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20 March 2023

Submission by Lion Pty Ltd

on

Proposal P1059 - Energy labelling on alcoholic beverages

1. Introduction

Lion welcomes the opportunity to comment on the Call for Submissions for Proposal P1059 Energy labelling on alcoholic beverages (the CFS).

1.1 About Lion

Lion is a leading alcohol beverage company headquartered in Sydney, Australia. With origins dating back 180 years, Lion is known for its commitment to quality, craftsmanship, community and sustainability. Lion is a pioneer in brewing and continues to innovate across a range of adult beverages. Its core beer portfolio includes many locally loved brands such as XXXX, Little Creatures, James Squire, Speight's, Steinlager, and Panhead, more recently adding international craft brands to the fold, including New Belgium, the second largest craft brewer in the United States. Lion's portfolio also includes NZ wine brands, spirits, a coffee business in New Zealand, a premium fine wine business in North America and shareholdings in several craft adult beverage companies. Lion is proud to be a carbon zero certified beverages company, recognized for its progressive policies and culture around flexible working, diversity, inclusion and gender pay equity. Lion runs education platform Alcohol&Me and is a member of responsible drinking charities Drinkwise and Cheers! Lion employs around 4,000 people across Australia, New Zealand and the U.S.

2. Overview of lion's position

Lion supports the provision of information to consumers about the products they purchase and consume, that assists them in making informed choices. The provision of energy information is designed to assist people wanting to manage their dietary energy intake.

Lion has provided nutritional information on a range of products for some time both on-pack and by way of brand websites. This is in addition to products that make nutrition



content claims where a Nutrition Information Panel (NIP) is mandated by the Australia New Zealand Food Standards Code (The Food Code).

Lion is supportive of the proposal for a mandatory energy declaration on alcoholic beverages and the proposed scope which covers both standardised alcoholic beverages and beverages containing no less than 0.5% alcohol by volume.

Lion does not support the proposed tabular format, which requires borders, a heading and the number of servings per package in addition to the information on energy content. The additional formatting adds very substantial cost and there is a lack of evidence or cost benefit analysis to support these formatting requirements. On the contrary, Lion has provided extensive analysis in recent years to demonstrate the disproportionate cost burden of mandatory formatting in the context of warning labels.

In general, Lion is supportive of the other elements of the proposals, although it has some specific comments and clarifications with regard to several elements. Lion also has some general comments on the overall cost benefit analysis for this Proposal.

3. Mandatory energy labelling on alcoholic beverages

Lion supports the proposal for a mandatory energy declaration on alcoholic beverages and the proposed scope which covers both standardised alcoholic beverages and beverages containing no less than 0.5% alcohol by volume. Lion believes that such information is valuable to consumers, and it assists them to make informed choices.

3.1 Tabular format for energy labelling

Lion does not support the proposed tabular format including borders, heading and number of servings per package. Lion's strong preference is for the single line format option that was presented as Example 5 in the Targeted Stakeholder Consultation in July 2022 (a). We note that this is similar to the format used by brewers in Europe (b).

a. Example 5: Single line

Energy	kJ (Cal) / X mL	kJ (Cal) / 100 mL
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b. The Brewers of Europe energy labelling format



The proposed tabular format takes up considerably more of the limited label “real estate”, and consequently creates very significant additional cost for producers without a substantiated benefit to consumers.

The 5-line tabular format has a significant impact on the cost of the proposed regulatory measure. Using the cost classifications in the Marsden Jacob Cost of Labelling Model (COLM), the business impact changes from being “New text or adding or subtracting logos which does require changes in the label’s internal layout, but not the label’s shape or size” for a single line format to being “Substantive additional content which does require changes to both label layout and label shape/size” for the 5-line tabular format.

Using the COLM, for the 67,014 SKUs estimated by FSANZ in Appendix E as needing to change labels, the cost of impact for a single line (Example 5) on the beverage container (i.e. the most likely place for the energy label) would amount to \$1225 per SKU or \$82 million overall (not adjusted for inflation) whereas the cost of the proposed 5-line tabular format on the same basis would be \$4223 per SKU or \$283 million – a difference of more than \$200 million.

This must be understood in the context of the fact that alcoholic beverage producers will have by now implemented the pregnancy warning label requirements which will be fully mandatory later this year. Businesses across Australia and New Zealand have cumulatively spent more than half a billion dollars incorporating this new requirement and there is little or no real estate on most existing labels where an additional 5 lines of energy content information can easily be accommodated. While Lion supports mandatory energy labelling, it is understandably concerned at the proposal of a format that will cost the sector \$200 million more than necessary.

In general, Lion considers that the overall cost benefit analysis for this proposal is unsatisfactory, as discussed in more detail below. One of the most concerning aspects is the lack of convincing analysis to support the choice of the tabular option that is \$200 million more costly than the single line option.



There are three reasons given in the CFS for the choice of the tabular format:

- Consumers are familiar with the provision of nutrition information in a NIP. Therefore, a similar, tabular format would likely enable consumers to more easily recognise energy content information on alcoholic beverages and compare it with other foods and non-alcoholic beverages.
- A tabular format with borders and a heading would help consumers distinguish the information from other labelling elements that may compete for their attention.
- A heading would add prominence and make the energy content information look more 'official' which would differentiate it from marketing information.

None of these reasons is supported by evidence or a cost benefit analysis, such as would be expected for a decision to impose \$200 million of additional cost upon a sector. In Lion's view, these reasons are neither convincing nor sufficient to justify the substantial additional cost of the tabular option.

The underlying assumption appears to be that there is a specific need to make energy labelling stand out from other label information. Energy content information is not a warning or advisory statement. It is simply one more item of information to assist consumers to make informed choices – like alcohol by volume or standard drinks. Both of these items of information are at least as important for consumers as the energy content, so there is no logical reason for making the energy content more prominent than these items of information.

The energy content label is not a NIP. It refers to only one item of information so there is no need to group multiple different items of information in a standardised format as there is for a NIP.

There is also no evidence that Lion is aware of to suggest that the tabular format will make the energy content information easier for consumers to recognise and make comparisons. In Lion's view, it is more likely that presenting the energy content information in this format would make little or no difference to how consumers use or understand the information compared to the same information presented in a more compact but legible format. We would expect that comprehensive and reliable evidence has been obtained to support the suggestion of a tabular format. To date, we have not been provided with that evidence but would be happy to consider that should it be made available.

There is also a lack of evidence regarding how consumers would use energy labels for comparative purposes for alcoholic beverages. In practical terms, it seems unlikely that consumers shopping in licensed premises where predominantly alcoholic beverages are sold would be comparing calorie content with other foods. To the extent that they may be comparing goods in that setting, it will be a comparison between different alcoholic beverage products. Indeed, this is one of the take-outs from FSANZ's own literature review. If all alcoholic beverages use the same format for energy content labelling, then comparability is no longer an issue.

Even if there was scientific evidence of a relevant benefit from presenting energy content information in a tabular form, there is no quantification of the value of that benefit



relative to the simpler and cheaper one-line option. When comparing options with very different cost impacts, it is beholden upon FSANZ to carry out a proper cost / benefit analysis of those options.

3.2 Quantity per 100 mL and per serving

Lion supports presenting the energy content as both per serving and per 100 mL quantities (or as 100 mL where this is also the serving size). This allows consumers to compare alcoholic beverages on an equivalent basis as well as accounting for the varying nature of alcohol content across different product categories and beverage styles.

FSANZ's literature review suggests that the most likely uses for energy content labelling by consumers will be to inform themselves of the energy content of the specific product they are consuming and to compare the energy content of different alcoholic beverage products.

Lion agrees that producers should be permitted to determine the serving size as the appropriate serving size varies by product and between alcoholic beverage categories.

For example, Lion considers that an appropriate serving size for beer is the volume of a single serve can or bottle (typically 330 mL or 355 mL, but not exclusively; see example a). For wine, in many cases 100 mL would be appropriate (and consistent with overseas markets such as the EU). Where the serving size is 100 mL, then it should only be mandatory to state the energy per 100 mL on the label to avoid unnecessary repetition (example b). For most spirits, a 30 mL serving size is appropriate. Due to the range of serving sizes that would be appropriate depending on ABV and alcoholic beverage style, and to avoid unintentionally stifling innovation, we do not support mandating serving size. In fact, any proposal to standardise serving sizes runs counter to the principle of ensuring that consumers make informed choices about the products they are consuming. Serving sizes should, by definition, be proportionate to the specific quantities being consumed in each serving and that differs greatly across categories of alcoholic beverages.

Examples

a. Beer

Energy	kJ (Cal) / 330 mL	kJ (Cal) / 100 mL
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b. Wine

Energy	kJ (Cal) / 100 mL
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c. Spirits

Energy	kJ (Cal) / 30 mL	kJ (Cal) / 100 mL
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3.3 Energy content units

Lion supports presenting average energy content expressed in kilojoules and in kilocalories, as outlined in the Food Code.

3.4 Serving information

Lion submits that the inclusion of the number of servings per package is unnecessary and adds unjustifiable cost to the implementation of energy labelling on alcoholic beverages. The only rationale in the CFP for including serving information is the unsupported statement that “the number of servings per package is important contextual information for consumers to consider serving size.” As above, labelling requirements that contribute to a significant increase in the cost of a measure should be supported by evidence and cost benefit analysis.

Lion is also concerned that this information will create confusion with the standard drinks information that is already required on the label. A 330 mL bottle or can of beer would typically be consider a single serving. But that serving might contain greater or less than one standard drink depending on the alcohol content. It would be confusing to have a serving size that was different from the number of standard drinks, which is likely to be the more relevant information for a consumer.

If serving information was to be made mandatory (which Lion does not support) then Lion agrees with the proposal that the word ‘package’ may be replaced by ‘bottle’, ‘can’, or another word or words that accurately describes the package containing the beverage.

3.5 Percentage daily intake

Lion supports the proposal that percentage daily intake may be included voluntarily using the prescribed format.

3.6 Legibility and location

Lion supports the proposal not to prescribe any additional requirements for legibility or location of energy information on beverages containing alcohol. The energy information is not a NIP or warning or advisory information so it should be subject to the same rules as standard labelling information.

3.7 Application of energy information

Lion supports the proposal to exclude alcoholic beverages that are already labelled with a NIP that complies with Standard 1.2.8 from the scope of energy labelling requirements. Lion also supports the proposed approach to other types of sales set out in 5.5.1.2 of the CFS.



3.8 Voluntary provision of a NIP

Lion supports the proposals to retain the permission for the voluntary provision of a NIP on the label of beverages containing alcohol and to exempt beverages containing alcohol that are labelled with a NIP from the proposed energy labelling requirement.

3.9 Application to different types of packages for retail sale

Lion supports the proposals in the CFS with regard to the application of different types of packages for retail sale.

3.10 Calculation of energy content

Lion supports the proposals with regard to the determination of energy content. It is important for producers to have flexibility in this respect. Therefore, it is helpful for producers to have the option of either analysis or calculation from generally accepted data.

3.11 Transitional arrangements

Lion strongly supports the proposal for a three-year transition with a stock-in-trade exemption. Lion is conscious that two other relevant proposals - P1049 (sugar and carbohydrate claims) and P1058 (added sugar) – remain under consideration on a slower timeline than the current proposal.

On the basis of the targeted stakeholder consultation, it appears that P1058 and P1049 would only apply to products bearing a full NIP and therefore would not apply to products affected by the current proposal. However, if that situation were to change in the course of consultations, Lion submits that the commencement date of the current proposal P1059 should be postponed so that all changes can be completed with one artwork change. This would prevent the unnecessary multiplication of costs to producers.

3.12 Education

Lion supports a targeted, government-led education and communication campaign as an important strategy to support energy labelling on alcoholic beverages. Lion welcomes FSANZ's intention to work with peak industry organisations on communication strategies to ensure awareness of the new energy labelling requirements on beverages containing alcohol during the transition period.

3.13 Attachment E – Consideration of costs and benefits

Lion sets out its responses to the questions in Attachment E below.



1. Do you agree with the estimates for the average cost of labelling change and the number of Stock Keeping Units (SKUs) that would need to be changed? Please provide evidence to support your position.

Refer to the answer provided to question 2 below.

2. Do you think the estimated average cost of labelling change is representative of all products within scope of this application?

Lion is supportive of the work done by FSANZ to develop the COLM. Lion does not see any reason to depart from the findings of that thorough piece of work other than to account for inflation. It is not clear from Attachment E precisely how the figures correlate to the figures in the COLM – and particularly which cost category these relate to. For that reason, in Lion's submission we have referred to the categories and figures in the COLM rather than the figures in Attachment E (noting that the figures in the COLM are not adjusted for inflation). As above, Lion's view is that the further changes required by the 5-line tabular format would place this measure in the category of "*Substantive additional content which does require changes to both label layout and label shape/size*" for the majority of products. However, that does not appear to be reflected in the figures in Attachment E.

Overall, Lion's major concern is the lack of comparative cost benefit analysis for the different options for a mandatory energy label. Using the equations in the COLM, the costs of the various options are dramatically different, but there is little in the way of evidence of incremental benefits such as would justify the increased costs.

3. Do you have any views on whether the estimates we have used for the costs of overweight and obesity are appropriate? If you have alternative studies you would like us to consider can you please provide references to them.

Lion has no view on this.

4. Do you agree with the use of break-even analysis in this situation? If not can you provide alternative evidence about potential causal links between labelling change and potential health benefits?

While Lion supports the implementation of a cost-effective version of energy content labelling for alcoholic beverages, it believes that the break-even analysis for this measure lacks the necessary scientific rigour. No attempt has been made to calculate the actual benefit in terms of a reduction in overweight and obesity attributable to energy labelling on alcoholic beverages. Indeed, there does not appear to be any evidence of such a benefit. On the contrary, the conclusion from FSANZ's literature review at 3.4.3 is that "Results from 16 studies showed that energy labelling (in kilojoule/calorie numerical format) has no effect on consumers' likelihood of drinking an alcoholic beverage." Yet Attachment E assumes there somehow must be a benefit of at least a \$260 million reduction in the cost of overweight and obesity attributable to energy labelling on alcoholic beverages, without any evidence to show an effect on consumer behaviour. The industry is well aware that its claims about cost are rigorously scrutinised, and the same should apply to claims about the purported benefits of regulatory measures.



5. Are there any other material costs and benefits that you believe should be taken into account in this analysis?

In considering possible effects of this measure on overweight and obesity, it is important to take into account the differences between alcohol and other carbohydrates. While alcohol is a dense form of energy, it is not processed by the body in the same way as fat, carbohydrate or sugar in other foods. The relationship between the consumption of alcohol and the use or storage of energy from alcohol is highly complex. Alcohol is not used as efficiently as other sources of energy, and it can affect the processing of energy and nutrients from other sources.

The relationship between overweight/obesity and alcohol consumption is neither straightforward nor well understood from a scientific perspective. It is therefore not accurate to treat energy from alcohol as if it were directly equivalent to energy from fat, carbohydrate, or sugar in other foods.

Yours faithfully

