



Proposal P1050 – Submission from FASD-CAN Incorporated

FASD-CAN is a New Zealand charity which supports individuals with FASD and their carers. It consists of family members and professionals involved in the education, care, treatment and management of these individuals. As such, members of FASD-CAN have vast experience of the lifelong effects of the brain damage caused by prenatal exposure to alcohol. Included in our membership are women who were unaware of the damage caused by drinking during pregnancy and who are now raising children with FASD, including those who received no medical advice to stop drinking. We therefore strongly support the mandatory requirement for warning labels on alcohol products and furthermore support that the statements used should be adequate to convey the potential for lifelong harm caused by drinking in pregnancy.

Submission to Proposal P1050 – Pregnancy warning labels on alcoholic beverages

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

FASD-CAN Incorporated

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

Chair, FASD-CAN Incorporated

C. Summary:

FASD-CAN welcomes the proposed introduction of mandatory warning labelling on alcohol products to increase awareness of the risks of drinking during pregnancy and to enable

behavioural change as part of a suite of measures to raise awareness of and prevent this lifelong disability.

We strongly ask for a reconsideration of the proposed wording as we support the statement ***Any amount of alcohol can cause lifelong harm to your baby***, in preference to the proposed wording statement that *Any amount of alcohol can harm your baby*. This is on the grounds of consistency with the consumer research, being more closely aligned with the principles which are quoted as the foundation for decision making by FSANZ, having little impact on overall warning label size and providing more information from an authoritative source, as part of the proposed broader education package on the effects of drinking during pregnancy.

FASD-CAN agrees with the major proposed elements of design but with specific exceptions to the proposed font size for all individual containers. This should be at least 2.8mm or 3mm (as prescribed for other warning labels). We also recommend that only alcohol products with a volume of less than 100ml are exempted from carrying the warning mark and only carry the pictogram. That is, all alcohol products above 100ml should have both the pictogram and the warning statement with the specific design features as currently proposed only for products greater than 800ml. There is no strong justification for labels with smaller size requirements for products in this range and a larger size would be more noticeable as shown by the experimental studies using warning labels on alcohol quoted in the CFS. These studies found that increasing the size of warnings led to an increase in the noticeability of the warning.

We object strongly to the proposal to have a two-year transition period on the basis that the introduction of warning labelling in Australia and New Zealand has been a very drawn out process dating back to two previous applications to introduce warning labelling (since the turn of the century) and the publication of the Blewitt review in 2011 recommending warning labels on alcohol products. The human cost of delaying this implementation is likely to have been very significant. The Decision Regulatory Impact Statement shows that the break-even point for number of cases avoided over a 20-year period is low and the evidence supports the likelihood that this target would be achieved. It is also recognized that the estimated costs of label change used are inflated and the human costs are under-estimated and do not incorporate some significant impacts of this disability. Government must prioritize preventing further cases in light of this failure to act expeditiously and the strong evidence for the positive benefit of introducing this measure. Every day, by the estimates in this report, 10 babies are born with FASD in New Zealand and 162 in Australia – a very significant public health failure. Delaying this implementation is morally untenable and economically unjustified.

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)

This provides a comprehensive review of the literature and we agree with the framework used addressing effectiveness, attention, reading and comprehension, recall, judgement, and behavioural compliance. We particularly note the statement: 'research literature has demonstrated that signals words are important in drawing attention to a warning. Signal words can also connote different levels of hazard. In some circumstances the use of authoritative sources can increase the credibility of warnings, but they may also result in a level of reactance in response to the message'.

This statement is relevant to our subsequent comments on the specific wording that is the preferred option for FSANZ.

E. Consumer testing of warning statements (section 3.1.2)

The most important outcome of this research is the following result shown in Table 6: Across both countries more than 50% of women and those in the proximate pregnant category selected *Any amount of alcohol can cause lifelong harm to your baby* as the statement that best conveys the public health message. The differences in preference for this statement above the others tested are very marked e.g. for proximate pregnant responders and Maori study participants more than twice as many chose this statement over '*Any amount of alcohol can cause harm to your baby*'.

However the conclusion to this section states:

For the Australian sample the statement *Any amount of alcohol can cause lifelong harm to your baby* had the highest mean scores across the five rating questions. For the New Zealand sample, no single statement consistently had the highest mean scores, though the statement *Alcohol can harm your baby* performed consistently well, if not the best across all rating questions.

We dispute the second sentence as accurately reflecting the NZ situation – the statement relating to lifelong harm performs consistently, and probably overall better, than any other statement and is the basis for us proposing that this statement is included in the warning label (see below).

F. Pictogram (section 3.2.2.2)

We support the pictogram as depicted being part of the warning labelling.

G. Warning statement (section 3.2.2.3)

We disagree with the analysis leading to the recommended warning statement wording.

We note the wording in the conclusion;

In conclusion, overall the statements *Any amount of alcohol can cause lifelong harm to your baby* and *Any amount of alcohol can harm your baby* tended to perform best in both Australia and New Zealand in conveying the desired message not to drink any alcohol while pregnant and are also believable, credible and seen as convincing to the key audience.....

Therefore, FSANZ proposes to include *Any amount of alcohol can harm your baby* in the pregnancy warning label as overall it performed well and has the advantage of being a shorter statement than *Any amount of alcohol can cause lifelong harm to your baby*, a desirable feature noted by both industry and public health stakeholders.

It therefore seems that the decision is made finally on the basis that excluding the reference to lifelong harm makes the statement shorter. This conflicts with the evidence on greater clarity of message of the longer statement, in alignment with the public health message.

We argue that the decision on preferred option is inappropriate on the grounds of:

- *Inconsistency with consumer research.* The evidence was strongly in favour of the inclusion of the word 'lifelong' and approximately twice as many study respondents answered that this statement conveyed the public health message better than the second statement excluding the word 'lifelong'.
- *Misalignment with principles.* The proposed option is less aligned with two of the principles quoted to be the basis for the FSANZ decision i.e. that the statement should identify the problem and explain the consequences if exposed to the problem. As an organization we are well aware that the lifelong disability caused by prenatal exposure is poorly understood by the public. There is increasing societal awareness of harm from prenatal exposure to alcohol. However there is low awareness and understanding of the manifestation of this in terms of brain damage, intellectual disability, physical health, emotional regulation, social skills, mental health and other adverse outcomes. These outcomes put a huge toll on the lives of those with FASD and their caregivers as well as imposing a huge cost on families and society. FASD is often referred to as a hidden disability. Individuals who do not have intellectual defects may not outwardly appear to have a neurodisability. A statement strongly supporting the long term and permanent effects of prenatal alcohol damage will inform pregnant women more accurately of the risk they are taking by drinking.
- *Increased Credibility of information provision.* In the face of those who attempt to minimize risks and outcomes of prenatal alcohol exposure it is incumbent on government to provide the information needed. A recent publication highlights the disparity between messaging from the alcohol industry and from government and public health sources¹. In Australia the alcohol industry funded DrinkWise programme has been forced to withdraw some of its publicity material because it conveyed incorrect and misleading information on the risks of drinking in pregnancy. As quoted in P1050 the use of authoritative sources can increase the credibility of warnings.
- *Brevity.* The inclusion of the additional words does not materially affect the presentation of the overall warning statement. The consumer research showed participants understood the longer message clearly. The examples shown in Supporting Document 2 show that the additional words can be accommodated without modifying font size or overall warning label design. It is noted that the underlying basis of the cost of changes in the DRIS would not be impacted by including the longer statement.

In summary the inclusion of the word 'lifelong' is strongly supported because:

- It is consistent with the consumer research, which showed that approximately two-fold more respondents preferred it to convey the public health message accurately
- It is more closely aligned with the principles listed by the WHO (i.e. identifying the problem and conveying the information) which were also quoted as the foundation for decision making by FSANZ

¹ Lim AW, Van Schalkwyk May CI, Hessari NM and Petticrew MP (2019) Pregnancy, Fertility, Breastfeeding, and Alcohol Consumption: An Analysis of Framing and Completeness of Information Disseminated by Alcohol Industry. *J. Stud. Alcohol Drugs*, 80, 524–533.

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- Its presence would make little difference to the size of the statement and have no effect on overall warning label size. Therefore brevity being the major basis for making a decision on the preferred wording option is groundless
- It provides more information from an authoritative source, as part of the proposed broader education package

We therefore support the statement ***Any amount of alcohol can cause lifelong harm to your baby***, in preference to the proposed wording statement that *Any amount of alcohol can harm your baby*.

H. Design labelling elements (section 3.2.2.4)

No comment

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

We agree with the major proposed elements of design with the exceptions:

- That the font size for all individual containers should be at least 2.8mm or 3mm (as prescribed for other warning labels). We think there is no rationale for prescribing the smaller size (2.1mm for those products with a volume of 200-800ml and 2.8mm for those above 800ml). The smaller size is less likely to attract attention and is less legible.
- That the pictogram should only be used on products under 100ml. Based on visual inspection of alcohol products within the range of 100-200ml there appears plenty of room for the warning statement as well as the pictogram on products of this size. As containers in this size range may contain at least 2 standard drinks (in the case of wine) or more for fortified alcohol products, we strongly support reducing the volume at which only the pictogram applies to 200ml.

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

No comment

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

No comment

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

No comment

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

We agree with the conclusion of this section: *A small proportion of cases of FASD need to be prevented to offset the costs of label changes on industry. A mandatory approach offers certainty that high coverage of pregnancy warning labels will be achieved and the warning labels are designed to support consumer understanding and consistency with Government advice.* However, we believe that the net benefit of the introduction of mandatory labelling is underestimated. While the cost benefit consideration was updated to increase the estimate of

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With shared strength, guidance and wisdom, those with FASD CAN grow and achieve

costs to industry based on stakeholder feedback, the costs avoided by reducing the incidence of FASD were not similarly updated.

We note the significant conservatism of the cost estimates and the major reliance of the DRIS on a report prepared nearly 10 years ago, which consequently does not take account of the rapidly increasing evidence base on the impacts of prenatal exposure causing FASD. For example, the cost saving of avoided cases is based on a 20-year post-implementation period. Whilst the costs incurred up to early adulthood are primarily educational, medical and social services support beyond 20 years there are very significant costs within the justice sector, supported living, mental health and addiction services, as well as the significant costs to emotional well-being and difficulties in daily living for individuals with FASD and their families. The costs to the involvement of individuals within the justice system assessed in the DRIS are limited to the costs of imprisonment. There are much broader costs which are not included – court costs, police costs, legal aid costs, probation costs etc.

Furthermore, whilst the DRIS performed by FRSC is not completely transparent, it appears that there are many costs of this disability which have not been included – mental health and addiction costs, emotional and well-being, costs of suicide (between 20-50-fold that of the general population). Therefore, while the consideration clearly shows the net benefit of intervention, in reality the benefit is likely to be much greater than that presented. This is also pertinent to the discussion below on the transition period.

Furthermore, it is inappropriate to include the costs of the DrinkWise campaign in the cost estimate, given that the messaging used is inconsistent with public health advice. As noted previously DrinkWise has recently been forced to remove its publicity material because of inaccurate and misleading messaging around the level of evidence for the harm of alcohol use in pregnancy. The messaging they are using, and which is claimed as a cost in this cost benefit analysis, reflects this inaccurate publicity material.

We also note that this section uses terminology referring to ‘mild cases’ of FASD. This is inappropriate and inconsistent with current medical practice. All individuals who are diagnosed with FASD have at least 3 brain domains affected. Whilst this may not result in intellectual disability the effects on behaviour, executive thinking etc are always severe and affect day to day living throughout the lifetime of the individual. There is evidence that those who do not receive support because they are not diagnosed until early teenage years are more likely to have adverse outcomes in adulthood than those who are diagnosed during childhood. This is consistent with those whose disability is less obvious being more impacted in the long run by this disability. Therefore, an analysis that relies on differentiating severity is flawed and will again lead to an underestimate of the cost avoidance of introducing this measure.

N. Transitional arrangements (section 4.1 of CFS)

The rationale for favouring a two-year transition period over a one-year transition period is presented as minimizing industry costs (reflecting the direction given by the Ministerial Forum). This however disregards the other component of the Ministers’ advice which was to deliver this outcome expeditiously and it overlooks the considerable human cost of delay. Based on the DRIS 3556 children are born in New Zealand with FASD every year and 59430 per year in Australia. This measure is estimated to break-even if 225 cases of FASD are avoided in Australia and New Zealand. The consideration of the transition period therefore

must take account of the significant and lifelong human cost benefit of implementing this measure. The benefits of avoiding a lifetime of this disability are underestimated in this Call for Submissions and the difference in net cost between a one year and a two year transition period do not appear to have been specifically analysed. Taking account of the conservatism of the estimates, the cost avoidance of a one-year transition period is likely to outstrip the costs to industry (which are recognized to be inflated in P1050) from the required label changes.

The Blewitt report recommending warning labels on alcohol products was published in 2011. In the intervening period the exposure of many thousands of babies to alcohol in the womb could have been avoided if effective measures had been introduced in a timely manner. The well-being of people must take precedence over costs to a well-resourced and profitable industry.

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

No comments, subject to changes recommended above concerning wording, font size, volume of beverages and transition period.

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