

Submission to Proposal P1050 – Pregnancy warning labels on alcoholic beverages

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

SUBMISSION OF:

SOUTH AUSTRALIAN WINE INDUSTRY ASSOCIATION INCORPORATED (SAWIA)



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

As a voluntary member based organisation, Proposal P1050 – Pregnancy warning labels on alcoholic beverages was notified to members for commentary and response. Responses were incorporated into this submission.

In addition, the submission was discussed at a SAWIA Board meeting on 24 October 2019 canvassing the points set out herein.

The submission was authorised by Brian Smedley, SAWIA Chief Executive.

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

A general HEALTH WARNING label is not a PREGNANCY WARNING label, it is a generalist versus a specific label approach.

SAWIA understands the mandate provided to FSANZ by the Ministerial forum was to develop a Pregnancy Warning and what we now see is a Health Warning.

The existing voluntary pregnancy labelling has strong recall and understanding yet was not even examined or contrasted with the views set out in Proposal P1050.

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The resultant proposal for the mandated statement is more costly than the voluntary label, which will impact in a significant way on all winery businesses including many small businesses. The design labelling elements such as colour adds significantly to these labelling costs.

The colour and contrast consideration should take into account the issues of using red when a background red label and related colours are likely to negate discussion around 'attention', taking notice, and therefore comprehension.

SAWIA supports the use of the pictogram, this has strong recognition and associated meaning as is the case in voluntary pregnancy labelling and throughout the world. SAWIA does not support the use of a colour being a pictogram encased on a red circle and strikethrough. Black will also impart the message and saves labelling costs.

There is no evidence which confirms that the signal words, warning statement, size and colour will result in any change of behaviour when compared to the existing voluntary format which has been operational in the market.

It is surprising to read that more than 1.15% ABV will be required to carry the warning label, meaning that under that ABV they will not, considering FSANZ's position is that "any amount of alcohol can harm your baby".

There is no doubt that size, colour, and design all add to costs for business including a disproportionate expense for small businesses of which there are many in the wine industry.

It is recognised that savings in changes to labels will accrue if multiple changes are undertaken at the same time. Therefore, it makes sense to capture all the changes at a single point in time, to ensure multiple updates of labels through regulatory change are avoided.

Comments to specified sections of P1050 Call for Submissions (CFS) report:

D. Literature review on the effectiveness of warning labels (section 3.1.1 of CFS)

Overall this section is very concerning in that there are no definitive views just experimental outcomes. In addition, no review and testing of the current voluntary approach to pregnancy labelling for understanding, comprehension and personal action is also of concern.

The nature of change has not been discussed – that is, what will the consumer understand by the change in labelling from the voluntary approach to mandatory and how will this result in greater abstinence while trying to fall pregnant or while pregnant.

Given the literature review has not examined examples from studies directly related to pregnancy labelling one asks the question why? If these were not available, then it seems to be a quantum leap to suggest comparisons to other types of warning labels. A general health warning label is not a specific pregnancy warning label, it is a generalist versus a specific label approach.

The colour and contrast consideration should take into account. The issues of using red against a background red label and related colours are likely to negate discussion around 'attention', taking notice, and therefore comprehension.

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The existing voluntary pregnancy labelling has strong recall and understanding yet was not even examined or contrasted with the views set out in Proposal P1050.

SAWIA urges reconsideration of the use of the red colour for warning labels.

E. Consumer testing of warning statements (section 3.1.2)

SAWIA expresses its concerns that FSANZ decided not to consumer test the current voluntary pictogram and the signal words but rather the statement on the warning label.

Further SAWIA raises the issue that the WARNING STATEMENT appeared on all the options that were tested in the public consultation. That would seemingly only result in one outcome.

SAWIA understands the mandate provided to FSANZ by the Ministerial forum was to develop a Pregnancy Warning and what we now see is a Health Warning.

SAWIA considers there are alternate considerations of the meaning of the phrase – ‘any amount of alcohol can harm your baby’ as it talks of alcohol and the baby not the mother and the baby. Consider the direct meaning of “its safest not to drink while pregnant”.

The resultant proposal for the mandated statement is more costly than the voluntary label, which will impact in a significant way on all winery businesses including many small businesses. The design labelling elements such as colour adds significantly to these labelling costs.

F. Pictogram (section 3.2.2.2)

SAWIA supports the use of the pictogram, this has strong recognition and associated meaning as is the case in voluntary pregnancy labelling and throughout the world. SAWIA does not support the use of a colour being a pictogram encased on a red circle and strikethrough. Black imparts the message and saves printing labelling costs.

There should be a better approach and understanding of brands, the role of a label and recognition about the messaging it provides in providing a solution.

G. Warning statement (section 3.2.2.3)

The warning statement selected is “any amount of alcohol can harm your baby”. That is an absolute phrase with no unintended meaning. However, the warning and pictogram will only apply to package beverages with more than 1.15% alcohol by volume. In addition, only the pictogram needs to be on alcohol beverage volumes of less than or equal to 200ml.

Clearly the thinking behind the pictogram and warning statement is not appropriate in every instance. This will raise confusion and is absolutely inconsistent with the stated intent and it raises serious questions about the validity of the warning if not applied to all alcohol beverages.

H. Design labelling elements (section 3.2.2.4)

Signal words

The clear intent from the Ministerial Forum was to develop a Pregnancy Warning after all the clear connection is women, alcohol and pregnancy and FASD. The development and use of a

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Health Warning is a regulatory overreach by FSANZ that unnecessarily will increase labelling costs.

If the objective is to ensure those wanting to get pregnant and those that are, do not drink alcohol, then a specific targeted message of Pregnancy Warning is going to be on message. The Health Warning approach leads to other concerns by the wine industry that FSANZ is seeking an alternative agenda to simply over time create a list of issues.

There is recognition that there is widespread understanding that women should not drink alcohol during or prior to pregnancy. In addition, the pictogram has a well accepted meaning within our communities. Given these two outcomes, it is difficult to understand why signal words are required. Given this proposal for change, how will the education and awareness raising that such a change would require, result in a greater level of acceptance or uptake?

Size

There is insufficient evidence to support the increased size of the warning statement given the experience with voluntary pregnancy warning labels.

It is noted that the size is important to FSANZ in this instance, but what is inconsistent is alternative mandatory labelling such as that related to allergens which can have serious illness and death implications. If people look for such information to ensure their health is protected it should follow people looking to understand what to drink will also look for information. There needs to be a clear cost benefit analysis and evidence based reasons for reaching such conclusions.

Wine more than any other alcohol product has an important story to tell its consumers and this is shown on the back label. With space already at a premium there is other important information such as drinking in moderation, standard drinks, alcohol by volume that also appears. Mandating elements to a particular size will add to costs of re-design and limit available space to assist marketing, interest and sale.

Colour

Adding a red colour to a wine label will add significantly to business costs and the estimates made about costs are not consistent with South Australia's move to a premium image for our wine. Label costs vary significantly to ensure the look and feel of the label represents luxury and prestige. SAWIA does not support the inclusion of a circle in the pictogram and strikethrough in red. SAWIA urges the FSANZ to reconsider its approach to colour.

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

There is no evidence which confirms that the signal words, warning statement, size and colour will result in any change of behaviour when compared to the existing voluntary format which has been operational in the market and gained broad acceptance and understanding.

In addition, it is clear that while recognising consumers attention may be drawn to colour or size, the reality is that consumers engage with products in various ways and while a slightly higher interaction may be viewed as positive, the message is confusing because after all pregnancy as a term is hard to be confused, whereas not everyone who is pregnant may be drawn to a message that is a HEALTH WARNING.

J. Beverages to carry the pregnancy warning label (section 3.2.3)

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It is surprising to read that more than 1.15% ABV will be required to carry the warning label, meaning that ABV under that will not, considering FSANZ's position is that "any amount of alcohol can harm your baby". How will this not be confusing to women who are seeking to become pregnant or are pregnant? How will this not be confusing to partners or the general public seeking information?

What is needed is a practicable and workable solution that is clear and concise and does not mislead or is inconsistent.

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

SAWIA recognises the application of the warning label to different types of retail sales and does not raise any issues.

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

SAWIA recognises the application of the warning label to different types of packages and does not raise any issues.

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

Within the discussion on costs there is no stated recognition of the premiumisation being undertaken for South Australian wine. Such a measure means that the label and packaging is likely to have higher costs associated with design and printing.

There is no doubt that size, colour, and design all add to costs for business including a disproportionate expense for small businesses of which there are many in the wine industry.

What is noticeable in the costings is a lack of recognition for the potential to save costs such as what if we eliminated the use of colour – which would reduce the costs for businesses.

In an extremely cost competitive environment, where margins are constantly under challenge, these type of cost imposts on business make it challenging to continue driving domestic sales and exports and constantly squeeze businesses to do better.

What is a constant in reviews of any regulation, is business costs rise which is evident here.

There must be ongoing funding to ensure the changes proposed are raised in education and awareness campaigns for the public.

N. Transitional arrangements (section 4.1 of CFS)

The transitional arrangements proposed by FSANZ are reasonable.

It is recognised that savings in changes to labels will accrue if multiple changes are undertaken at the same time. Therefore, it makes sense to capture all the changes at a single point in time, to ensure multiple updates of labels through regulatory change are avoided.

The wine industry has many products that are sometimes released many years later such as museum stock or wines that are only released with significant bottle age. These product lines

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must be recognised as having a legitimate claim for specific transitional arrangements with respect to the final labelling requirements.

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

In relation to the matters raised in this submission, a number of the stated matters if changed would require amendment if elements of the pregnancy labelling are not supported.

What is important for business is to have clear and concise information about the changes.

What is desirable for business certainty is for a date of commencement to be actually set out and specified within the document to allow for the transition period timeline to have application.

Too often information is contained in another source (in this case the Gazette) which is not always available for business to access. It should be possible but also desirable to provide all information for a business from one source to understand its obligations if it is to ensure compliance.

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

SAWIA is concerned that the FSANZ proposal P1050 has proceeded to this stage with Pregnancy Labelling when the National Health and Medical Research Council (NHMRC) guidelines are under review and a public consultation is expected late in 2019. Given the NHMRC Guideline 4A deals directly with the subject matter and states “not drinking could be the safest option”, it does not make sense to proceed without a clear understanding of the future guidelines.

In addition, there are substantial costs to wine businesses, in implementing Proposal 1050 and if there were to be further changes to the content of labels as a result of the consultation on the NHMRC guidelines this would result in further costs to businesses whereas implementing a number of changes at the one time would result in one set of costs.