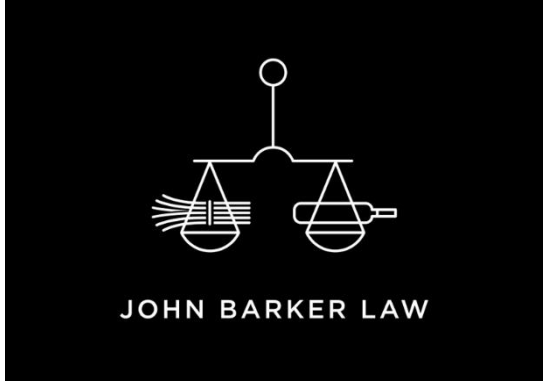

APPLICATION TO AMEND AUSTRALIA NEW ZEALAND FOOD STANDARDS CODE:

PRINTING REQUIREMENTS FOR CORRUGATED CARDBOARD OUTER PACKAGING

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PART 3.1 GENERAL REQUIREMENTS

Part 3.1.1 Applicant details

[redacted]

Nature of applicant's business:

Incorporated society representing the interests of brewers in New Zealand.

Details of other individuals, companies or organisations associated with the application:

This application has broad-based support from the alcoholic beverages and packaging sectors in Australia and New Zealand. The following entities, representing virtually all of the alcohol beverages sector in Australia and New Zealand as well as a significant share of the cardboard recycling and manufacturing sector, support this Application:

- Visy Industries, the major recycler and manufacturer of CCCs in Australia and New Zealand;
- the New Zealand Brewers Association and the Brewers Guild, the national industry bodies for New Zealand beer producers;
- the Brewers Association of Australia, the national industry body for Australian beer producers;
- Australian Grape and Wine, the national industry body for Australian wine producers;

- New Zealand Winegrowers, the national industry body for New Zealand wine producers;
- Spirits New Zealand, the national body for New Zealand spirits producers and importers;
- Spirits and Cocktails Australia, the national body for Australian sprits and cocktails producers and importers.

Part 3.1.1C Purpose of the application

Purpose of application

The purpose of the Application is to address a technical issue arising from the application of Standard 2.7.1-12 to the printing of corrugated cardboard cartons (CCCs) used for outer packaging of alcoholic beverages.

Since the Gazettal of P1050 and the introduction of Division 4 to Standard 2.7.1, alcoholic beverage producers have been transitioning to inclusion of the pregnancy warning on labels and outer packaging in anticipation of the deadline of 31 July 2023.

While it was the clear policy intent of P1050 that "[o]uter and shipping cartons removed before retail sale do not require the warning label"[1], in practice it is not possible for producers to determine which outer cartons will be removed before retail sale since they do not control how products are sold at retail. Consequently, producers are compelled to label all outer cartons for alcoholic beverages if there is a possibility that they will not be removed before retail sale - even though producers are aware that only a small proportion of products are actually sold in the outer cartons.

CCCs are an essential form of alcoholic beverage outer packaging for certain purposes. CCCs are virtually all printed using the "post print" process. The technical issue arises because use of post print for CCCs can result in a significant misalignment when printing the pregnancy warning in three colours. The nature of the printing process means that there is a ± 3mm margin of error for print registration for each colour, with 4% of the cartons potentially having even larger variances. The risk of misalignment affects all post printed CCCs. Where misalignment is visible, the pregnancy warning can be difficult to read and have reduced effectiveness.

The purpose of the present application is to resolve this issue by permitting the printing of the pregnancy warning in a single colour on a contrasting background for corrugated cardboard carton outer

[1] See, for example, Table 1 to P1050 Approval report.

packaging for multiple unit packages of alcoholic beverages. This is considered to be the best available option taking into account the effectiveness of the messaging, the importance of compliance with the standards, and the cost of implementation. The Applicant emphasises that it supports the pregnancy warning requirement in Standard 2.7.1 Division 4 and has sought in the application to make the minimum change necessary to accommodate the specific technical issue that has arisen.

Scope of the Application

The scope of this application is limited to pregnancy warnings appearing on corrugated cardboard carton outer packaging as follows:

- the corrugated cardboard packaging material is constructed of at least 3 layers (outer board, fluting, liner board);
- the corrugated cardboard packaging is in the form of a box or carton;
- the corrugated cardboard packaging contains multiple individual units of product, each of which is labelled with the three-colour pregnancy warning;
- the individual units of product cannot be consumed without removing them from the corrugated cardboard packaging.

The specific amendment requested is to replace the requirement that the pregnancy warning must be printed in red, white and black, with a requirement that the pregnancy warning be printed in contrasting colours for such outer packaging only. No other elements of the Standard 2.7.1 Division 4 would be changed.

The Applicant believes that this scope of this application is very limited and affects only a small subset of products at the point of sale. It would have only a very minor impact on potential attention to the pregnancy warning that is offset by the gain in consistency and comprehension against the status quo (i.e. potential for labels to be misaligned). It would create no practical additional risk of producers choosing CCCs over other outer packaging with the three colour pregnancy warning.

Standard(s) requiring amendment

The main standard requiring amendment is 2.7.1-12 of Standard 2.7.1 *Labelling of alcoholic beverages and food containing alcohol*. This will require amendment to allow for the printing of the pregnancy warning in a single colour on a contrasting background for corrugated cardboard carton outer packaging for multiple unit packages of alcoholic beverages only.

Part 3.1.1D Justification for the application

This application is closely aligned to the overarching objectives of FSANZ in section 3 of the FSANZ Act, as well as the specific objectives of FSANZ in developing or reviewing food regulatory measures and variations of food regulatory measures specified in s18(1) of the Act, for the following reasons:

- it supports an effective, transparent and accountable regulatory framework within which the food industry can work efficiently by reducing compliance costs and supporting the use of safe, sustainable and locally produced packaging materials;
- it is aligned with the protection of public health and safety and the provision of adequate information relating to food to enable consumers to make informed choices because it allows producers to achieve the clearest representation of the pregnancy warning on CCC outer packaging taking into account technical difficulties, while ensuring that the warning continues to be fully represented on labels and other packaging;
- it supports consistency between domestic and international food regulatory measures without reducing the safeguards applying to public health and consumer protection by taking into account the technical difficulty presented by 3 colour printing on CCCs that would otherwise disincentivize imports without reducing the effectiveness of pregnancy warnings.

The Application will have a minimal impact on the primary and secondary objectives of P1050 to provide a clear and easy to understand trigger to remind pregnant women, at both the point of sale and the potential point of consumption, to not drink alcohol, and to provide information to the community about the need for pregnant women to not drink alcohol because:

- there are a comparatively low number of products packaged in CCCs at the point of sale;
- the proposed changes are narrow in scope and targeted at a specific technical issue;
- the proposed changes will in fact make the pregnancy warning on CCC outer packaging more legible in certain circumstances;
- the proposed changes will have no impact on the pregnancy warning as it appears on product labelling and therefore at the point of consumption.

(a) Need for the proposed change

Problem identification

Since the Gazettal of P1050, alcoholic beverage producers have been transitioning to inclusion of the pregnancy warning on labels and packaging in anticipation of the deadline of 31 July 2023. During this process, it has become apparent that the standard printing process used for corrugated cardboard outer cartons known as "post print" causes significant misalignment when printing the pregnancy warning in three colours. This makes the pregnancy warning difficult to read and reduces its effectiveness. The Applicant's purpose in making this application is to propose a solution that can address this technical issue in the way that is most consistent with the objectives of the FSANZ Act and P1050.

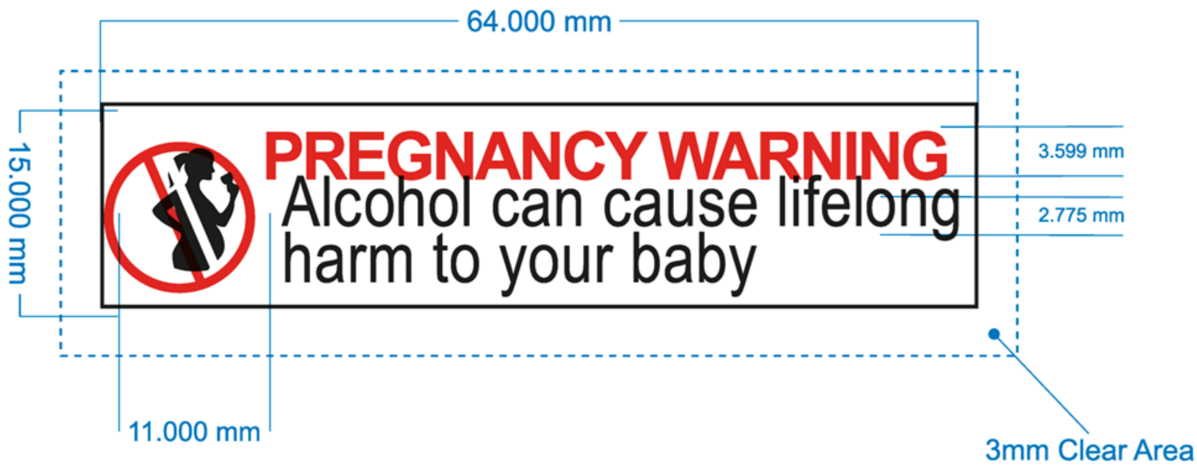
This issue primarily affects larger multi-unit packs of beer, cider and pre-mixed drinks (e.g. 12, 16, 18 and 24 packs) as well as wine (6 and 12 bottle cases). These products are usually packed in corrugated cardboard carton (CCC) outer packaging. CCC outer packaging serves two functions. First and foremost, it protects the goods during transportation and handling. Second, depending on the product, it may also be used in the retail setting e.g. for storage or as a multi-unit retail package.

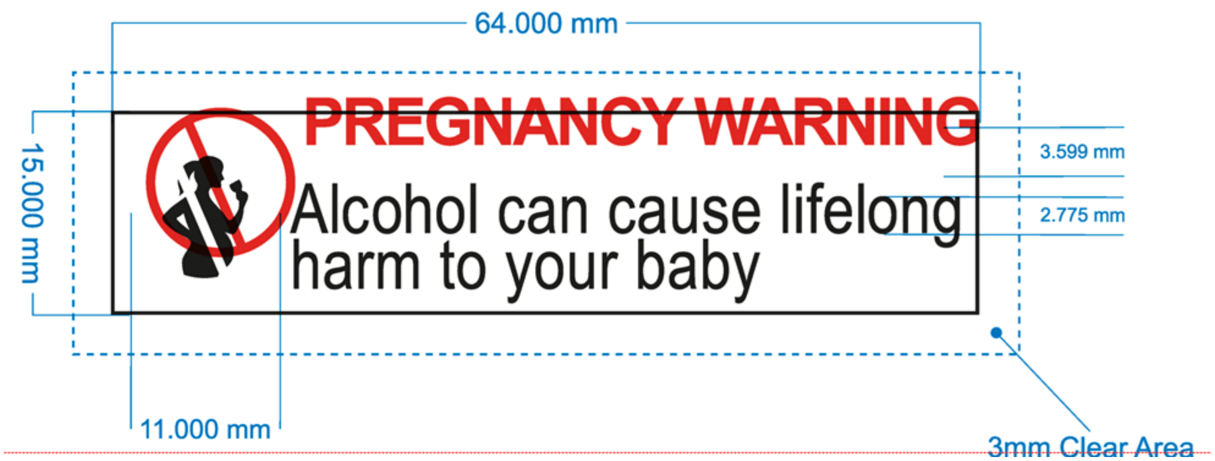
For a majority of products, the CCC outer packaging will be removed prior to the point of sale and the product inside sold as smaller units (e.g. 4 packs, 6 packs, individual bottles). For all products, CCC outer packaging is removed prior to consumption. Consequently, CCC outer packaging does not have the same immediacy or proximity to consumption as labelling on the product itself.

The specific technical issue is that post printing of CCCs has a ± 3mm margin of error for print registration resulting in a net registration "shift" of up to 6mm in some cases. The printing specification for post print states that 4% of the cartons can have even larger variances.

This margin of error applies to every single post printed CCC. While not every CCC will have a visible misalignment, it is not possible to predict or control the incidence or extent of misalignment within the margin of error. Because this is an issue that is inherent in the post print method, it exists in Australia, New Zealand and any other country using post print on CCC outer packaging.

Below are some examples of the ± 3mm margin of error as it would appear on CCC outer packaging.


64.000 mm
15.000 mm
PREGNANCY WARNING
Alcohol can cause lifelong
harm to your baby
3.599 mm
2.775 mm
11.000 mm
3mm Clear Area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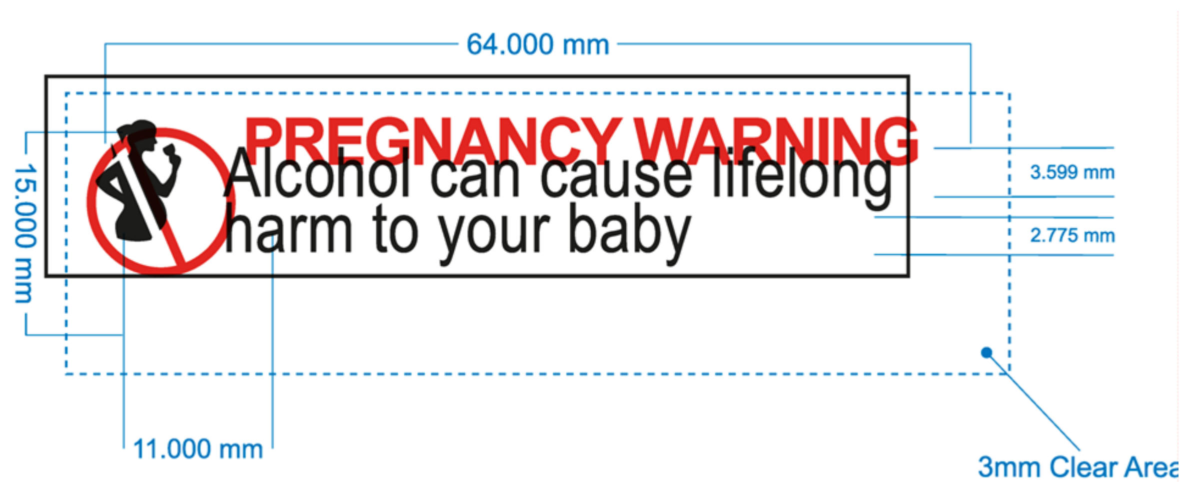
3mm Clear Area


64.000 mm
15.000 mm
PREGNANCY WARNING
Alcohol can cause lifelong
harm to your baby
3.599 mm
2.775 mm
11.000 mm
3mm Clear Are

This registration error is due to the nature of the printing process. “Post print” printing methods involve printing directly onto the cardboard sheets from which CCC outer packaging is made using flexible plates (flexographic) fixed to a rotating drum. Each colour that is printed has its own plate. Post print can accommodate a maximum of 3 (or in some cases 4) colours. The 3 colour pregnancy warning requires the layering of 2 colours on bleached white CCCs and 3 colours on coloured or unbleached CCC outer packaging.

The colours are printed sequentially e.g. first white, then black, then red. The colours are each printed with a +/- 3 mm variation in accuracy. If even one colour is misaligned, this will affect the legibility and compliance of the pregnancy warning. However, this effect is significantly amplified if more than one colour is misaligned as the above examples demonstrate.

This technical issue gives rise to a number of concerns:

- the effectiveness of the 3 colour pregnancy warning will be reduced by the registration error;
- producers will risk non-compliance with Standard 2.7.1 if CCC outer packaging with registration errors are used in retail environments;
- imported products will encounter compliance difficulties that may discourage entry into the market;
- there are no practical alternatives to post print CCC outer packaging that are available to the entire sector.

The concerns relating to 3 colour printing of the pregnancy warning on CCCs are set out in greater detail below.

The problem of 3 colour printing of CCCs is a technical issue that has become evident as a result of implementation. While raised previously by some submitters during P1050 process, the magnitude of the issue has been fully revealed during implementation. It is therefore not surprising that this particular issue and the specific costs and difficulties associated with 3 colour printing of CCCs have not previously been considered in depth.

From the Applicant’s perspective, the best solution to this technical issue is to allow for the pregnancy warning to be printed in a single colour on a contrasting background, rather than in the mandated 3 colours, on CCC outer packaging only. The Applicant believes that this solution will support the objectives the pregnancy warning label requirements because:

- a properly registered pregnancy warning that is clearly printed in contrasting colours is more likely to be effective than an improperly registered pregnancy warning in 3 colours;
- the amendment will only apply to CCC outer packaging which is a secondary or tertiary packaging layer that is not used for all retail sales and is never used at the point of consumption;
- individual product labelling, retail multipack outers and other types of non-CCC outer packaging will not be affected.

Importance of post printed CCCs

The Applicant believes that there are no viable alternatives to post print CCC outer packaging for heavier formats containing multiple units of alcoholic beverages from the perspective of cost, availability or sustainability. Such alternative options as are available would not be viable across the whole sector and their disadvantages would not be justified by the relative benefit of having the 3-colour pregnancy warning on CCC outer packaging versus a contrasting colour pregnancy warning.

Use of corrugated cardboard cartons

CCCs are an essential packaging format for certain uses in the alcoholic beverage sector. Their primary function is to protect products during transportation, storage and handling. The combination of strength, durability, protection and light weight makes CCCs irreplaceable for this function for heavy and fragile products. It is important to be clear that CCCs are only ever used as outer packaging. They are never used as individual unit packaging[2] or labelling. This Application relates to CCC outer packaging for multiple units only.

The primary objective of pregnancy warning labels on packaged alcoholic beverages identified in P1050 is to provide a clear and easy to understand trigger to remind pregnant women, at both the point of sale and the potential point of consumption, to not drink alcohol. Therefore it is relevant to consider the use of CCCs as outer packaging specifically in relation to these occasions.

Alcoholic beverages will always be removed from CCC outer packaging at the point of consumption. Indeed, this is written into the scope of this application. Consequently, it is not necessary to consider the use of CCCs further in relation to that occasion.

The use of CCCs at the point of sale is difficult to quantify. CCCs may be used in a retail setting either as outer packaging for multiple units or simply as a space-efficient means of storing and displaying

[2] With the exception of wine casks, which are outside the scope of this application.

products on the shop floor. However, in the majority of situations, products will be removed from the CCC either as individual units or multipacks prior to the point of sale. Producers generally have little control over how CCCs are used in a retail setting and therefore understand that CCCs should bear the pregnancy warning if there is a possibility that the CCCs will be used at the point of sale.

According to research commissioned by FSANZ, there are approximately 71,000 alcoholic beverage stock keeping units (SKUs) in Australia and New Zealand. Industry estimates are that there are approximately 200 million CCCs used to package alcoholic beverages each year. However, data is not available to indicate which SKUs are packaged in CCCs, what proportion of SKUs are packaged in CCCs at the point of sale, or what proportion of CCCs are diverted from the point of sale e.g. use for exported products or products sold to the hospitality trade.

The Applicant has sought data from its members and other supporting parties and is able to provide the following indicative figures for different product categories.

<u>Beer, cider and pre-mixed drinks</u>

- Beer, cider and pre-mixed drinks are typically (but not always) packaged in lighter individual units - e.g. 330 mL cans or bottles.
- It is usually only heavier packs of 12, 16, 18, 24 or 30 individual units of these products that are packaged in CCCs. Virtually all 16, 18, 24 and 30 unit packages will be CCCs. 12 unit packages may be in CCCs or other packaging options.
- Often CCCs will contain a number of smaller multipacks e.g. 4 x 6 packs. These smaller multipacks are not themselves CCCs but are packaged in an outer sleeve or layer of lighter paper board that is fully labelled (in addition to the labelling on the individual units themselves). For a significant proportion of products, the CCCs will be removed by the retailer and the product will be offered for sale directly in the smaller multipacks.
- Depending on the producer, product mix and market, the proportion by volume of such products packaged in CCCs may range from as low as 15%-20% for some producers to more than 70% for others. It appears that pre-mixed drinks have a higher proportion of products packaged in CCCs than beer and cider.
- It appears that a significant proportion of such products are removed from CCCs prior to the point of sale and sold as smaller multipacks. One producer has indicated that approximately 40% of beer sales through the New Zealand grocery channel are in larger package sizes that would be packaged

in CCCs. Another producer has given the example of a widely distributed New Zealand premium beer that is packaged in CCCs for transportation, where 95% of the product is sold as 6 packs (i.e. having been removed from the CCC outer packaging).

Wine

- Wine is typically packaged in heavier individual units - 750mL bottles weighing approximately 1.5 kg per unit.
- Wine is usually packaged and transported in 6 or 12 bottle CCCs. The Applicant estimates that at least 95% of wine by volume for sale in Australia or New Zealand is packaged in CCCs.
- In the retail environment, CCCs containing wine are typically unpacked from their cartons by the retailer and presented as individual units on shelves or refrigerators. The Applicant estimates that less than 10% of wine sales are in their original CCCs at the point of sale.

Conclusions on use of CCCs

From the foregoing, it can be concluded that while CCCs are widely used as outer packaging, only a minority of products are sold in the CCCs in which they were originally packaged. Because it is impossible for producers to know or control which CCCs will be used at the point of sale, and impractical for most producers to print different CCCs for different channels or markets, there will be a significant difference between the total number of CCCs printed with the pregnancy warning and those that are actually used at the point of sale.

Taking into account the caveats about the data noted above, we set out some rough working assumptions on the use of CCCs below. Overall, the Applicant's working assumption is that less than 10% of all products are packaged in CCCs at the point of sale.

- For wine, where they packaging options are limited, it is reasonable to estimate that at least 95% of wine destined for sale in Australia or New Zealand is packaged in CCCs but less than 10% of that is still in the CCC at the point of sale. On that basis, 9.5% of product is in a CCC at the point of sale.
- For beer and cider, we could adopt a very conservative assumption that approximately 40% of product is packaged in CCCs but less than 20% of that is still in the CCC at the point of sale - although in reality the proportions are likely to be even smaller. On that basis, 8% of product is in a CCC at the point of sale.

- For pre-mixed drinks we adopt a similarly conservative and caveated assumption that approximately 50% of product is packaged in CCCs but less than 25% is still in the CCC at the point of sale. On that basis, 12.5% of product is in a CCC at the point of sale.

Functionality of CCCs

The first reason for using CCCs as outer packaging for alcoholic beverages is their functionality in terms of strength, protection, durability and stackability. CCCs are comprised of an outer wall, a middle layer of fluting and an internal layer. This gives CCCs superior functionality over alternatives for transportation of larger and heavier product formats.

Glass packaging and the liquid volume of alcoholic beverages makes them among the heaviest products sold in the FMCG setting. A typical case of 24 x 330 ml of bottled beer weighs approximately 10-12.5 kg. A typical case of 12 x 750 ml of wine weighs approximately 18 kg. CCCs are strong enough to bear the weight of these heavier products in multiple unit formats.

Glass is a fragile packaging material. The packaging for glass products needs to be protective and minimise the risk of breakage. CCCs offer superior protection to alterative packaging against external impacts and compression. This is a health and safety matter, since broken glass can cause injuries to persons handling such products in the workplace and safety risks to consumers.

CCCs are strong and durable enough to withstand repeated handling and stacking. Alcoholic beverage packaging must last a longer period of time that most other food and beverage packaging. The “best before” period for beer may be as long as 2 years from the date of packaging. For wine, there is no “best before” and the product can potentially remain in CCCs for considerably longer.

Alcoholic beverages are also stored in chillers for prolonged period, where cold and dampness can affect the strength of packaging. CCCs are again the best option for these challenging storage conditions.

Sustainability of CCCs

CCCs are a very important packaging material from the point of view of sustainability. There is no other suitable material that performs as well in terms of sustainability in its production and recyclability of end use.

The primary material for CCCs is wood pulp which can be sourced from renewable forests including in Australia and New Zealand. However, most CCCs contain a high proportion of recycled material. The leading producer of CCCs in Australia and New Zealand, Visy Industries, uses between 50% and 100%

recycled content in its CCCs for alcohol packaging, with a typical recycled content of 70% or higher. CCCs are one of the main uses for recycled paper and cardboard in Australia and New Zealand.

CCCs themselves have a high recyclability. They do not require the same sorting or separation as plastics. Unlike plastics, all of the recycling takes place in Australia or New Zealand. If CCCs are incorrectly disposed of, they degrade rapidly and do not persist in the environment like plastics.

CCCs printed with post print techniques use water-based inks which are more sustainable than traditional petroleum-based inks.

Local production and availability of CCCs

CCCs are produced locally in Australia and New Zealand on an on-demand basis. This supports Australian and New Zealand economies by supplying locals with manufacturing jobs, contributing to the circular economy by providing an outlet for recycling and reuse of locally sourced fibre products, and by providing impetus and support for research and development in paper manufacturing and waste management.

Local production of CCCs means that there is greater availability and shorter lead time than for other packaging materials. This is important for smaller businesses because it means that they do not need to hold large stocks of packaging materials. This is discussed in further detail below.

Alternatives to CCCs

There are no alternative packaging materials that offer all of the advantages of CCCs for the outer packaging of heavier products and multi-pack sizes for alcoholic beverages.

Solid fibre board is a premium product that is used for higher value alcoholic beverages (e.g. spirits) in less heavy formats or volumes. However, it is not widely suitable because it is:

- not suitable for heavy product formats;
- considerably more costly than CCCs;
- can only be printed with expensive and less sustainable lithographic printing which would need to be sourced overseas in many cases;
- offers less external protection for products than CCCs.

Plastic shrink wrap is sometimes used for the outer packaging of multi-packs of beer. It is a low cost outer packaging. However, it is not widely suitable because it:

- offers low external protection and stackability;
- results in increased use of plastics in the supply chain;
- difficult to recycle;
- creates environmental risks if not disposed of properly.

Plastic rings have been used to hold together multi-packs of canned beer and other ready-to-drink products. These also are not widely suitable because they:

- are not suitable for all products e.g. wine, bottled beer;
- must be used with a corrugated cardboard tray for larger volumes e.g. 24 units;
- offer no external protection;
- are difficult to recycle;
- create well known environmental risks if not disposed of properly.

The other theoretical option would be to *separately sticker every individual CCC shipper* with the pregnancy warning. However, this is not a feasible option from a cost or practicality standpoint. There is no other single item of food labelling where separate stickering is required. Consequently, Australian and New Zealand alcohol packaging lines are not designed to carry out this task. It would be an extraordinary and unjustified burden on business to require every single alcohol packaging line in Australia and New Zealand to introduce a major new step of this nature.

Placement of the sales units into the CCC outer packaging is usually the last step on the packaging line before the outer packages are palletised. Automated packaging lines are designed to inhabit a certain space which may not accommodate the inclusion of an additional stickering process. It is unlikely that suitable equipment is available to automate this process in Australia or New Zealand since this would be a wholly new requirement for labelling of alcoholic beverages (or indeed any food products). Given current global supply chain issues, it would not be possible to identify, purchase and commission equipment for this purpose prior to the full implementation date. In any event, this is unlikely to be an option for small and medium businesses.

In the absence of such equipment, stickering would need to be done manually. This would be hugely costly and problematic. There would be a direct resource and labour cost of manually stickering an estimated 200 million CCC outer packages. The fact that automated packaging lines are built to operate at faster speeds than manual processes would mean that introducing a human process would create unmanageable bottlenecks on the line with significant upstream (storage, throughput) and downstream

(delayed fulfilment) problems. There would also be inevitable errors with a human in terms of placement of the stickers with resulting regulatory issues, for example, if other mandatory label information is accidentally covered.

The importance of post print for CCCs

Printing methods for CCCs

There are for types of printing process for CCCs as outlined in Figure 3 below:

	Post print	**Hi Quality print (HQP)**	**Pre print**	**Lithographic**
Technique	Flexographic printing onto uncoated cardboard	Flexographic printing onto coated or uncoated cardboard	Flexographic printing onto coated reeled paper and laminated onto cardboard	Lithographic printing onto sheeted paper then laminated to corrugated board or printed directly onto solid fibre board
Setup Cost	Very low	High	Medium	Low
Print Cost	Very low	Low	Medium	High
Run Size	Suitable for small (500+) or very large orders	Suitable for smaller (1000+) to medium orders, not suitable for higher volume orders	Suitable for higher volume (1500+) orders, not suitable for small orders	Suitable for small (500+) or large orders
Varnish/Coating	No coating required	Coating and varnish optional	Coating and varnish optional	Coating and varnish optional
Ink	Water Based	Water Based	Water and UV inks	Conventional and UV inks
Colours	3-4 maximum	5 maximum	8 maximum	7 maximum
Lead Time	Australia & NZ: 3 weeks	Australia: 4 weeks NZ: Not used	Australia: 6 weeks NZ: 8-10 weeks pre-covid, 12-14 weeks currently	Australia: 4 weeks NZ: Not used
Offered in NZ	Yes	No. Importation required.	No. Importation required.	Not at sufficient scale.

Post print is by far the most common process for reasons of cost, availability and sustainability. Data from alcohol beverage producers indicates that individual producers would use post print for up to 95% of their CCC packaging depending upon their product mix and positioning in the market.

The post print process is a comparatively low cost process that is appropriate for outer packaging whose primary function is transportation. It involves printing directly onto sheets of uncoated cardboard using

water based inks. Printing can be done in a maximum of 3 or 4 colours only. Post print has a number of advantages over other printing methods for outer packaging:

- It is the lowest cost option for set up and printing.
- The run size is highly flexible. Minimum run size of 500 items means that it is suitable for small producers as well as larger businesses.
- It has the shortest lead time to production of any print method - typically 3 weeks from approval of the artwork.
- It does not require clay coating, thereby reducing cost and also the environmental impact of additional inputs.
- It uses water-based inks which are more sustainable that conventional-petroleum based inks because the inks themselves release far fewer environmentally harmful chemicals, are easier to recycle and do not require solvent cleaning.

By comparison, other methods are feasible across the whole sector because:

- HQP is not available for smaller or larger print runs and it is significantly more expensive than post print, making it unsuitable for both smaller and larger businesses. It is not available in New Zealand.
- Pre print is not suitable for smaller print runs. It is again significantly more expensive than post print. It has double the lead time of post print. It is not available in New Zealand.
- Lithographic is the most expensive option overall. It is a very high quality finish suitable only for high value products rather than CCC outer packaging. It is not available in sufficient scale in New Zealand.

Cost

The comparative cost of printing methods will vary with the run size and source. Prices also fluctuate based on demand and input costs. But is it clear that post print is considerably less costly than other printing methods.

Implementing the outcomes of P1050 will involve an up-front cost associated with the artwork re-design, developing and approving the proof, developing the printing film/files, creating new printing plates, printing set-up and associated administration. Key elements of this up-front cost will vary according to the printing method, with post print being the most cost effective. It has been estimated that new printing plates for pre print will costs approximately $4000 - more than 5 times the cost of a new printing plates for 2 colour post print at approximately $750. The up-front cost of incorporating the

pregnancy warning on a CCC including the change to pre print for a large trans-Tasman business has been estimated at between $12,000 and $16,000 for each item of carton artwork requiring re-design.

Beyond the upfront cost, there are also ongoing costs arising from the change of printing method. It has been estimated that for a large trans-Tasman business, the cost of changing from post print to HQP would be approximately 20¢ per packaging unit and from post print to pre print would cost approximately 30¢ per packaging unit on an ongoing basis. To change from post print to lithographic has been estimated to cost approximately $1 per packaging unit. The cost for smaller businesses with lower economies of scale is likely to be significantly higher.

It is not clear that the cost of changing cartons was fully factored into the cost benefit analysis conducted for P1050 or more recent work carried out for FSANZ on the cost of label changes. Most label changes do not require changes to the outer packaging. A key point of difference between the outer packaging change that would be required in this case and an ordinary label change is there is a substantial element of ongoing annual cost required by the change of printing method.

Lead time

Lead time from approval of the outer packaging artwork to delivery of the printed outer packaging is very important for businesses in responding to the market. Shorter lead times mean that producers do not need to purchase and store large stocks of packaging materials but can order them as needed. Post print offers the shortest lead times by a considerable margin.

This is a particularly significant factor for New Zealand producers because alternative printing methods are either unavailable in New Zealand, or not available at sufficient scale. Instead CCCs printed using alternative methods would need to be sourced from Australia or elsewhere. This means that costs are increased, lead times are lengthened considerably and delivery is put at risk due to global supply chain uncertainties. It also has environmental effects due to the removal of an important outlet for New Zealand recycled material in the form of CCCs, as well as higher carbon emissions due to the greater transportation requirements.

Sustainability

It is also important to take account of the fact that alternative printing methods are less environmentally sustainable because:

- Pre-print methods involve the printing of a layer of coated paper that is then laminated to cardboard or solid board. This is a more resource intensive process that also makes the products more difficult to recycle since the plastic-based laminate must be separated from the cardboard.
- Lithographic also does not give the option of using water based inks.
- Packaging that has not been printed using the post print method must be shipped to New Zealand with additional unnecessary carbon impacts.

Risk of switching to CCCs

The Applicant has considered the possibility of producers switching from non-corrugated board outer packaging to CCCs if the requested changes to the requirements for the pregnancy warning label are made. The Applicant considers that there is no or negligible risk of this occurring for the following reasons.

The limited scope of this application precludes the requested changes being used in respect of individual units or in substitution for labels. The potential risk to be considered is therefore only that producers who do not currently use CCCs for multiple unit outer packaging will switch to CCCs in order to be able to print the pregnancy warning in contrasting colours rather than in three colours on that outer packaging.

In reality, the group of producers and products to which this risk could apply is comparatively small. The following can be excluded from consideration:

- multiple unit packaging for heavier products is already in CCCs;
- single unit packaging, which is outside the scope of this application;
- multipacks in a CCC outer (e.g. 4 x 6 packs) which do not use CCC on the multipack itself since a double layer of corrugated cardboard is bulky, impractical and unnecessary.

This leaves a smaller set of products i.e. multipacks that are not usually packaged and transported in CCC outer packaging. This would mainly be for some 12 packs of beer, cider or premixed drinks. Usually for such products a conscious decision has been made to use non-corrugated outer packaging rather than CCCs to give a premium appearance and/or because the handling risks are managed e.g. short supply chains, short shelf life.

Where a decision has been made to use non-corrugated outer packaging rather than CCCs, the producer is very unlikely to change that decision simply to avoid printing the pregnancy warning in three colours. Such a change would be costly and highly consequential for any product.

Changing to CCCs is significant because CCCs add bulk to a product. The typical depth of standard corrugated cardboard used for outer packaging of alcoholic beverages is between 2.2 mm and 3.2. Packaging an individual 6 pack of beer in corrugated cardboard, for example, would therefore add between 8.8mm and 12.8mm to its lateral dimensions. Cumulatively across a product line this can be a very significant change affecting packaging lines, storage space and shelf space which would impose significant costs.

CCCs also have disadvantages from a marketing perspective, particularly for smaller multipacks. Issues such as their bulkiness, exposed fluted edges, greater difficulty for consumers to open and restricted printing options make them a less attractive option for producers. Changing packaging also has additional cost from a marketing perspective in terms of product and packaging redesign, new artwork etc. This is more than simply a change to the colour of the pregnancy warning, since a change in printing methods means a change in the number or colours and the nature of finishes available.

In this respect, it is notable that there is no incentive for a producer to change packaging simply to avoid printing the pregnancy warning in three colours. While the producer would no longer have to print in the three mandatory colours (or two colours if printing on a white box), they would be substituting a print method where they can print up to eight colours for one where they can only print up to four colours.

In short, there is no real advantage to changing from non-corrugated outer packaging to CCCs and some real disadvantages for producers already using non-corrugated outer packaging. It therefore appears that there is no or negligible risk of switching between packaging formats.

Consideration of other possible options

The Applicant has considered whether there are alternatives to address the problem identified other than the proposed option of printing the pregnancy warning in a single colour on a contrasting background. The two main alternatives would be to print in a single colour on a white background or to increase the size of the pregnancy warning so as to reduce the appearance of misalignment. While both alternatives would alleviate the technical problem to some extent, the proposed option is preferred for the reasons set out below.

Single colour on a white background

Printing a single colour (either black or red) on a white background would to some extent alleviate the technical misalignment issue. The main concern identified with the 3-colour pregnancy warning is the potential for the warning to become unclear through the misalignment of the red and black elements. This issue would be largely addressed by printing the two colour elements as a single colour. However, there would still be misalignment between the printed colour and the white background.

Given that both the white background and the colour printing would have a +/- 3mm registration variance, this would potentially create difficulties in ensuring the required 3mm clear space around the pregnancy warning. In a worst case, the white background could encroach on the clear space in one direction and the colour element in another. While this may not necessarily have the same potential for confusing the customer as the 3-colour misalignment, it would still mean that a proportion of labels would be technically non-compliant.

Additionally, the single colour on white alternative may have sustainability implications. The white background would need to be printed onto unbleached CCCs, taking up an addition colour out of the three colours available for most post print CCCs. This further limits the artwork options available to producers and may lead them to prefer less-sustainable bleached CCCs in order to maintain the integrity of their branding.

Increasing size of pregnancy warning

A further alternative would be to increase the size of the pregnancy warning and thereby reduce the appearance of the potential misalignment. This is possible under the current provisions of Standard 2.7.1. However, the issue with misalignment encroaching upon the 3mm clear border outlined above would not be resolved by this alternative.

Additionally, the pregnancy warning would need to be printed at a substantially larger size than currently required in order for the misalignment not to be obvious. While some producers may choose to do this, it would be undesirable to create a situation that amounted to a de facto mandate for substantially increased minimum size for pregnancy warnings on a subset of outer packaging.

The size of pregnancy warnings was considered in depth during the P1050 approval process and the final decision took into account in particular the support of public health stakeholders for a pregnancy warning size equivalent to warning statements in the Food Standards Code in arriving at the minimum

size requirements. The nature of the technical issue in the present situation is not such as would justify departing from FSANZ's careful consideration of the issue of the warning size.

The technical issue affects a subset of outer packaging, of which a smaller proportion is actually used at the point of sale and which is never used at the point of consumption. Requiring a substantially larger warning for this type of outer packaging in these circumstances would create significant commercial inequities and additional cost without significantly furthering the objective of P1050.

Public health and safety issues

The Applicant believes that the proposed amendment will support, and will not be in conflict with, the public health and safety objectives the pregnancy warning label requirements.

The Draft Regulatory Impact Statement provided by the Ministerial Forum on Food Regulation for the development of P1050 stated the objectives of the Proposal as follows:

> *the **primary objective** of pregnancy warning labels on packaged alcoholic beverages is to provide a clear and easy to understand trigger to remind pregnant women, at both the point of sale and the potential point of consumption, to not drink alcohol. A **secondary objective** of pregnancy warning labels on packaged alcoholic beverages is to provide information to the community about the need for pregnant women to not drink alcohol.*

The Applicant believes that the proposed variation of Standard 2.7.1 will support these objectives because a properly registered pregnancy warning in contrasting colours is more likely to be effective than an improperly registered pregnancy warning in 3 colours.

The Applicant further considers that the proposed variation will not conflict with these objectives. The proposed variation will only apply to CCC outer packaging. CCC outer packaging is a secondary or tertiary packaging layer. They are used for their functionality in containing and protecting goods for transportation. They are often removed prior to sale and always removed prior to consumption.

For this reason, they serve a lesser function than other packaging in terms of the primary objective as a trigger at the point of sale, and no function as a trigger at the point of consumption. There is a similarly reduced effect in terms of the secondary objective. The proposed variation does not affect individual product labelling, or labelling of 4/6 pack outers, which remain the principal trigger point for the pregnancy warning.

The Applicant recognises that the FSANZ Approval Report on P1050 did give consideration to outer packaging. In that Report, it is specified that the requirement to have the pregnancy warning label applies to packaged alcoholic beverages for retail sale or sold as suitable for retail sale without any further processing, packaging or labelling. Outer and shipping cartons removed before retail sale do not require the warning label.[3] This issue here relates from a subset of outer packaging that is often but not always removed before retail sale, and the decision to remove or not is not controlled by the producers.

The FSANZ Review Report also looked at the use of contrasting colours, but found that the use of red gave more consistency and connoted a higher degree of hazard. These positions were supported by the literature reviews, survey evidence and costings which looked at labelling as it was used in the retail environment.

However, this evidence base did not directly consider the case of dual function outer packaging such as CCC outer packaging, nor did it consider the technical issues associated with CCC outer packaging. This is not a fault of the P1050 process since it is a technical issue that is specific to the requirement of a 3 colour pregnancy warning on CCC outer packaging, for which there are few international precedents that could have been considered in the literature. But they do raise concerns that the Applicant believes must be taken into account since they significantly alter the balance of considerations in relation to the pregnancy warning on CCC outer packaging.

As noted above, the effectiveness of the 3 colour label, and the concern for consistency, would be undermined by the presence of "scrambled" pregnancy warnings on outer packaging. The Applicant believes that it would be more consistent and supportive of the primary message on the product label for the pregnancy warning to appear in a properly registered form on CCC outer packaging.

Additionally, dual function outer packaging does raise issues of cost and proportionality. Producers have to use CCC outer packaging for transportation of certain product formats to retailers, but they do not control whether or not outer packaging is removed prior to the sale of the product in the retail environment. While not all CCC outer packaging is in fact used at the point of retail sale, the producer is taking a significant risk of non-compliance if they do not include the pregnancy warning on all their CCC outer packaging in a situation where they do not determine the end use. This has the effect of requiring

[3] FSANZ Approval report at 3.3.11, p.63.

that virtually all CCC outer packaging will need to be labelled when only a proportion of those labelled will in fact perform their intended function.

In the circumstances, the Applicant believes that the most effective way to ensure that the pregnancy warning can appear consistently on CCC outer packaging while avoiding disproportionate impacts on producers and consumers is to allow for the pregnancy warning to be printed in a single colour on a contrasting background on CCC outer packaging only.

Consumer Choice

The Applicant believes that the technical issue with CCC outer packaging will have a number of impacts on negative consumers and consumer choice, including:

- poorly registered pregnancy warnings that undermine their effectiveness;
- potential reduction of choice from imported product for which changing printing and packaging methods for the Australian and New Zealand market alone is not cost effective or practical;
- increased costs of products due to increased cost of packaging;
- unsuitable packaging due to switch of packaging types;
- removal of sustainable packaging choices from the market.

The purpose of the proposed variation is to remedy these impacts while still retaining the public health benefits of the pregnancy warning. These impacts have largely been described above, although the point about imported products requires some further explanation.

Post printed CCC outer packaging is as important for imported products as it is for domestically produced products. The cost of 3 colour printing on CCCs for imported products would be significant, particularly for widely distributed products made on large and complex packaging lines. Generally the artwork for international brands is only changed every 5 to 10 years. Three colour printing would require a change to the artwork and a reconfiguration of packaging line for products distributed globally, and not just Australia and New Zealand, at very significant expense. Many companies may prefer to avoid the Australian and New Zealand markets rather than undergo this expense.

Support for the proposed variation

This application has broad-based support from the alcoholic beverages and packaging sectors in Australia and New Zealand. The following entities, representing virtually all of the alcohol beverages

sector as well as a significant share of the cardboard recycling and manufacturing sector, support this Application:

- Visy Industries, the major recycler and manufacturer of CCCs in Australia and New Zealand;
- the New Zealand Brewers Association and the Brewers Guild, the national industry bodies for New Zealand beer producers;
- the Brewers Association of Australia, the national industry body for Australian beer producers;
- Australian Grape and Wine, the national industry body for Australian wine producers;
- New Zealand Winegrowers, the national industry body for New Zealand wine producers;
- Spirits New Zealand, the national body for New Zealand spirits producers and importers;
- Spirits and Cocktails Australia, the national body for Australian sprits and cocktails producers and importers.

Letter have been attached from [xx] indicating their support for this proposal.

(b) Advantages and disadvantages of proposed change over status quo

As above, the main advantage of the proposed variation over the status quo is to address the consequences of an unforeseen technical issue in the implementation of P1050 in a way that is consistent with the objectives of P1050.

There may be a residual disadvantage in substituting the 3 colour pregnancy warning for a contrasting pregnancy warning on CCC outer packaging. However, the Applicant says that a properly registered pregnancy warning in contrasting colours is preferable to a "scrambled" pregnancy warning in 3 colours. Additionally, if there is any residual disadvantage, this is minimised by the fact that CCC outer packaging is only a second or third line of warning, not always used at the point of sale and never used at the point of consumption. Any residual disadvantage must also be balanced against the costs in terms of excessive coverage, change or packaging/printing methods, and loss of sustainable options.

Status of similar applications made in other countries

None of Australia or New Zealand's major trading partners for alcoholic beverages have a requirement to label outer packaging such as CCC outer packaging with a three colour pregnancy warning. Consequently, no applications are being made by the Applicant to other national jurisdictions.

3.1.1D.1 Regulatory impact information

D.1.1 Costs and benefits

(a) Costs and benefits to consumers

There are no costs to consumers from the proposed variation. The benefits to consumers are:

- the avoidance of "scrambled" pregnancy warnings on alcoholic beverages;
- the avoidance of increased costs that will be passed on to consumers;
- a wider range of choice in both international and domestic products; and
- retention of sustainable packaging options in the market.

(b) Costs and benefits to industry and business in general

The main benefits to industry will be:

- effective communication of the pregnancy warning and avoidance of unintended non-compliance;
- avoidance of excessive costs and availability constraints from alternative packaging and print options;
- availability of environmentally sustainable packaging options in line with industry sustainability commitments.

There will be a cost to industry from printing the pregnancy warning on CCC outer packaging in contrasting colours. However, this cost will be significantly less burdensome than the existing requirement to print the pregnancy warning in 3 colours.

(c) Costs and benefits to governments

There are no costs to governments from the proposed amendment. There may be a small benefit in the reduction of the need for enforcement action in relation to incorrectly registered pregnancy warnings.

D.1.2 Impact on International Trade

The proposed variation would have a beneficial effect on international trade and no negative impact. In terms of imported products, none of Australia or New Zealand's major trading partners for alcoholic beverages have a requirement to label outer packaging such as CCC outer packaging with a three colour pregnancy warning. The current requirement therefore imposes significant new costs on products from

those markets that may inhibit trade as outlined above. The proposed variation would mitigate these costs.

Part 3.1.1E Information to support the application

The Applicant notes that P1050 was the subject of very extensive research with a large body of supporting evidence. The Applicant does not believe that there is any further benefit to revisiting this evidence in relation to the present application. The Applicant is not challenging the findings of FSANZ in relation to P1050, it is simply seeking to address a specific technical issue that has become evident as a result of implementation of P1050.

For this reason, the Applicant has not embarked upon a literature review or other research to demonstrate the relative merits of a 3 colour pregnancy warning versus a contrasting colour pregnancy warning on CCC outer packaging. Instead, the Applicant has sought to demonstrate with the information set out in this application that there is a real technical issue with the 3 colour pregnancy label on CCC outer packaging that cannot practically be remedied from a standpoint of cost, availability and sustainability. That being the case, the proposed variation is the option that, in the Applicant's view, aligns most closely with the objectives and findings of P1050.

In the circumstances, the Applicant requests that the extensive data requirements in 3.2.1B and 3.2.4A.1-3 be waived. The information required in these sub-chapters has been comprehensively traversed during the P1050 process. The value to consumers of pregnancy warning labels in general, and of the specific form of pregnancy warning, has been established in the evidence. The question here is: if the preferred form of pregnancy warning label cannot be consistently achieved for technical reasons for a specific type of packaging, can the next best option be adopted in the limited circumstances to which this application applies.

Part 3.1.1F Assessment Procedure

The Applicant's view is that the appropriate assessment procedure is the General Procedure Level 1.

Part 3.1.1G and H Commercial Information

[Applicant requests that for pre-assessment, this Application is treated as confidential. Applicant to confirm confidential information if any prior to submission.]

Part 3.1.1I Exclusive Capturable Benefit

There is no exclusive capturable benefit to the Applicant. This application is made and supported by a broad segment of the affected industries who would all benefit equally from this proposed variation.

Part 3.1.1.J International and Other National Standards

J.1 Codex Alimentarius

There is no Codex standard that specifically relates to pregnancy warning labels on alcoholic beverages.

It is noted, however, that Codex does not have specific labelling requirements for outer packaging. The mandatory requirements in Codex *Standard for the Labelling of Prepackaged Foods* are required to appear on the label - i.e. "any tag, brand, mark, pictorial or other descriptive matter, written, printed, stencilled, marked, embossed or impressed on, or attached to, a container of food". Additionally, there is no mandatory requirement in any Codex standard that is required to be printed in 3 colours. Therefore, this application is not inconsistent with Codex.

J.2 Other National Standards or Regulations

A review of the online policy database of the International Alliance for Responsible Drinking[4] and the FIVS-ABRIDGE international wine and spirits regulatory database[5] indicates the following:

- Only Mexico (red/black), Lithuania (red/black), Moldova (red/black), Turkey (red/black), South Africa (black/white) and Turkmenistan (black/white) specify multiple colours for pregnancy or health warning labels.
- Of those countries, only Mexico appears to have some form of outer packaging requirement for a multi-coloured pictogram on "the packaging baskets and cartons of the products received by the final consumer". It is unclear whether this applies to CCC outer packaging.

Part 3.1.1K Statutory Declaration

To follow with final submission.

[4] Available here. Covers 61 countries with mandatory or voluntary health warning requirements.
[5] Subscriber only. Covers mandatory and voluntary labelling requirements of 76 countries.

Part 3.1.1L Checklist

Refer attached document.

PART 3.2.1 GENERAL FOOD LABELLING

Part 3.2.1A General information to support the proposed labelling change

A.1 Description of the nature of the proposed labelling change

Standard 2.7.1-12 would be amended to allow for the printing of the pregnancy warning in a single colour on a contrasting background for corrugated cardboard carton outer packaging for multiple units of alcoholic beverages only. This Standard does not come fully into force until 31 July 2023.

A.2 A list of the foods or food groups likely to be affected by the proposed change

Heavy multi-unit packages of alcoholic beverages using CCC outer packaging.

Part 3.2.1B Information related to the potential impact on consumer understanding and behaviour

B.1 Information to demonstrate consumer support of the proposed labelling change

This issue has been considered in depth in P1050. See discussion at *Part 3.1.1E Information to support the application* above.

B.2 Information to demonstrate that the proposed labelling change will be understood and will assist consumers

This issue has been considered in depth in P1050. See discussion at *Part 3.1.1E Information to support the application* above.

It is of particular relevance to note that the only change proposed in this application is to transition from a prescribed three colour label to a label in contrasting colours. Referring back to the P1050 Literature Review on pregnancy warning labels, it is established that both colour and contrast are design elements that can increase attention to a warning label.

The Applicant recognises that shifting from prescribed colours (including the colour red) to contrasting colours may result in a marginal impact on attention to the pregnancy warning. The Literature Review indicates that use of the colour red may increase speed of identification and level of attention as well as assisting comprehension as a warning. However, this must be understood in the context of the status quo, which is that CCCs printed in three colours will have a proportion of visibly misaligned labels. A visibly misaligned label will be more difficult to comprehend. So the while there may be a marginal reduction in attention, there will be a significant gain in comprehension from having contrasting labels printed consistently and correctly.

The Applicant has considered other options above (single colour on white background / increasing size) which could potentially mitigate the marginal loss of attention. However for the reasons outlined neither of these options satisfactorily resolves the technical issue and in any event the Applicant considers that it is not necessary or proportionate to require mitigation measures given the nature of the outer packaging affected.

The Applicant recognises that there are some concerns expressed in the literature about contrasting colours due to the fact that some colour combinations produce contrast that is difficult to read (e.g. yellow on white), and legibility is reduced when the contrast between characters and the background is low.[6] The Applicant is willing to work with FSANZ to develop guidelines for printing in contrasting colours to ensure that these potential issues are addressed.

Finally, the limited impact that the change will have on consumers should be balanced against the disproportionate impact of the status quo upon producers. It was not the policy intent of P1050 to require pregnancy warning on outer packaging that is not used for retail sales. Producers are compelled to label all outer packaging where there is a possibility that it will be used for retail sales, since they do not know or control how products are sold at retail. But in reality only a small proportion of products are packaged in CCCs at the point of sale.

For every ten wine cartons printed with the pregnancy warning, at most just one single carton will “hit the target” of being used at the point of sale. This is in itself a highly inefficient policy, but continuing to require printing of the pregnancy warning in three colours would greatly exacerbate this. In effect, a producer would be required to forego essential packaging options and/or incur significantly increased

[6] P1050 Literature review p4

costs for ten cartons in order to have a slight benefit in terms of increased attention on just one of those cartons. This would create cost that is entirely disproportionate to any marginal consumer benefit.

B.3 Information to demonstrate that the proposed labelling change will not have any adverse health or diet impacts on any population groups (e.g. age or cultural groups)

This issue has been considered in depth in P1050. See discussion at *Part 3.1.1E Information to support the application* above.

Part 3.2.4 Labelling for consumer information and choice

3.2.4A Additional information related to assisting consumers to make an informed choice

A.1 Information to show that the current labelling, or lack of labelling, or information from alternative sources does not allow consumers to make an informed choice

This issue has been considered in depth in P1050. See discussion at *Part 3.1.1E Information to support the application* above.

A.2 Information to show that there are no, or a limited number of, suitable substitute products in all food categories currently available to consumers

This information, as framed, is not relevant to this application. However, it is noted as above that there are no viable substitutes for CCC outer packaging available to producers.

A.3 Information to show that the proposed specific labelling change will assist consumers to make an informed choice or will provide alternative labelling that will not hinder consumers from making an informed choice

This issue has been considered in depth in P1050. See discussion at *Part 3.1.1E Information to support the application* above.

A.4 Information to demonstrate that, in the absence of the proposed labelling, alternative measures to address the issue would not be effective

The Applicant has provided information above to show that there is no viable alternative to post printed CCC outer packaging that could effectively address this issue.