

SUBMISSION TO PROPOSAL P1050 – PREGNANCY WARNING LABELS ON ALCOHOLIC BEVERAGES

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:

This submission has been authorised by Chief Executive.

Thank you for the opportunity to provide a submission on proposal P1050 regarding pregnancy warning labels on alcoholic beverages.

The Health Promotion Agency/Te Hīringa Hauora (HPA) is a New Zealand Crown entity that reports to the Minister of Health. It has statutory functions to lead and support activities to:

- promote health and wellbeing and encourage healthy lifestyles
- prevent disease, illness and injury
- enable environments which support health, wellbeing and healthy lifestyles
- reduce personal, social and economic harm.

HPA also has alcohol-specific functions to give advice and make recommendations to government and others on the sale, supply, consumption, misuse of alcohol, and undertake, or work with others to undertake, research on alcohol issues. HPA's alcohol work is funded from the levy on alcohol produced or imported for sale in New Zealand.

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

HPA strongly supports the introduction of mandatory labelling of alcoholic beverages warning of the risk to the unborn baby of drinking alcohol during pregnancy. This measure was originally proposed in a 2006 application to amend the Australia New Zealand Food Standards Code by HPA's predecessor organisation the Alcohol Advisory Council of New Zealand (ALAC). HPA is therefore pleased to note the progress that is now being made on this matter. HPA believes this is a cost effective measure which is long overdue.

HPA is therefore supportive of the proposal in general. However there are some details which are sub-optimal in terms of the objective of minimising harm to unborn babies from drinking during pregnancy. These matters are dealt with more fully in the submission but in summary they are:

1. The warning label should be required to be placed on the front of all individual portion packs. (If warning labels are to be permitted on the back of individual portion packs, they should be at least 50% larger).
2. The warning label should be distinctly separate from other information such as beverage strength, standard drink content, 'responsible drinking' messaging and links to industry websites as these are informational rather than warning messages.
3. The warning label should apply to any beverage that requires standard drink labelling and/or alcohol content labelling. That is, it should apply to beverages with an alcoholic content of 0.5% or more.
4. Beverages without any voluntary warnings should not be eligible for an exemption from displaying a warning label after the transition period has expired.
5. There should be a 12 month transition period.

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)

HPA has noted the findings of the literature review and that it is currently being peer reviewed.

E. Consumer testing of warning statements (section 3.1.2)

HPA supports the use of the warning message 'Any amount of alcohol can harm your baby' on the grounds that it conveys the essential message in a relatively short way. However HPA notes that consumer testing showed that the statement 'Any amount of alcohol can cause lifelong harm to your baby' was assessed as the statement that best conveys the public health message with the preferred statement being the second best. HPA agrees that a trade-off needs to be made between keeping the message short to encourage people to read it and providing a message that fully outlines the consequences. HPA has also considered whether environmental differences between consumer testing situations and real life situations where drinkers are consuming alcohol could be relevant and is of the opinion that FSANZ's proposal to use the shorter of the two may be prudent.

F. Pictogram (section 3.2.2.2)

HPA agrees that the proposed design for the pictogram is the strongest option and should be mandated. The image is more well-known than other options and clearly represents a pregnant woman. Although the depiction of a wine glass may not represent the drink of choice for all drinkers it is agreed that other depictions such as a beer glass are not as clear.

G. Warning statement (section 3.2.2.3)

As noted in paragraph E above, HPA considers that either of the two statements 'Any amount of alcohol can harm your baby' and 'Any amount of alcohol can cause lifelong harm to your baby' would be acceptable. The former is shorter and more likely to be noticed, while the latter conveys a more complete evidence based message.

HPA does not agree that a shorter message should take up less space on the label as suggested in the proposal – indeed a shorter message should enable the pictogram and the font to be larger and more noticeable and therefore more effective.

H. Design labelling elements (section 3.2.2.4)

HPA believes that for the warning label to achieve its purpose it must be noticed by consumers. The key criteria for noticeability are: size, colour and positioning.

Signal words

HPA supports the proposed signal words 'Health Warning' as the most relevant and most likely option to attract attention. Other suggestions such as 'Pregnancy Warning' would not be appropriate as the specific risk is not to the pregnant woman but to the lifelong harm to her baby. The proposed signal wording is also more likely to attract attention of a pregnant woman's partner or friends who can support her with the safest choice.

Warning label size

The warning needs to be as large as practicable given other constraints. HPA would prefer a larger warning label in proportion to the overall product label in order to attract greater attention.

HPA notes that the proposal is for a pictogram only on single containers under 200ml. HPA would prefer that all alcohol containers have the full warning message however would support this proposal if containers 200 ml and over had the same size message as the minimum proposed for 800ml and over i.e. Pictogram 9mm diameter Font size 2.8mm (8 point). HPA further considers that the warning should be required on the front of individual portion packs irrespective of container size. This is further discussed below.

HPA does not support any proposal to extend use of the pictogram only to other containers (apart from the suggested compromise in paragraph J below).

Location and label orientation

HPA notes that no requirements are proposed for the location and orientation of the label.

In order to be noticeable the warning needs to be placed in a prominent position where it can be easily seen. Ideally the warning should be required to be placed on the front of the pack or container. As currently proposed, there is nothing to stop the label being placed on the back of the container or in a position where it is not easily noticed. HPA considers that if placing the warning on the back of the container is to be permitted it should be at least 50% larger to compensate for the lack of prominence.

HPA agrees with the recommendation in the DRIS that it is important to separate the warning message from other information which may confuse drinkers and diminish the impact of the warning. HPA therefore considers that the warning must be distinctly separate from other information such as beverage strength, standard drink content, 'responsible drinking' messaging and links to industry websites as these are informational rather than warning messages.

HPA notes there is some evidence that suggests warnings presented vertically may not be noticed as quickly as warnings presented horizontally. HPA's preference is for a horizontal orientation requirement.

Colour and contrast

The warning needs to stand out from the rest of the label. HPA agrees that the colours proposed for the warning labels are likely to achieve this and supports this requirement.

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

As outlined above, HPA generally supports the proposed pregnancy warning label design but believes that there should be further requirements relating to size, location and orientation of the warning.

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

HPA considers that option 2 – beverages containing 0.5 ABV or more (3.2.3.3) – is the most appropriate option for determining which beverages will be required to carry the pregnancy warning label. This option more closely aligns with the evidence that there is no known safe level of drinking alcohol during pregnancy and the proposed warning message that ‘any amount of alcohol can harm your baby’. HPA believes that any alcoholic beverage that is required to display alcohol content and/or standard drinks should also be required to display pregnancy warning labels.

HPA notes that some beverages with alcohol contents over 0.5% are not permitted under the code to be represented as alcoholic beverages and that FSANZ claims that option 2 could potentially cause confusion amongst consumers. HPA is of the opinion that even greater confusion could be created if only some of the beverages required to display alcoholic content and standard drinks have pregnancy warnings.

The fact that brewed soft drink beverages are not typically considered part of the alcohol industry is not a valid reason for exempting beverages with alcoholic content from warnings about that alcoholic content. HPA considers that if option 2 does in fact result in consumers being confused it is more appropriate that the requirements of the Code should be reviewed.

While HPA is firm in its support for option 2, it would be possible to consider a compromise whereby beverages with alcohol content of 0.5% to 1.15% would be required to display the pictogram only - as is proposed for containers less than 200 ml.

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

HPA believes that warnings of the risks of drinking alcohol while pregnant should be placed as widely as possible and therefore supports the proposals for the application of pregnancy warning labels to different types of sales. It acknowledges that for wholesale, or other situations where alcohol is not sold directly to consumers, there is limited scope for conveying messages to the public and mandatory labelling may not be appropriate. Also HPA acknowledges that legislation would be a more appropriate way of mandating warnings on such things as vending machines and hampers which are not ‘packages’, as well for warning notices at licensed premises where patrons may not come into contact with the manufacturers packaging.

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

HPA has considered the proposals for packages that have more than one type of packaging and believes that the proposals set out in Proposal P1050 are fair. Consumers and people influencing

the consumption of alcohol by pregnant women should be exposed to the warning at every level of their interaction with the product. It is therefore desirable that where there is more than one layer of packaging, each layer should display the warning. It is agreed that it would be unreasonable to display the warning on bladders in wine casks and on outer layers which are transparent and the warning statement on individual portion packs can be clearly seen. It is also agreed that outer layers of alcoholic beverages sold to caterers are not likely to be exposed to consumers and therefore to require labelling with pregnancy warning labels would be unreasonable.

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

HPA supports option 2 – Mandatory labelling - as proposed in the Proposal 1050 (3.4.1.1.4). The protection of public health from consumption of alcohol which has potential to cause lifelong damage to unborn babies will be much better achieved by a mandatory system. It will have larger, more noticeable and clearer wording than the current voluntary system which does not have full uptake, and has not achieved full uptake even after successive years of opportunities for industry members to achieve this.

HPA would strongly oppose any attempt to abandon the proposal on the grounds of costs. HPA believes that alcohol is not an ordinary product and because of the risks posed it does not agree that alcohol should be available at the cheapest possible price. Any impacts on cost and resulting price of the product is more than compensated for in terms of benefits.

N. Transitional arrangements (section 4.1 of CFS)

HPA considers that the proposed two-year transition period is too long and will unnecessarily prolong the health benefits from implementation of mandatory warning labels. HPA considers that a transition period of one year will be more than adequate for industry to respond. This issue has been under discussion for thirteen years now. There have been two periods of voluntary application but these have not been successful. Industry has been given the chance to make changes voluntarily and there is no justification for this measure taking more than one year to implement.

The proposal that products labelled prior to the expiry of the transition period be given an exemption afterwards is understandable for those products carrying a different voluntary label warning against drinking while pregnant. However HPA does not support an exemption for alcohol products that are not labelled with any pregnancy warning label. All products sold after the transition period should be expected to carry either the mandatory warning or a voluntary warning if packaged prior to the end of the transition period. Products without such warnings should be required to be over-stickered.

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

The text of the draft variation would need to be amended if our suggestions above are accepted.

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

All of HPA's comments are included in the text above.