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**NEW ZEALAND WINEGROWERS SUBMISSION ON PROPOSAL P1059 – ENERGY LABELLING ON
ALCOHOLIC BEVERAGES**

20 March 2023

Introduction

1. New Zealand Winegrowers (NZW) provides strategic leadership for the wine industry and is the body that represents the interests of all New Zealand's grape growers and wine makers. Established in 2002, NZW is funded by compulsory levies under the Commodity Levies Act and the Wine Act and has approximately 1,400 members. New Zealand is the only major wine producing country to have a single, unified industry body that represents both grape growers and winemakers.
2. Thank you for the opportunity to submit on P1059 *Energy labelling on alcoholic beverages*. The below submission is in addition to our submissions in June and August 2022, and should be read together with those submissions. Our preference is for energy labelling to remain voluntary.
3. In summary, NZW's view is that FSANZ should consider:
 - a. simplifying and reducing the size of the declaration;
 - b. opportunities to harmonise arrangements with labelling requirements in other markets; and
 - c. ways to minimise the implementation cost to producers (particularly those who will bear the highest costs of any changes).

Prescribed Format [section 5.3]

4. NZW strongly supports the proposal to allow the format of energy content to be displayed using a truncated Nutritional Implementation Panel (NIP).



5. However, NZW does not support the proposed prescribed format. Instead, NZW prefers a modified version of example 4 that was provided in the July 2022 targeted stakeholder consultation document.¹ NZW's preferred format is set out below.

	Quantity per serving (X mL)	Quantity per 100mL
Energy Information	kJ (Cal)	kJ (Cal)

6. The key differences from the proposed format are:
- The separate heading 'Energy Information' is omitted. Instead, the first column includes the heading 'Energy Information' as opposed to just 'Energy'.
 - Information about servings per package and serving size in mLs is omitted.
7. We consider that these amendments to the proposed format would provide consumers with the same information in a smaller format and in a manner that does not risk consumer confusion about serving sizes and standard drinks (discussed further below).
8. As discussed in our submission of August 2022, NZW supports the statement of energy per quantity of 100 mL.² However, we are disappointed that FSANZ has not taken up our earlier suggestion that *where the serving size is 100 mL, then it should only be mandatory to state the energy per 100 mL on the label*.³ For many wine producers, both the serving size and the energy per 100 mL will be the same, the requirement to state the serving size again in that situation is redundant and does not provide any additional information to consumers. We strongly submit that FSANZ should reconsider our proposal for an alternative declaration where the serving size selected by the producer is 100 mL. A suggested format for a further truncated declaration is set out below.

	Quantity per serving / per 100 mL
Energy Information	kJ (Cal)

¹ P1059 – Energy labelling on alcoholic beverages Targeted stakeholder consultation – July 2022, refer to section 5.2.

² Refer to page 3, section 5.3 of NZW Submission on P1059, August 2022.

³ It does not appear that any reasoning has been provided by FSANZ as to why this approach would not be appropriate for products such as wine where the serving size is also 100mL.

9. NZW considers that the separate heading 'Energy Information' and the additional explanatory wording relating to servings per package and serving size are unnecessary. The truncated energy statement suggested is self-explanatory and distinct from other information on the labels of alcoholic beverages. NZW considers that the additional information – heading, servings per package and serving size in mLs (where 100 mL is the serving size) – is redundant and creates additional costs that are not justifiable.
10. In terms of the requirement to include the number of servings per package, NZW does not consider the inclusion of an overall number of servings per package to be helpful. This requirement would be in addition to the existing requirement for standard drink labelling on alcoholic beverages. Consumers are already familiar with standard drinks labelling. Where the figures are the same (number of standard drinks and number of servings), this requirement will simply duplicate information that is already provided on the label. Where the figures are different there is a risk that it could cause consumer confusion.
11. FSANZ's proposed prescribed format will have a significant impact on the cost of the label change for wine producers in particular. Given the competition for space on wine labels, we consider that the format would likely amount to *"substantive additional content which does require changes to both the label layout and label shape / size."*⁴
12. Removal of unnecessary text from the proposed prescribed format and adopting NZW's preferred format (including enabling a truncated label where the serving size is also 100mL) will impose less cost on the industry and would likely amount to *"New text or adding or subtracting logos which does require changes in the labels internal layout, but not the label's shape or size."*⁵ NZW considers this reduction in cost would not come at the expense of any perceived benefits of the energy labelling requirements for consumers.

Market access considerations

13. When considering the proposed prescribed format, the requirement to adjust labels on products destined for multiple markets should be considered. As most markets either do not allow energy labelling or permit it only in a specific format, in most cases it will be necessary

⁴ As defined in the Draft Marsden Jacob Report commissioned by FSANZ in 2021.

⁵ Using the terminology in the Draft Marsden Jacob report.

to remove the energy information for such markets. The less space that the energy information takes up on the label, the less reconfiguration will be required for different markets.

14. The EU recently adopted proposals which will apply in its market from 8 December 2023. This includes an energy declaration (which must be provided on-label), along with a nutrition and ingredient list (which can be provided either on-label or off-label via a QR code). It would be extremely valuable for wine producers to be able to use the same format for both markets. This would help to reduce cost and smooth trade between the respective markets.
15. In addition, we understand the United States has confirmed that it will issue a notice of proposed rulemaking regarding nutrition content labelling in respect of alcoholic beverages.⁶ As the United States is New Zealand's largest export market for wine, any developments in this market prior to FSANZ making its decision ought to be carefully considered.
16. There is also ongoing work on these issues in the International Organisation of Vine and Wine (**OIV**) and in Codex Alimentarius.

Other matters related to the label content

17. For completeness, NZW strongly supports FSANZ's proposed approach not to prescribe any additional requirements for label design (e.g. colour, size or location) or legibility of energy information on beverages containing alcohol.
18. We also note FSANZ is proposing to apply the current provisions in the Code for determining average energy content to the proposed requirement for energy labelling on beverages containing alcohol. As noted in our submission of August 2022, NZW's strong preference is that energy labelling allows the use of an average or standard energy value, rather than requiring individual batch testing at considerable expense to producers. We therefore support this approach. As previously notified in our earlier submissions, NZW has been working with the Australian Wine Research Institute to compare their existing Australian data on average values against a New Zealand data set. That work is ongoing and we will let FSANZ know when we have completed this analysis.⁷

⁶ [https://www.cspinet.org/sites/default/files/2022-11/2022-11-17 TTB Response to CSPI Letter.pdf](https://www.cspinet.org/sites/default/files/2022-11/2022-11-17%20TTB%20Response%20to%20CSPI%20Letter.pdf)
⁷ NZW wishes to thank AWRI for their excellent work on this, and particularly Dr Eric Wilkes.

Retention of voluntary provision of a NIP

19. NZW supports the proposal to retain the permission for the voluntary provision of a NIP on the label of alcoholic beverages (as outlined in section 5.6.2.3 of the Consultation Paper).
20. While NIPs are uncommon on wine, we support producers who have chosen to voluntarily provide that information in accordance with the current Code requirements. It would be inefficient and impose unreasonable cost on producers that voluntarily provide a NIP if FSANZ was to require the removal the current NIP and replace it with the proposed energy labelling.

Outer packaging requirements

21. NZW notes the proposal to require labelling on outer packaging. While the proposal notes that it is only on outer packaging that may be used at retail, producers may not necessarily control how product is displayed in retail so may feel obliged to label every outer in order to avoid any risk of enforcement action. We are concerned that this may end up being a de facto requirement on all outers. To remedy this, we suggest that outer packaging labelling only be required where that outer packaging is *intended for retail sale by the producer*. This is particularly important for a product such as wine where it is ordinarily displayed in a bottle, rather than in a box.

Transitional arrangements

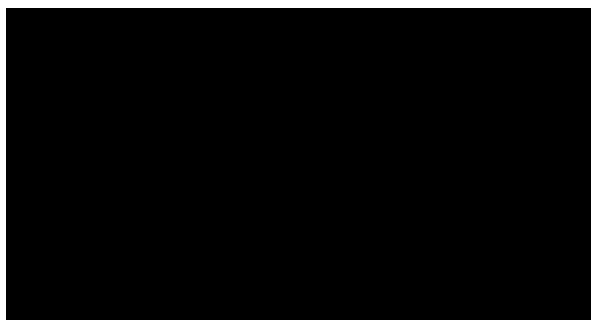
22. NZW supports the proposed implementation timeline and considers that a three-year transition period with stock in trade protections is suitable. We also consider it will be critical for this proposal to align with P1049 (carbohydrate and sugar claims) proposal that may also result in labelling changes. Alignment will ensure producers have time to make both changes at once, if that is the outcome – this may mean in practice that the deadline for energy labelling is extended.
23. NZW is particularly pleased to note the stock-in-trade exemption intended to remove the need for re-labelling particular beverages. This is particularly important for wine that is intended for ageing/cellaring before sale but has already been labelled.

Costs

24. We note the estimated label change costs detailed in Table 2 on page 65 of the discussion document.
25. As set out in our submission of August 2022 (refer to section 6.1), the costs associated with the labelling change will be significant and will fall disproportionately on the wine sector which accounts for more than 80% of the alcoholic beverages SKU's in the Australia and New Zealand markets. Our analysis of the 2021 Draft Marsden Jacob Report determined that, on the basis of a category 3 change, it will cost the wine industry approximately \$139 million out of a total cost of \$179 million at that time.
26. We note that FSANZ's consultation documents show an estimated total cost of \$260 million. We presume this pertains to the final version of the report which we have not been able to locate on FSANZ's website. This makes it difficult for us to engage with the exact figures; however, we note that the principles involved will not have changed – wine has a much larger number of SKUs so would be expected to bear most of the costs.
27. This cost must be balanced against the fact that wine accounts for only 12% of the actual containers on the Australia and New Zealand markets.⁸ That is, the wine industry will bear approximately 80% of the cost for only 12% of the impact of labelling changes (in terms of numbers of containers visible to consumers). We submit that FSANZ should take this into account when considering our submission, particularly the comments above regarding serving sizes and outer packaging.

Conclusion

28. Thank you for the opportunity to submit on the Proposal. We would be happy to discuss any of the points raised in this submission in more detail.



⁸ As per the 2021 Draft Marsden Jacob report available on FSANZ's website at the time of drafting.