

24/10/2019

General Manager

Authorised by Brokenwood Board of Directors

Re: Comments to specified sections of P1050 Call for Submissions (CFS) report – Pregnancy Warning labels for wine.

A. Summary

- It is very clear the Ministerial Forum asked FSANZ to develop a “Pregnancy Warning” and not a “HEALTH WARNING”.
- The proposed health warning mandates on size and colour reduce the already small area available on a label to explain to consumers what is in fact inside the container.
- The existing voluntary label has good recognition in the community.
- Most Australian’s understand the risk of drinking during pregnancy.

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

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

Surely, it would have been more appropriate to note that there is a lack of evidence to support elements of the proposed pregnancy warning label, rather than for FSANZ to attempt to draw comparisons between pregnancy warnings and warning labels for other conditions. Comparing a general health warning with a pregnancy warning label is not comparing like with like, as each elicits a different response from the reader.

C. Consumer testing of warning statements (section 3.1.2)

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

The existing DrinkWise Australia pregnancy warning label has good 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, which is performing well.

D. Pictogram (section 3.2.2.2)

Brokenwood supports the pictogram in general, but does not agree with the proposal to mandate the red circle and strike-through.

- Global recognition of the pictogram is already strong and widespread.
- Contrast in colour is more appropriate than mandating a red label.

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- Adding colour adds cost to your label design, and FSANZ's cost estimates are lower than what is realistic. Brokenwood's label supplier (MCC) has suggested that increased label costs could run as follows:

"You don't have a back only knife, so we would require the below tooling plus 4 plates - 3 would be common with one changing per variety. In relation to print price use say 50% of your current cost".

At Brokenwood's current label spend, this additional cost could be in excess of \$75,000 p.a. ongoing.

E. Warning statement (section 3.2.2.3)

This is an important point of principle.

- How can FSANZ on the one hand say, "any amount 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 pregnant women, and brings the validity of the warning statement into question.
- As a second point of principle, FSANZ must ensure that the text of the warning statement is supported by clear and peer reviewed evidence.

F. Design labelling elements (section 3.2.2.4)

- With regard to the use of "Signal word(s)":
- It is very clear the Ministerial Forum asked FSANZ to develop a "Pregnancy Warning" and not a "HEALTH WARNING". This is a gross example of regulatory overreach by FSANZ and must be removed.
- The use of the phrase "HEALTH WARNING" not only goes well beyond what was agreed by ministers, but will be used as a precedent by those who seek to demonise wine producers to immediately seek other "warnings". One can easily imagine the box being expanded in a year or two to include cancer warnings, for example, if anti-alcohol advocates have their way.
- Furthermore, if the objective of this exercise is 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 women should not drink during pregnancy, and the widespread existing recognition of the pictogram in Australia, one could question why so called "signal words" are required at all.
- With regard to the proposed requirements relating to size:
- 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.
- FSANZ pays a lot of attention to the need to use size as a means to gain the consumer/purchaser's attention. Brokenwood suggests that FSANZ needs to consider:
- Why a pregnancy warning would be larger (and in red) than 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. While this may be true, surely it is also true that there is widespread understanding across society that pregnant women should not drink when pregnant.

- That while of course a larger label will be noticed more, what evidence is there to suggest there will be a measurable and material benefit to consumers, and how will the cost-benefit analysis be made clear? Does FSANZ really expect a dramatic difference in the amount pregnant women drink when they are pregnant because 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 matters and every square millimetre of label space is vital to our brand. An unreasonably large warning label erodes the ability to tell the story of our wine.

- As stated in response to section F:

- Contrast in colour is more appropriate than mandating a red label.
- Adding colour adds cost to our labels, and FSANZ's cost estimates are far too low. As reported above, At Brokenwood's current label spend, this additional cost could be in excess of \$75,000 p.a. ongoing.

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

- **As stated above, 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 matters and every square millimetre of label space is vital to our brand. An unreasonably large warning label erodes the ability to tell the story of our wine.**

H. 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 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, and brings the validity of the warning statement into question.

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

Brokenwood is broadly comfortable with this approach.

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

Brokenwood is broadly comfortable with this approach.

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

Brokenwood's initial concerns include:

- 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, it does not consider alternative arrangements to achieve awareness in Australia, such as investing further in educational initiatives and public awareness campaigns. While Brokenwood supports such campaigns, we also firmly believe that most Australian’s 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).

What Brokenwood would like to see is 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.

L. Transitional arrangements (section 4.1 of CFS)

- FSANZ must ensure the proposed labelling requirements do not capture museum stock, or wines released with significant bottle age.
- FSANZ should also ensure that if other labelling changes are currently being considered, transitional arrangements must be coordinated to ensure wine businesses only have to change their labels once, to incorporate the multiple required amendments. We do not want to have to make one change, and then another a year later.

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

The peak wine industry body, Australian Grape & Wine will provide comment on this section in its submission.

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

Brokenwood states the proposed labelling requirements demean women in general and pregnant women in particular. The absence of targeted, evidence based research cast doubts on the efficacy of the implementation of the labelling requirement.

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