

Submission to Proposal P1050 – Pregnancy warning labels on alcoholic beverages

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

Submission prepared by

S. Smith & Son Pty Ltd
40 Eden Valley Road, Angaston SA 5353

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

This submission was endorsed and authorised by

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

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

S Smith & Son Pty Ltd (further noted as “we” in this document) is a family owned wine business based in the Barossa, producing and distributing our products, as well as importing and distributing international wines and spirits in Australia.

The inclusion of ‘health warning’ signal words in this proposed mandatory pregnancy warning label, does not align with the mandate given to FSANZ by the Ministerial Forum, which asked FSANZ to develop a ‘pregnancy warning’.

We have no objection to a mandatory pregnancy warning for alcoholic beverages.

We do however, have some reservations in relation to a few elements of the proposed warning, ie use of signal words and the specific requirement for the use of red in the pictogram and words.

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

It is disappointing the literature review fails to take examples from studies directly relating to pregnancy warning labels.

We believe it would have been more appropriate to note there is a lack of evidence to support elements of the proposed pregnancy warning label, rather than the proposal to draw comparisons between pregnancy warnings and warning labels for other conditions.

We feel that comparing a general health warning with a pregnancy warning label is not comparing like with like, as each elicits a different response from the consumer.

E. Consumer testing of warning statements (section 3.1.2)

We agree with the views of Australia Grape & Wine (AGW), as detailed below:

The key concern is that the phrase “WARNING STATEMENT” appeared on all of the options put forward for public consultation (SD2). This phrase extends beyond the mandate given to FSANZ by the Ministerial Forum, which asked FSANZ to develop a pregnancy warning.

Furthermore, while there is a concession that uptake of the existing voluntary DrinkWise Australia pregnancy warning label was not as comprehensive as anticipated, there is confidence the voluntary label has a high level of recognition in the community. It is therefore perplexing that FSANZ chose not to test the DrinkWise warning label in its consumer testing process.

By failing to do this, FSANZ does not have a baseline model from which to assess costs and benefits and is immediately considering a warning label that is significantly more prominent and costly than the voluntary label.

F. Pictogram (section 3.2.2.2)

We agree with the position of Australian Grape & Wine, which supports the use of the pictogram, however, we do not agree with the proposal to mandate the red circle and strike-through, as global recognition of the pictogram is already strong and widespread.

We also believe contrast in colour is more vastly important than mandating a label with red elements. For example, the significance of a red warning would be compromised if the back label was predominantly red, and in this instance black, grey or white be more prominent.

Further, the mandating of a colour may result in additional costs and may unfairly affect and negatively impact already established brands in the market.

G. Warning statement (section 3.2.2.3)

In relation to the warning statement, the proposed application of a mandatory pregnancy warning for products above 1.15% ABV and exclusion of products under 1.15% ABV undermines the Government advice that any alcohol should not be consumed whilst pregnant.

This is inconsistent and confusing to the public, which brings the validity of the warning statement into question.

H. Design labelling elements (section 3.2.2.4)

Signal Word(s)

The use of the phrase “HEALTH WARNING” goes beyond the request of the Ministerial Forum to develop a “Pregnancy Warning” and may also be used as a precedent by those who seek to demonise wine producers to immediately seek other “warnings”.

Furthermore, if the objective of this exercise were to raise awareness about drinking during pregnancy across the broader community, surely using the signal words “Pregnancy Warning” would be a more targeted and direct way to achieve this.

Given the widespread understanding across society that alcohol should not be consumed during pregnancy, and the widespread existing recognition of the pictogram in Australia (both facts stated in the proposal and supporting documentation), one could question why “signal words” are required at all.

Exemptions

We strongly believe the only exemption which should be permitted is as per Table 10 in P1050 for containers ‘200ml and less’ to only use the pictogram.

To exempt containers under, for example, 400ml, would mean wine would carry the full warning label, while others (beer, RTDs etc) would only carry a pictogram. This would be an unjustifiable and perverse outcome.

Size

The FSANZ proposal focuses on the need to use size as a means to gain the consumers attention. Together with Australian Grape & Wine, we suggests that FSANZ also consider:

- Why should a pregnancy warning be larger than, and in red, when compared to a mandatory allergen label, which could lead to severe illness or death? FSANZ has said that people with severe allergies manage their risk well by knowing to look for allergen warnings on labels. Whilst this may be true, there is widespread understanding across society that alcohol should not be consumed when pregnant (as stated in the focus group report which is frequently referenced in the DRIS).
- Of course, a larger label may be noticed more, but no evidence has been provided there will be a measurable and material change to consumer behaviour. Does FSANZ expect a dramatic difference in the amount of alcohol consumed whilst pregnant as a result of a larger or more prominent warning?
- A larger mandatory warning statement may lead to a situation in which long-standing messages relating to drinking in moderation will no longer be placed on the label, due to the limited space for mandatory statements and commercial label requirements.
- Wine, perhaps more than other alcohol beverages, relies on the back label of the product to tell the consumer about variety, vintage, provenance and the like. In a highly competitive market, this is important and every square millimetre of label space is vital to your brand. An unreasonably large warning label erodes our ability to tell the story of our wine.

Colour

As stated in response to section F:

We believe contrast in colour is more vastly important than mandating a label with red elements. For example, the significance of a red warning would be compromised if the back label was predominantly red, and in this instance black, grey or white be more prominent.

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

No evidence has been provided which confirms that colour and size will do anything more than capture a 'slightly' higher degree of the purchaser or consumer's attention when holding the product. In addition, there is no evidence presented to demonstrate that a larger format or red colour scheme will have a significant impact on behaviour.

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

As stated in response to item G, how can FSANZ on the one hand say that "any amount of alcohol can harm your baby" on the proposed warning statement, but on the other hand say that alcohol under 1.15% ABV is ok?

This is inconsistent and confusing to the public and brings the validity of the warning statement into question.

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

We support the position of Australian Grape & Wine who is broadly comfortable with the approach detailed in P1050.

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

We support the position of Australian Grape & Wine who is broadly comfortable with the approach detailed in P1050.

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

We share the concerns of Australian Grape & Wine, which include:

- The cost benefit analysis suggests that “only a small proportion of Fetal Alcohol Spectrum Disorder (FASD) cases need to be prevented to offset the costs of label changes to industry” (page 1 of consultation paper). While this may be true, the cost-benefit analysis does not adequately consider or forecast the likely reduction in FASD as a result of the proposed change, beyond the reductions we are already seeing in Australia compared with ongoing costs to produce labels with the proposed pregnancy warning.
- The Australian Institute of Health and Welfare’s National Drug Strategy Household Survey of 2016 is the pre-eminent set of government statistics relating to alcohol consumption in Australia. On page 115 of the report it states “Since 2007, the proportion of women consuming alcohol during pregnancy has declined and the proportion abstaining has risen” (<https://www.aihw.gov.au/getmedia/15db8c15-7062-4cde-bfa4-3c2079f30af3/21028a.pdf.aspx?inline=true>)
- Furthermore, additional efforts need to be made to achieve continued awareness in Australia, such as investing further in educational initiatives and public awareness campaigns. While Australian Grape & Wine supports such campaigns, we also firmly believe that most Australians understand the risk of drinking during pregnancy, as it is the first thing their medical professionals say to them upon finding out they are pregnant (along with quitting smoking, and avoiding certain foods like raw fish and soft cheeses – which we add are not required to carry a warning label).

We, together with Australian Grape & Wine, would like to see a measured, targeted, evidence-based approach, which mandates a warning label (similar in size, colour and design to the voluntary label), and accompanied by a suite of other awareness raising materials.

There is no evidence to suggest that colour and size will do anything more than capture a ‘slightly’ higher degree of the purchaser or consumer’s attention when holding the product. There is no evidence presented to suggest that a larger format or red colour scheme will have a significant impact on behaviours.

N. Transitional arrangements (section 4.1 of CFS)

We support the position of Australian Grape & Wine that these transitional arrangements are reasonable, and in line with other FSANZ label changes.

Clarification would be required in relation to museum stock or wines released with significant bottle age.

O. Draft variation to the Australia New Zealand Food Standards Code (Attachment A of CFS)

We support the position of Australian Grape & Wine in relation to this section in its submission.

P. Other comments (within the scope of P1050 – see section 1.5 of the CFS)