

Proposal P1050 – Submission Template

Please use the template below to provide your submission to Proposal P1050 – Pregnancy warning labels on alcoholic beverages. Please submit this to FSANZ as a word document (if required, a pdf of the submission may also be provided in addition to the word document).

For information about making a submission, including what your submission should include, visit the FSANZ website at [information for submitters](#).

Submission to Proposal P1050 – Pregnancy warning labels on alcoholic beverages

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

██████████, Director and Winemaker for Payten & Jones Wines, ██████████
██

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

NA

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

As a small wine business who is now employing 4 people directly and using many local businesses from Trucking, Packaging manufacturing, designers' expenses, Australia Post and merchandise manufacturers, we really struggle to see the logic and effectiveness of this new labelling requirement proposed by FSANZ. We are not arguing against the implementation of the warning as a mandate (we have been using a pregnancy warning logo on our wines for years voluntarily), we find it unbelievable the length FSANZ has gone to with this new proposed design with no evidence to back up the changes they are proposing. It is another added burden to an industry that is already drowning in paperwork. It is also an unnecessary one, due to the fact that as an industry we are already using the logo that Europe has adopted.

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 our ability to tell the story of our wine.**

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)

We find it 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.

E. Consumer testing of warning statements (section 3.1.2)

In alignment with the Australian Grape & Wine's view, Payten and Jones feel that the key problem here is that the phrase "WARNING STATEMENT" appearing 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. Furthermore, whilst as an industry we concede that uptake of the existing voluntary DrinkWise Australia pregnancy warning label was not as comprehensive as we would have liked, we are confident that the voluntary label had 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.

F. Pictogram (section 3.2.2.2)

Payten and Jones supports the use of 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. We use it on all our labels due to export requirements – many other countries have adopted this pictogram.
- Contrast in colour is more appropriate than mandating a red label. What if your back label is predominantly red? Wouldn't a black, grey or white colour be more prominent in that instance?
- Adding colour adds cost to your label design, and FSANZ's cost estimates are lower than what is realistic.

G. Warning statement (section 3.2.2.3)

This is an important point of principle.

- 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 (eg Soy Sauce)? 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. Emotion should be taken out of decisions like this and a rational approach leaves no room for arguments.

H. Design labelling elements (section 3.2.2.4)

- With regard to the use of "Signal word(s)"
 - o 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.
 - o 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

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- 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:
- Payten and Jones are in favour of no exemptions from the proposed design beyond the proposal to allow 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.
 - FSANZ pays a lot of attention to the need to use size as a means to gain the consumer/purchaser’s attention. Payten and Jones 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 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 matters and every square millimetre of label space is vital to our brand. An unreasonably large warning label erodes our 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. What if your back label is predominantly red? Wouldn’t a black, grey or white colour be more prominent in that instance
 - Adding colour adds cost to your label design, and FSANZ’s cost estimates are far too low.

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

The proposed design appears ill thought out with no evidence to back the effectiveness of the design and no consultation of industry and the effectiveness worldwide of the current adopted pictogram.

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 pregnant women, and brings the validity of the warning statement into question.

Will FSANZ seek pregnancy warning labels on something like Soy Sauce? We feel there is a real need for a practical and workable solution.

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

Payten and Jones is broadly comfortable with this approach.

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

Payten and Jones is broadly comfortable with this approach.

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

Payten and Jones Wines’ initial concerns include:

- The cost benefit analysis suggests that “only a small proportion of 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.
- 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 Australian Grape & Wine 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 Payten and Jones 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. And 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)

Payten and Jones' position is that these transitional arrangements are reasonable, and in line with other FSANZ label changes. However, with these changes, it is very important for us from a cost perspective that:

- 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.

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

NA

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

NA