

20 March 2023

Food Standards Australia New Zealand  
PO Box 5423  
KINGSTON ACT 2604  
AUSTRALIA

By email: [submissions@foodstandards.gov.au](mailto:submissions@foodstandards.gov.au)

Dear Sir / Madam,

**Submission to Food Standards Australia New Zealand (FSANZ) re  
Proposal P1059: Energy labelling on alcoholic beverages**

Wine Australia welcomes the opportunity to make a submission in relation to the proposed amendments to the *Australia New Zealand Food Standards Code (Code)* articulated in the call for submissions document released by FSANZ for Proposal P1059 dated 16 January 2023 (**FSANZ Proposal**).

Having considered the FSANZ Proposal, it is understood that FSANZ proposes to amend the Code to require the provision of energy content information on beverages containing alcohol in the following prescribed format:

ENERGY INFORMATION		
Servings per package: (insert number of servings)		
Serving size: mL		
	Quantity per serving	Quantity per 100 mL
Energy	kJ (Cal)	kJ (Cal)

Wine Australia is not an advocacy body. Accordingly, this submission is intended to highlight the considerations that ought to be taken into account in further developing the FSANZ Proposal, rather than proffering a recommended outcome.

**Executive Summary**

In further developing the Proposal, FSANZ ought to consider:

- A. simplifying and reducing the size of the energy information panel
- B. opportunities to harmonise arrangements with those already existing, or expected to be implemented, in key export markets such as the European Union (**EU**) and United States (**US**)
- C. engaging with international bodies including the International Organisation of Vine and Wine (**OIV**) and Codex Alimentarius

(Codex) to harmonise arrangements pertaining to wine labelling, and

- D. practicalities of implementing the FSANZ Proposal, including whether the contribution of average concentrations of components in wine such as polyols and organic acids ought to be standardised.

## About Wine Australia

### *Background*

Wine Australia is a Corporate Commonwealth entity that operates in accordance with the *Wine Australia Act 2013 (Act)*.

In accordance with section 3 of the Act, Wine Australia's objects include:

- to support grape or wine research and development activities
- to support the growth of the wine industry, and other industries that make wine
- to support the growth of international wine tourism, and services, products and experiences that complement international wine tourism
- to control the export of grape products from Australia (including monitoring compliance with the Code for grape products exported from Australia)
- to promote the consumption and sale of grape products, both in Australia and overseas, and
- to enable Australia to fulfil its obligations under prescribed wine-trading agreements and other international agreements, which includes administration of the Label Integrity Program which ensures the truthfulness of claims made on wine labels about vintage, variety and geographical indications.

Wine Australia is funded by grape growers and winemakers, through levies and user-pays charges, and the Australian Government, which provides matching funding for research, development and adoption investments.

## Market Access Considerations

Compliance with differing wine labelling laws in export markets presents significant market access challenges for Australian wine exporters.

The Draft Report by Marsden Jacob titled 'Cost of labelling model – alcohol', dated September 2021 and commissioned by FSANZ, estimated



the cost of a labelling change akin to that set out in the Proposal at \$2,355 per stock keeping unit (**SKU**).

Accordingly, Wine Australia is active in many international fora that have the objective of promoting mutual acceptance and/or harmonisation of oenological and labelling practices pertaining to wine. These include the OIV, the International Federation of Wine and Spirits (**FIVS**), the World Wine Trade Group and Codex.

Fundamentally, every labelling change pertaining to wine globally represents a risk that additional trade barriers will ensue, and that additional costs will be incurred.

### Energy and nutrition labelling in the global context

In further developing the FSANZ Proposal, FSANZ ought to have consideration to how inconsistencies with laws pertaining to wine labelling in key export markets could be avoided.

In particular, consideration ought to be given to developments in the US (value of wine exports in 2022: \$390 million FOB), and in the EU (value of wine exports in 2022: \$586 million FOB).

Further, consideration ought to be given to work being done by the Codex Committee on Food Labelling (**CCFL**), and by the OIV pertaining to nutrition and ingredient labelling.

### *European Union*

Law passed in the EU on 2 December 2021 will require wine (and aromatised wine products) marketed in the EU to be labelled and presented with a nutrition declaration (including an energy value) and list of ingredients from 8 December 2023 (**EC Law**).

The EC Law is relevant to:

- the FSANZ Proposal,
- FSANZ proposal P1049 (concerning carbohydrate and sugar claims on alcoholic beverages), and
- FSANZ Proposal P1058 (concerning nutrition labelling about added sugars).

In further developing the FSANZ Proposal, consideration ought to be given to the following elements of the EC Law.

#### 1. On- and off-label options

Under the EC Law, producers may provide the required information:

- on a product's package or label, or

- by electronic means (i.e. online via a link or QR code which appears on a product's label).

This is not consistent with the changes to the Code proposed by the FSANZ Proposal, which favours the mandatory declaration of energy content information, in a prescribed format, to appear on label.

Options for provision of information via "off-label" means were contemplated by FSANZ in 2021 as part of its stakeholder consultation. Subsequently, FSANZ's preliminary analysis of December 2021 was that on-label energy content information was the best option.

Given the EC Law has developed significantly and in favour of the provision of information off-label since that preliminary analysis, consideration ought to be given to whether digital options ought to be reconsidered.

## 2. Prescribed format

Under the EC Law, producers have the option of limiting the contents of a nutrition declaration provided on a package or label to only the energy value, and making the full nutrition declaration available by electronic means.<sup>1</sup> Significantly, where this occurs, rather than being presented in the form of a truncated nutrition declaration, an energy value may be expressed by using the symbol "E", for energy.

Noting that use of an "energy icon" was considered as part of FSANZ's preliminary work conducted in 2021 regarding the FSANZ Proposal,<sup>2</sup> the EC Law's utilisation of the "E" symbol to communicate energy value is not consistent with the truncated nutrition information panel proposed by the FSANZ Proposal.

Given the evolution of the EC Law and in circumstances where the space available on wine labels is limited, reconsideration ought to be given to whether a truncated version of the proposed nutrition panel ought to be incorporated into the FSANZ Proposal.

## 3. Per-serving and per-100 mL

The FSANZ Proposal proposes the provision of energy content on a per-100 mL and per-serving basis.

Noting the extensive commentary concerning this matter in the FSANZ Proposal, the changes to the Code proposed by the FSANZ Proposal

<sup>1</sup> Provided that the energy value is expressed on-label by using the symbol "E" and provided that they avoid any collection or tracking of user data and do not provide information aimed at marketing purposes.

<sup>2</sup> See section 7.2 of Energy labelling of alcoholic beverages – Options analysis' accessible at <https://www.foodstandards.gov.au/consumer/labelling/Pages/Energy-labelling-of-alcoholic-beverages.aspx>.





## Wine Australia for Australian Wine

are not consistent with the EC Law, which requires energy values to be expressed per 100 mL only.

Given the application of the EC Law and in circumstances where globally, consumers are at risk of being confused by “serving sizes” pertaining to alcoholic beverages, consideration ought to be given to whether the requirement in the FSANZ Proposal ought to be limited to displaying energy per-100mL.

### *United States of America*

The FSANZ Proposal omitted to note that the US Government has, via the Department of the Treasury’s Alcohol and Tobacco Tax and Trade Bureau’s (TTB’s) letter to the Center for Science in the Public Interest, Consumer Federation of America and National Consumers League dated 17 November 2022,<sup>3</sup> confirmed that it will engage in a new rulemaking on nutrition content labelling in respect of alcoholic beverages and related matters.

It is expected that the TTB will publish notices regarding the rulemakings in 2023.

Given the significance of the US as a trading partner, and the timing of the TTB’s anticipated next steps (being relatively imminent, considering the proposed commencement of the changes to the Code outlined in the FSANZ Proposal), consideration ought to be given to developments in the US prior to implementation of the FSANZ Proposal.

### *OIV*

The OIV is an intergovernmental organisation of a scientific and technical nature of that makes recommendation concerning regulatory matters pertaining to wine and grape products. Australia is one of the OIV’s 49 Member States, many of which adopt OIV recommendations by enshrining them in their national laws.

Accordingly, following the activities of the OIV is essential in avoiding the emergence of market access issues pertaining to oenological practices and labelling.

The OIV is currently reviewing matters pertaining to nutrition and ingredient labelling in the context of its International Standard for Labelling of Wines (OIV Standard).

The changes proposed to the OIV Standard by some Member States are substantially similar to the EC Law.

Given the significance of the OIV in the implementation of global wine labelling practices, consideration ought to be given to developments at the OIV prior to implementation of the FSANZ Proposal.

<sup>3</sup> See <https://www.cspinet.org/sites/default/files/2022-11/2022-11-17%20TTB%20Response%20to%20CSPi%20Letter.pdf>.

*Codex Alimentarius*

As set out in the FSANZ Proposal, the CCFL has been undertaking work in relation to the labelling of alcoholic beverages.

As set out in the Report of the 46<sup>th</sup> Session of the CCFL (which was held in September and October 2021),<sup>4</sup> the Russian Federation, European Union and India, with assistance from WHO and EUROCAFE, would prepare a discussion paper for consideration by CCFL47.

CCFL47 is to be held in May 2023. Labelling of alcoholic beverages is on the agenda for the CCFL47 meeting.<sup>5</sup> However, as at the date of this submission, the discussion paper has not been made available.<sup>6</sup>

Given the significance of Codex, and the timing of CCFL47, consideration ought to be given to developments within CCFL of nutrition and ingredient labelling prior to implementation of the FSANZ Proposal.

We thank you in anticipation of the consideration of this proposal and welcome the opportunity to engage in further consultations.

For information about this submission, please contact [REDACTED]  
[REDACTED]  
[REDACTED]

Yours sincerely,

[REDACTED]

<sup>4</sup> Accessible at [https://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FMeetings%252FCX-714-46%252Freport%252FREP21\\_FLe.pdf](https://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FMeetings%252FCX-714-46%252Freport%252FREP21_FLe.pdf).

<sup>5</sup> [https://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FMeetings%252FCX-714-47%252Ff47\\_01e.pdf](https://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FMeetings%252FCX-714-47%252Ff47_01e.pdf).

<sup>6</sup> <https://www.fao.org/fao-who-codexalimentarius/meetings/detail/en/?meeting=CCFL&session=47>.

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