the proposed mandatory scheme is justified by the evidence base or examples of mandatory warning labels elsewhere. As noted in the CFS, “there was not strong evidence to suggest that where warning labels have been mandated there has been an impact on levels of consumption”. We concur with the view expressed in Australian Grape and Wine's submission that “FSANZ and other policy makers should be clear-eyed in their expectations about the likely behavioural changes that could arise as a result of such a label change, and they must also balance this against the costs”.

With that in mind we consider it would be preferable to make the existing DrinkWise scheme compulsory, or at the very least to bring the mandatory scheme closer in line with it.

Comments to specified sections of P1050 Call for Submissions (CFS) report:

D. Literature review on the effectiveness of warning labels (section 3.1.1 of CFS)

As per the ABA and Australian Wine and Grape submissions, it is regrettable that the literature review lacks sufficient evidence that has been drawn from studies relating directly to pregnancy warning labels. Instead, the literature review has been based on varying subject matters such as general stimuli and cancer warning labels. Each of these different labels and warnings would elicit a different response from the consumer and so are not comparable. Rather than drawing comparisons between pregnancy warnings and warning labels for other conditions, it would have been more appropriate for the literature review to highlight the fact there was a lack of evidence to support elements of the proposed pregnancy warning label.

² Page 28, The Australian Government Guide to Regulation,
https://www.pmc.gov.au/sites/default/files/publications/Australian_Government_Guide_to_Regulation.pdf

E. Consumer testing of warning statements (section 3.1.2)

We share the view made clear by ABA and Australian Wine and Grape that the use of the term “warning statement” is outside the scope of the mandate given to FSANZ by the ministerial council. It was therefore disappointing that the consumer testing included the wording “warning statement” instead of “pregnancy warning” which would have been consistent with the mandate.

As an adopter of the existing Drinkwise and Cheers schemes, we believe that these have a high level of recognition within the consumer base. It is of concern that the existing schemes were not amongst the options put forward as part of the consumer testing process.

We believe that rather than testing each element (ie. the pictogram, the text) of the warning label individually, the consumer testing should have sought reactions from test subjects of potential warning labels in their entirety. Given this is what the consumer will see, the response of the label in its entirety is what is of relevance, not the response to each element in isolation.

Given the above, we share the overall concerns expressed by ABA and Australian Grape and Wine about the methodology utilised in the consumer testing, which ultimately undermines confidence in its results.

F. Pictogram (section 3.2.2.2)

Accolade Wines supports the use of the pictogram, having voluntarily incorporated it into our packaging for several years. Its global recognition assists with minimising changes to labels for our Australian and New Zealand products going to export markets.

We have concerns about mandating the use of red, and would prefer the use of a non-specified contrasting colour. The CFS does not address the scenario in which a label is predominantly red, in which case the red strikethrough and circle design element would not stand out as desired. Furthermore, the cost of labels is directly related to the number of colours used on them. Mandating the use of a specific colour (in this case red) would significantly increase the cost of labels that do not already incorporate that colour and we do not believe that the CFS presents sufficient evidence that would justify this cost.

G. Warning statement (section 3.2.2.3)

As noted in the CFS, the Australian government’s advice in the *Australian Guidelines to Reduce Health Risks from Drinking Alcohol* is that for women who are pregnant or planning a pregnancy, not drinking is the safest option.

We therefore do not understand the statement on page 25 of the CFS that “it is clear from the available evidence *It’s safest not to drink while pregnant* statement [sic] does not convey government advice as well as the other statements tested.” This is *precisely* the government’s advice as expressed in the guidelines and on official government websites. This advice had been arrived at to reflect the available evidence while minimising the unintended consequences for women who may have consumed alcohol in the early stages of pregnancy without realising they were pregnant. The CFS and proposed warning label scheme should not resile from this advice.

Taking that into account, Accolade Wines is in favour of retaining the existing Drinkwise statement on labels “It is safest not to drink while pregnant” as this is unequivocally the Australian Government’s advice.

H. Design labelling elements (section 3.2.2.4)

We are not convinced that the use of signal words is necessary. Accolade Wine agrees with ABA and Australian Grape and Wine that the use of the signal words “HEALTH WARNING” exceeds the mandate provided to FSANZ by the Ministerial Forum on Food Regulation. We note that there was insufficient evidence within the literature review to support the use of the term “HEALTH WARNING” on the proposed label.

If, despite the above, FSANZ persists with including signal words, we are strongly of the view that the signal words should be “PREGNANCY WARNING” as it is intended as a warning related to pregnancies, rather than general health. “PREGNANCY WARNING” would have the obvious benefit of drawing the attention of the desired audience (ie. pregnant women) to the information more than the more generic “HEALTH WARNING” would. It is regrettable that the market research did not test for variations in regards to the signal words, and that subsequently the evidence gap in relation to signal words was not addressed.

We note the proposal to separate the pregnancy warning information within a border in the way proposed in the CFS risks distracting consumers from the other important health-related information conveyed on labels, including ABV, number of standard drinks and allergen information.

In addition to decreasing the impact of other mandatory health-related information on packaging, the size of the box containing the pregnancy warning label proposed in the P1050 CFS risks reducing the space available for non-mandatory health information, including *drink responsibly* messages. It would be unfortunate if an unintended consequence of the mandatory pregnancy warning scheme was producers having to reduce the space for other health messages or having to eliminate them altogether.

As per our comments under (F) above, we oppose mandating the use of red instead of a contrasting colour.

I. Summary of proposed pregnancy warning label design (section 3.2.2.5)

Refer to comments under (H) above.

J. Beverages to carry the pregnancy warning label (section 3.2.3)

K. Application to different types of sales (section 3.2.4)

L. Application to different types of packages (section 3.2.5)

We respectfully disagree with the proposal to differentiate the size requirements for warning labels on containers above 750mL up to 1000mL. We produce wine in bottles of 750mL and 1000mL. There is a small difference in size in the two types of bottles, and indeed often the labels are of the same size. It seems arbitrary to impose a different size requirement on

each. From an industry point of view it would be more appropriate to have one size requirement for containers of between 200mL and 1000mL, and another for containers over 1000mL

We support the requirement that containers of 200mL and under need display only the pictogram. We note that some producers are pushing to extend this requirement to containers of 400mL and under. We disagree. For the sake of competitive neutrality between producers it is important to maintain the same size requirements as far as practical.

M. Consideration of costs and benefits (section 3.4.1.1 of CFS)

Accolade Wines shares the concerns of ABA and Australian Grape and Wine on this section of the CFS. In particular, we feel that the cost benefit analysis overstates the likely impact of pregnancy warnings on rates of FASD compared with the impact of the current voluntary system.

Accolade Wines markets more than 600 SKUs in Australia and New Zealand. With that in mind, if we accept even the lowest cost scenario modelled in the CFS for P1050, moving to the proposed scheme would cost Accolade Wines \$2.5m. Under the worst case modelled in the CFS the cost to Accolade would be \$4.5m.

It is clear that businesses like Accolade that have acted responsibly by voluntarily adopting the voluntary scheme will be disproportionately disadvantaged by having to redesign labels again to move from incorporating the existing voluntary schemes to the proposed mandatory scheme. Furthermore, the impact will be even more keenly felt for those producers (like Accolade) with a large offering of SKUs. Making the existing voluntary scheme mandatory instead would only create costs for those producers who have not adopted it.

We do not believe that the CFS has demonstrated sufficient evidence that the cost on industry and consumers is justified by the evidence base nor the experience of mandatory warning labels elsewhere. As noted in the CFS, “there was not strong evidence to suggest that where warning labels have been mandated there has been an impact on levels of consumption”.

As per ABA’s submission, the DRIS and FSANZ’s own literature review in the CFS note the limitations of warning labels in changing behaviours. We concur with the view expressed in Australian Grape and Wine’s submission that “FSANZ and other policy makers should be clear-eyed in their expectations about the likely behavioural changes that could arise as a result of such a label change, and they must also balance this against the costs”.

Therefore, there would not seem to be the evidence base to suggest the improvements in FASD rates as a result of mandatory pregnancy warnings as indicated in the cost benefit analysis. This undermines confidence in the entire cost benefit analysis.

N. Transitional arrangements (section 4.1 of CFS)

Accolade Wines is broadly supportive of the transitional arrangements. We share the view expressed by Australian Grape and Wine that if there are to be other changes to the requirements on labels, the transition period should be extended to coincide with the other changes. This would result in producers only needing to go through the expense of changing a label once, rather than experiencing two costly redesign and printing processes.

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- O. Draft variation to the Australia New Zealand Food Standards Code (Attachment A of CFS)**
- P. Other comments (within the scope of P1050 – see section 1.5 of the CFS)**

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