wine Victoria
AUSTRALIA

27 October 2019

The Secretariat
Food Standards Australia - New Zealand
Via: submissions@foodstandards.gov.au

To whom it may concern:

Re: Submission - Proposal P1050 – Pregnancy warning labels on alcoholic beverages.

Wine Victoria is pleased to provide our full support to the Australian Grape & Wine (AGW) submission to Food Standards Australia – New Zealand (FSANZ) in response to its call for comments on Proposal P1050 – Pregnancy warning labels on alcoholic beverages.

Wine Victoria is committed to working with governments and public health organisations in the short and long term to promote the responsible consumption of wine across Australia.

Our support for the AGW submission outlines our commitment on this issue and reflects our industries views on these matters.

For further information, please contact

Yours sincerely,

Chair, Wine Victoria

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AUSTRALIAN Grape & Wine

Submission to Food Standards Australia New Zealand (FSANZ)

Public Consultation: Proposal P1050, Pregnancy warning labels on alcoholic beverages

October 2019

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Who we are

Australian Grape and Wine Incorporated (Australian Grape & Wine) is Australia's national association of winegrape and wine producers. Our activities focus upon the objective of providing leadership, strategy, advocacy and support that serves Australian wine businesses now and into the future.

We represent the interests of the more than 2,500 winemakers and 6,000 winegrape growers working in Australia. Our role is to help forge a political, social and regulatory environment - in Australia and overseas - that enables profitable and sustainable Australian wine and winegrape growing businesses. These businesses make a significant contribution to regional economies by driving growth in jobs, exports and food and wine tourism.

Australian Grape & Wine's voluntary membership represents over 75% of the national winegrape crush. We represent small, medium and large winemakers and winegrape growers from across the country. Policy decisions by the Australian Grape & Wine Board require 80% support, ensuring no single category can dominate the decision-making process and guaranteeing policy is only determined if it provides significant industry benefit. In practice, most decisions are determined by consensus.

Australian Grape & Wine is recognised as a representative organisation for winegrape and wine producers under the *Wine Australia Act 2013,* and is incorporated under the *SA Associations Incorporation Act 1985.* We work in partnership with the Australian Government to develop and implement policy that is in the best interests of winegrape growers and winemakers across Australia.

Executive Summary

Australian Grape & Wine is pleased to lodge this submission to Food Standards Australia – New Zealand (FSANZ) in response to its call for comments on Proposal P1050 – Pregnancy warning labels on alcoholic beverages.

The Australian Government's focus on combating Fetal Alcohol Spectrum Disorder (FASD) is timely, and the wine sector, through Australian Grape & Wine, supports initiatives in this area. FASD is a serious issue that requires clear and targeted action by industry and government. We continue to encourage all Australian wine businesses to incorporate voluntary pregnancy warning labels on their products and have done so since 2012. We have also worked through the National Wine Foundation to provide $400,000 to support the DrinkWise Australia FASD Awareness Program. Comprised of a suite of targeted awareness measures, and supported by the Australian Government through the Department of Health this program is demonstrating clear progress in combatting FASD in the community.

Australian Grape & Wine accepts the decision of the Ministerial Forum on Food Regulation (the Ministerial Forum) to mandate pregnancy warning labels, which it took in October 2018. We are firmly committed to assisting the Ministerial Forum to consider a warning label that meets its requirements and is in line with community expectations about the need to reduce, and ultimately eliminate, instances of FASD in Australia.

As per our engagement on all issues relating to health and alcohol, Australian Grape & Wine firmly believes that it is the obligation of governments to develop policies that are targeted, evidence-based, and effective. Responding to issues relating to FASD, which are unequivocally associated with the consumption of alcohol, presents an opportunity for the government to do just that. However, such policies should seek to meet these objectives at the lowest possible cost to Australian businesses and consumers. We also accept our responsibility to work with government to help develop solutions to issues related to the misuse of alcohol.

Australian Grape & Wine is also a strong supporter of Food Standards Australia and New Zealand (FSANZ) standards development, which contributes so strongly to a providing a regulatory system that provides consumers with confidence about the safety of the food they consume. The independence and evidence based standard setting that FSANZ undertakes is vital to preserving confidence in the system and in meeting our national and international obligations.

We are concerned about FSANZ's approach to developing its proposed pregnancy warning label. On-balance, we don't believe that the draft warning label proposed by FSANZ meets the principles and objectives outlined above and brings into question the evidence based standard setting system.

For example:

- FSANZ has exceeded the mandate provided to it by the Ministerial Forum, by producing a prototype label that issues a general "Health Warning", as opposed to the pregnancy warning requested by Ministers.
- There is insufficient evidence to support the argument that the benefits derived from mandating use of the colour red on labels will outweigh the significant costs to wine businesses.
- The rationale for mandating a larger warning, compared to the size of the current voluntary scheme, is not supported by sound evidence, and is at odds with the current requirements for warning statements found in the Food Standards Code.

We also argue that the consumer testing and literature review undertaken by FSANZ during this extremely rapid process is flawed. These flaws undermine the evidentiary underpinnings of the draft warning statement, and potentially discredit FSANZ's long-held strong reputation as an independent, science-based administrator of food standards in Australia and New Zealand.

It is in this context that Australian Grape & Wine makes its submission. There is a strong case for Ministers to consider a warning label that is as similar in size, colour and design to the existing voluntary labels. These are widely adopted by wine businesses, and have a strong level of recognition and comprehension by Australian consumers.

A warning similar in nature to the current voluntary arrangements, and accompanied by a suite of targeted awareness raising materials and public campaigns, would achieve an outcome the Ministerial Forum will consider to be effective and in-line with its request, but at far less cost to Australian wine businesses when compared to what has been proposed by FSANZ.

General Comments

Before responding to the submission in the template provided by FSANZ, Australian Grape & Wine offers the following general comments to provide context and raise issues that do not neatly fit into the sub-headings highlighted in the template. We would add that requiring comments in such a template runs the risk of preventing the public commenting on significant issues.

The consultation period was inadequate

While we appreciate the opportunity to participate in the consultation process, Australian Grape & Wine is of the view that the consultation period set by FSANZ was inadequate, and has not allowed stakeholders to fully gauge the content and potential ramifications of the draft label put forward for comment.

While industry advocacy bodies and public health lobby-groups have staff dedicated to engaging in these kinds of processes, the same cannot be said for the vast majority of Australia's 6,000 winegrape growers and 2,500 winemakers. Australian Grape & Wine has done everything it can to promote this issue to its members, but the short window for consultation has not allowed sufficient time to digest the issues, share views and encourage written submissions from individual wine businesses to the extent we would have liked. Without knowing the number of submissions FSANZ will receive from wine businesses, FSANZ should not equate a relatively small number of submissions with a lack of interest from the sector.

We note that other recent consultation processes undertaken by government agencies and the World Trade Organization (WTO)[1] have significantly longer timeframes than the 14.5 business days (23 days including weekends and public holidays) allocated in this instance. While a short, targeted consultation process may be appropriate in certain circumstances when considering changes to the food standards code, or food labelling requirements, the breadth of stakeholders

[1] Under the WTO's transparency provisions, it is recommended that governments lodging a technical barriers to trade (TBT) notification provide at least a 60 day period for comment. We note that Australia's TBT notification period is 47 days (8 October 2019 – 24 November 2019), and New Zealand's notification period is 51 days (4 October 2019 – 24 November 2019).

and the potential costs to the Australian wine sector and other beverage producers should have demanded a more comprehensive process. This is not something that should be rushed.

While we note the instruction from the Ministerial Forum to move expeditiously to design a label for it to consider, we argue the importance of this issue alone should have prompted FSANZ to provide a consultation timeframe that gave businesses of all sizes adequate time to digest the enormous amount of information provided, and then to develop their own submissions. Unfortunately, FSANZ is unlikely to get a comprehensive picture of the diverse range of views evident across the sector, and this has the potential to be detrimental to the process.

Pregnant women are drinking less

The Australian Institute of Health and Welfare's National Drug Strategy Household Survey of 2016 is the pre-eminent set of independent government data 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"[2].

The statistics provided in the survey are robust, independent and comprehensive. They include:

- 74.8% of women completely abstained from drinking alcohol upon knowing they were pregnant.
- 98.8% of pregnant women either abstained from drinking, or decreased their consumption (96.6% in 2007)
- 55.6% of pregnant women did not consume alcohol when pregnant – representing a 39% increase in the proportion of pregnant women who abstained, when compared to 2007.
- 43.2% of pregnant women consumed less alcohol compared to when they were not pregnant. In 2007, this figure was at 56.6%, which shows more pregnant women are abstaining from alcohol, instead of decreasing their consumption.

This is clearly a positive story, and suggests a cultural change is underway in Australia. It also demonstrates that in Australia, there is a high level of awareness when it comes to alcohol consumption and pregnancy.

Cultural change, however, takes time and is often incremental. In the context of drinking during pregnancy, these changes cannot be attributed to a single action, activity or policy measure. Advice from medical professionals, the voluntary warning labels developed by DrinkWise Australia and adopted by the vast majority of alcohol beverage producers across Australia, and public information campaigns, for instance, are all playing a part in helping drive positive behavioural changes.

A mandatory label will not be a silver bullet

We understand the concerns raised by a number of people and organisations in Australia that a number of pregnant women continue to drink during pregnancy. Indeed, we share this concern.

While we note the advice in the DRIS, as stated on page 48, that *the primary objective of pregnancy warning labels on packaged alcoholic beverages is to provide a clear and easy to understand trigger to remind pregnant women, at both the point of sale and the potential point of consumption, to not drink alcohol,* there is also an inflated expectation being driven by some

[2] https://www.aihw.gov.au/getmedia/15db8c15-7062-4cde-bfa4-3c2079f30af3/21028a.pdf.aspx?inline=true

public health advocates that a warning label will lead to significant behavioural changes, beyond those driven by current arrangements (both voluntary warnings and public awareness initiatives). Frankly, this logic is flawed, is not backed by evidence, and is an example of hoping for the best as opposed to acting on evidence based analysis.

A mandatory pregnancy warning label will not be a silver bullet for government to solve this problem. While we continue to support the use of a targeted, evidence-based pregnancy warning label, FSANZ and policy makers should be clear-eyed in their expectations about the likely behavioural changes that could arise as a result of imposing the proposed FSANZ label. They must also balance this against the costs imposed on businesses and consumers. Any label change needs to be accompanied by a targeted and on-going campaign aimed at raising awareness and changing behaviours.

We note that at page 3.1.1.4 of the FSANZ consultation document, it states "There was no strong evidence to suggest that where warning labels have been mandated there has been an impact on levels of consumption". Given the primary objective of this kind of public health initiative must be to facilitate women choosing to abstain from alcohol during pregnancy, it is reasonable to question why this approach is being pursued, particularly in such a costly and overwrought manner.

Again, we accept the decision to mandate the label has been made, but this point should be properly considered when policy makers deliberate on whether a large, red "Health Warning" such as this should become part of every wine label in the country. To most people, it simply doesn't add-up.

In the context of FSANZ's, and ultimately the Ministerial Forum's, consideration of this mandatory warning label, it is critically important to ensure policy makers focus on identifying and quantifying to what extent a future mandatory warning label will achieve behavioural changes above and beyond what is already in place.

This better enables policy makers to weigh the effectiveness of the proposed measure against the cost to businesses and consumers.

We are not convinced the costs and benefits have been adequately, or accurately, considered by FSANZ in this process and we encourage FSANZ to undertake more robust and comprehensive analysis as soon as possible, and to have this analysis peer-reviewed by an independent panel of experts, chosen in consultation with both the wine industry and public health advocacy bodies. Indeed, we argue this peer-review process should have been undertaken before the public consultation process, and in a far more transparent manner.

Responses to the FSANZ consultation paper

As requested by FSANZ in its consultation paper, the following responses are made in line with the headings noted at Attachment H of the consultation documents. Australian Grape & Wine makes these comments in good faith. We want to achieve a mandatory pregnancy warning label that is practical and effective. But we also believe it is reasonable to expect that what is agreed imposes the minimum possible financial and regulatory burden on Australian wine businesses.

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

Name:

Position:

Organisation: Australian Grape & Wine

Phone:

Email:

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

This submission is authorised by Australian Grape & Wine.

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

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

Please refer to the Executive Summary of this submission.

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

Australian Grape & Wine understands the challenges associated with undertaking a literature review to support the development of a pregnancy warning label, including the clear limitations in the availability of data specific to the issue in question.

Having said this, on balance, we are disappointed by the approach FSANZ has taken in undertaking this review. Our disappointment stems from both the methodology FSANZ has used in undertaking the review, and the fact that its work has not been subject to a publicly available, transparent peer review process prior to public consultation.

Firstly, Australian Grape & Wine is concerned by FSANZ's references to literature relating to warning labels designed for a range of other purposes (including cancer and more general warnings). Rather than clearly acknowledging that the lack of evidence specifically relating to

pregnancy warning labels hinders its ability to support or reject certain elements of the warning label, FSANZ has attempted to draw direct comparisons between pregnancy warnings and other health warnings. This attempt to retrofit a specific evidence base and use it to support the pregnancy warning label FSANZ has designed is flawed, and has the potential to undermine the validity of the entire process.

Comparing a general health warning, for example, with a pregnancy warning label is not a like-for-like comparison, as a pregnancy warning label elicits a completely different response from the reader in terms of emotion, psychology and potentially, behaviour.

Secondly, we are concerned that FSANZ sought to undertake this public consultation process before the literature review (and the consumer testing report) had been subjected to peer review. This represents another example of FSANZ's desire to move quickly to develop this pregnancy warning outweighing good governance and best practice policy making. Further to this, while we have been assured a peer review process will be undertaken, FSANZ has not informed stakeholders who will undertake this review. Australian Grape & Wine expects FSANZ will appoint a balanced panel of experts to undertake a robust and transparent process, and take the views of alcohol beverage producers seriously when considering the make-up of this panel.

E. Consumer testing of warning statements (section 3.1.2)

Australian Grape & Wine is deeply concerned by the methodology FSANZ has applied in its approach to testing proposed warning statements with consumers.

Firstly, we are concerned by FSANZ's approach to only test the statement element of the pregnancy warning. Given the proposed requirement that the pregnancy warning must incorporate a pictogram and warning statement, it is our view that consumers should consider the warning as a whole, and not just a single particular component. As we understand it, the pregnancy warning standard will require co-location of the pictogram, statement and any signal word in a single box. Given this, a consumer's perception and understanding will be driven by the pregnancy warning label as a whole, rather than by the component parts. Indeed, the consumer's understanding of the statement may be different if the signal words "Pregnancy Warning", for example, are used, as opposed to the "HEALTH WARNING" heading that was tested.

Secondly, the use of the signal words "HEALTH WARNING" in the prototype warning labels tested with consumers completely disregards the instruction given to FSANZ to develop a pregnancy warning statement. As FSANZ will be aware, the Ministerial Forum's Communique of 11 October 2018 unequivocally states:

> *The Forum agreed that, based on the evidence, a mandatory labelling standard for pregnancy warning labels on packaged alcoholic beverages should be developed and should include a pictogram and relevant warning statement.*[3]

Australian Grape & Wine is deeply concerned that in making a unilateral decision to use a "HEALTH WARNING" heading, FSANZ has clearly exceeded the mandate it received from the Ministerial Forum. This decision also conflicts with the over-arching objective of taking a targeted

[3]https://foodregulation.gov.au/internet/fr/publishing nsf/Content/20682394D0E0DA08CA258320007E1910/$File/Australia%20and%20New%20Zealand%20Ministerial%20Forum%20on%20Food%20Regulation%20Communique%2011%20October%202018.pdf

approach to raise awareness of the importance of this issue. As stated in the FZANZ consultation papers, and quoting from page 48 of the DRIS:

> *The **primary objective** of pregnancy warning labels on packaged alcohol beverages is to provide a clear and easy to understand trigger to remind pregnant women, at both the point of sale and the potential point of consumption, to not drink alcohol. A **secondary objective** of pregnancy warning labels on packaged alcohol beverages is to provide information to the community about the need for pregnant women to not drink alcohol.*

Given this, common sense would suggest that the words "HEALTH WARNING" would actually detract from the primary and secondary objectives noted above. If a heading is required at all, we could potentially accept the phrase "Pregnancy Warning", on the grounds that it aligns with the Ministerial Forum's policy advice and the objectives of the DRIS as outlined above.

We urge FSANZ to withdraw the "HEALTH WARNING" element of the pregnancy warning label in the strongest possible terms.

Thirdly, Australian Grape & Wine is deeply concerned by FSANZ's failure to test the existing voluntary labelling scheme – thereby defaulting immediately to alternative options which are all significantly more costly to wine businesses.

Australian Grape & Wine is fully supportive of DrinkWise Australia's work to help drive a healthier and safer drinking culture in Australia and draw this to the attention of FSANZ in its deliberations.

F. Pictogram (section 3.2.2.2)

Australian Grape & Wine has long-supported the use of the pictogram used in the current voluntary DrinkWise Australia pregnancy warning labels and materials. This pictogram is well understood and easily recognisable in Australia, and resonates in a range of international markets. We are therefore broadly supportive of FSANZ proposing to use this pictogram design on the mandatory pregnancy warning label, with the caveat that we argue strongly against mandating the use of the colour red on the pictogram (in the circle and strike-through).

Mandating the use of the colour red, or any colour for that matter, could limit the effectiveness of the label and add significant costs to wine businesses. As a practical example, it is illogical to require wine businesses with predominantly red branding to use a red warning label on the grounds that the colour red is more attention-grabbing to the consumer. In this case, it is clear that other options with a greater contrast, such as black on white, or black on red, would be more prominent to the purchaser or consumer.

In addition to this, other important warning labels within the Food Standards Code, including those relating to allergens which have the potential to cause serious illness or death, do not require the colour red to be used. When implementing these warning statements, an appropriate level of contrast was deemed appropriate.

From a financial perspective, it is clear that for many wine businesses, mandating a particular colour to be used will add significant cost to label design, packaging, and printing. While we do not support in any way the use of red on the proposed warning label, *if* the colour red is mandated, we argue that various tones of red should be permitted. Two tones of red means two sets of colour costs for each label, which is an unreasonable impost on business. We refer FSANZ to our response to point M of this submission for further information on costs.

G. Warning statement (section 3.2.2.3)

Australian Grape & Wine posits that it is critical that the proposed warning statement presents a clear message to the purchaser or consumer. However, it is also incumbent on FSANZ to ensure that the statement is supported by robust and peer reviewed evidence, and is developed in a way that is mindful of the potential for what could be very serious unintended consequences. With this in mind, we provide the following comments.

Firstly, we note that throughout the consultation documents FSANZ suggests Australia and New Zealand Government Advice is that women who are pregnant should not consume any alcohol. While Australian Grape & Wine supports this position, it is misleading to suggest that it reflects current government advice. As stated in response to section E of this submission, the current government advice, as drafted by the NHMRC in its Australian Guidelines to Reduce Health Risks from Drinking Alcohol is:

> "*For women who are pregnant or planning a pregnancy, not drinking is the safest option".*

This position is reflected on the Australian Government Department of Health's website[4], and in various government public messages as well. It is therefore concerning that FSANZ has sought to build its own interpretation of what is the official Australian Government advice on this issue. FSANZ's statement at page 25 of the consultation paper is perplexing, and frankly, inherently contradictory. How can FSANZ say 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 other statements tested" when "It's safest not to drink while pregnant *is* the current government advice? This does not make sense and calls into question the entire basis for FSANZ's approach to this work.

While Australian Grape & Wine notes that the Ministerial Forum's Communique states that "Government advice in Australia and New Zealand is that pregnant women do not consume any alcohol", we argue this statement is inaccurate. With all due respect to the Ministers and FSANZ, it is outside of either group's purview to decide what Australia's official drinking guidelines are. This is, and remains, the role of the NHMRC.

Furthermore, while we understand the NHMRC is currently reviewing the Australian Drinking Guidelines, FSANZ should not seek to pre-empt the outcome of this process. It is not FSANZ's job to predict or influence the NHRMC's decision. Indeed, it would be logical to wait for the guidelines to be finalised before rushing to finish the pregnancy labelling standard, as there is possibility the guidelines will propose revised messaging contradictory to FSANZ's statement.

Secondly, we are concerned that changing the statement text now will create confusion in the market, thereby undermining the purpose and effectiveness of this exercise. The World Health Organisation (WHO) clearly states that consistent messaging, across a number of sources, increases the likelihood of action.

Thirdly, while we understand the rationale behind FSANZ's proposal to apply the pregnancy warning label to beverages with an alcohol content of greater than 1.15 per cent by volume, as a point of principle we flag that the statement "any amount of alcohol can harm your baby" could undermine the message the government is seeking to send. If *any* amount of alcohol can harm

[4] https://www.health.gov.au/health-topics/alcohol?utm_source=alcohol.gov.au&utm_medium=redirect&utm_campaign=digital_transformation

an unborn baby, does this mean pregnant women should avoid products such as soy sauce, Kombucha and other fermented products containing alcohol?

To be clear, we do not have a view, or the expertise, to say if soy sauce bottles should carry a pregnancy warning label. Our point is that by saying "any amount of alcohol", consumers may be confused, or unnecessarily concerned about consuming such products during pregnancy.

However, the unfortunate evidence from the introduction of a minimum unit price for alcohol in the Northern Territory, aimed at curbing drinking in the Territory, suggests consumption of these products has increased. This should also be considered by FSANZ.

Finally, FSANZ and the Ministerial Forum must be acutely conscious of the risks of potentially tragic unintended consequences resulting from how pregnant women react to the warning statement. FSANZ must pay adequate attention to how women who find out they are pregnant, but consumed alcohol in the weeks or months prior, will react to seeing a label which says any amount of alcohol can harm your baby.

H. Design labelling elements (section 3.2.2.4)

Australian Grape & Wine questions the analytical quality of FSANZ's consideration of issues relating to size, colour and messaging, as discussed in the points below.

Firstly, as raised in section E of this submission, Australian Grape & Wine is deeply concerned by the proposal to use the phrase "HEALTH WARNING" as a so-called signal term. We consider this to be an unjustifiable example of regulatory over-reach, and we urge FSANZ to withdraw it in favour of either a labelling standard without a heading/signal word, or a more targeted heading such as "Pregnancy Warning". Please refer to Section E of this submission for further detail.

Secondly, there is insufficient evidence to support the increased size of the warning statement, compared to what is in place in the voluntary pregnancy warning label arrangements. Indeed, increasing the size may cause a number of unintended consequences to arise.

FSANZ must justify why a pregnancy warning statement needs to be larger than other mandatory warnings, such as those relating to allergens. Increasing the size of the warning label may take away from the consumer's ability to easily find the other pieces of mandatory information. It may also lead some consumers to consciously, or sub-consciously, perceive a hierarchy of warning statements that is not supported by evidence. Further to this point, during the stakeholder consultation sessions it was suggested that this is not a concern, as people who suffer allergies are well-trained in finding allergens information on food and beverage labels.

While this point is appreciated, it must also be said that the overwhelming majority of women who are pregnant also know that they should not drink alcohol, and will actively seek this information when making decisions to purchase or consume a product. By extension, we also point out that pregnant women are also told not to eat soft cheeses, raw fish, salad from salad bars, soft or raw eggs and a wide range of other food and beverage products, and are clearly capable of finding the information they need in relation to these products without a pregnancy warning label.

Thirdly, in relation to size and colour, we argue that FSANZ must provide stakeholders, including wine businesses and members of the Ministerial Forum, with more information to justify to what extent the size and mandatory red colour will deliver a material and measurable benefit to consumers and to public health outcomes. While of course a larger label will be noticed more, at what point does it become unreasonable and ridiculous, and to what extent can policy makers be

confident that such a label will deliver proportionately greater results than what is in place currently? How will this cost benefit be made clear, given the already positive trends in alcohol consumption during pregnancy noted earlier in this submission?

A larger label, with mandated red colouring, may lead to other unintended and negative consequences for Australian and New Zealand wine consumers. For example, the majority of Australian wine producers include voluntary messages promoting safer drinking habits, such as "Drink Responsibly" or "Enjoy in moderation". Given the amount of mandatory information winemakers are required to include on their label, along with the reasonable expectation that winemakers can share information about their brand and their wine, it is possible that these long-standing and positive voluntary messages of moderation could be squeezed off the label. This would be detrimental to the broader objectives of both the wine sector and the public health lobby, which is to promote a safer and more positive relationship with alcohol in Australia.

There is also a commercial consideration in relation to FSANZ's proposed larger warning label that potentially puts winemakers at a disadvantage compared to other alcohol beverage producers. Wine, perhaps more than any other alcohol beverage (many beers for example, rely on brand alone to identify the content of the product), relies on the back label of the product to tell the consumer about variety, vintage, region, history and style. This information is critically important, as it enables winemakers to tell their story and set themselves apart in what is an extremely competitive wine market. Every square millimetre of label space is vital to the brand-owner, and an unreasonably large warning statement would significantly erode their ability to share their story with consumers.

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

Australian Grape & Wine believes its concerns are covered throughout the rest of submission. Please refer to specific comments on elements of the warning label for further information.

For the purpose of clarity, however, we make the following comments on container sizes:

We agree with FSANZ's approach to allow containers equal to, or less than 200ml to carry the pictogram only. However, we understand some other stakeholders have proposed that this exemption should be extended to beverages up to 400ml. We strongly oppose this approach. It is important that mandatory requirements such as this are imposed with competitive neutrality in mind, and that as far as possible, different beverage categories and products are treated equally as practically possible.

A better way to manage the concerns raised in relation to label size by those stakeholders producing in containers between 200ml and 400ml is to ensure the mandatory label (including the pictogram and statement) is of an acceptable size to their containers, and to roll this out for all other containers.

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

Australian Grape & Wine broadly accepts the proposal put forth by FSANZ in relation to this section. However, we reiterate the point raised in relation to alcohol beverages with less than 1.15 per cent ABV in section G, and the possibility that the way the statement is worded may lead to confusion and detract from the purpose of the mandatory label.

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

Australian Grape & Wine is broadly comfortable with the approach proposed by FSANZ.

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

Australian Grape & Wine is broadly comfortable with the approach proposed by FSANZ.

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

Australian Grape & Wine is not convinced the cost-benefit-analysis undertaken by FSANZ provides a robust or realistic evidence base from which the Ministerial Forum can make a decision on the proposed pregnancy warning label.

While the consultation papers presented by FSANZ notes "only a small proportion of FASD cases need to be prevented to offset the cost of label changes to industry" (page 1 of the consultation paper), we do not believe adequate attention has been paid to considering, or forecasting, the likely reduction in FASD as a result of the proposed change, beyond the changes we would likely see as a result of the current voluntary arrangements, and other public awareness campaigns.

We also note that different alcohol beverage businesses would be impacted in very different ways as a result of the proposed pregnancy warning label presented for consultation. Almost all wine businesses have multiple SKUs in their portfolio, but some have an extremely large array of different SKUs, and these brands are not necessarily large businesses.

For example, d'Arenburg (South Australia) has more than 70 SKUs in its range, and Tahbilk (Victoria) and its associated brands has more than 120 SKUs. Many operators much smaller than these also have very large ranges.

Therefore, even if FSANZ suggests the cost of changing each individual label is relatively minor (which we challenge, particularly when companies have to add red to their design plates), the costs will add up dramatically for these businesses due to the range of SKUs in their portfolios.

Given this, we suggest a better alternative to what has been proposed is to develop a pregnancy warning labelling standard that is measured, targeted, based on evidence, and as similar as possible in size, colour, and design to the current voluntary label. This would meet the objectives of the Ministerial Forum, while ensuring the costs to business remain relatively reasonable.

There is no evidence to suggest that introducing colour requirements or requiring a larger size will do anything more than capture a slightly higher degree of the purchaser or consumer's attention when holding the product. And there is no evidence to suggest that a larger format or red colour scheme will significantly impact upon behaviours. Given this, we urge FSANZ to reconsider the proposed warning label to ensure it is balanced and reasonable for Australian wine businesses.

As a final point, while we appreciate FSANZ's effort to provide additional information in relation to costs and benefits on the afternoon of Thursday 24 October 2019, it is unfortunate that this information was provided with little more than a single business day before the submission is due, and after many of our members have lodged finalised their submissions.

N. Transitional Arrangements (section 4.1 of CFS)

Australian Grape & Wine considers the transitional arrangements put forward by FSANZ to be reasonable, and in line with other transitional arrangements administered by FSANZ in the past.

However, in finalising the pregnancy warning label arrangements, we ask that FSANZ ensures the proposed requirements do not capture museum stock, or wines that are released with significant bottle age (as is common in the Australian wine sector). The transitional requirements should also be mindful of the secondary market for wines, where many older wines are sold at auction, for example.

Importantly, we also ask that FSANZ ensures that if other labelling changes are 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 wine businesses to have to make one change, and then another a short time later. This is costly and avoidable.

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

Given Australian Grape & Wine has provided a number of comments which are critical of the policy design work undertaken by FSANZ, we do not consider it to be a productive exercise to comment on the specifics of drafting at this point. It is clear from our perspective that the underpinnings of the pregnancy warning label design must be amended before drafting should be undertaken.

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

Australian Grape & Wine appreciates the opportunity to submit these comments. While we are clearly unhappy with the approach undertaken by FSANZ, our comments are provided with the objective of improving the pregnancy warning label design so that it meets the objectives of the Ministerial Forum, is useful to consumers, and does not impose unjustifiable costs on Australia's 2,500 wine businesses.

We would be very happy to elaborate on anything raised in this submission at any point.

Contact

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