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## **Proposal P1050 – Pregnancy warning labels on alcoholic beverages: Alcohol Programs Team, Public Health Advocacy Institute of WA submission to Food Standards Australia and New Zealand**

Thank you for the opportunity to comment on Proposal P1050 – Pregnancy warning labels on alcoholic beverages. The Alcohol Programs Team at the Public Health Advocacy Institute of WA (PHAIWA), Curtin University, is committed to reducing harms from alcohol by promoting evidence-based approaches. We have been actively involved in work to draw attention to the need for effective and independent pregnancy warning labels on alcohol products for a number of years. Most of this work was done in our previous capacity as the McCusker Centre for Action on Alcohol and Youth.

In preparing this submission, the Alcohol Programs Team reflected on the severe and lifelong impacts of Fetal Alcohol Spectrum Disorder (FASD) on children, families and communities in Australia and New Zealand. We believe that every child has the right to have the best start to life possible. But when it comes to alcohol, it's clear that it causes immense harm to our most vulnerable members – our children. In the case of FASD, this harm is done before the child is even born as a result of being exposed to alcohol in the womb. To prevent alcohol-exposed pregnancies, it's important that women and those around them are well-informed of the risks of drinking alcohol while pregnant. Nobody expects the industry to put people's health and wellbeing above their own interests. That's why we are incredibly supportive of mandatory, well-designed pregnancy warnings being placed on alcohol products. By introducing pregnancy warning labels on alcohol products that are large enough to be easily noticed and read, we have a real chance to help inform the community of the dangers associated with drinking during pregnancy. Pregnancy warning labels are an important part of raising awareness of the risks associated with alcohol use during pregnancy as we strive to prevent alcohol-exposed pregnancies.

In preparing this submission, the Alcohol Programs Team considers that previous submissions provided throughout this process, including the submission to the targeted consultation in June 2018, will be considered. Therefore, that level of detail will not be repeated here and we will use this submission to highlight our key points. Similarly, we have also only addressed the key issues we believe to be most relevant to us from Attachment H Submission Template in this submission.

### **Concern about the weight given to alcohol industry views throughout the process**

The Alcohol Programs Team is broadly supportive of the process Food Standards Australia and New Zealand (FSANZ) is leading to develop and introduce mandatory pregnancy warning labels. However, we wish to draw to your attention our concerns about the weight given to alcohol industry stakeholder views throughout the process.

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Given that alcohol is a teratogen that can cause great harm to unborn babies and that pregnancy warning labels aim to reduce alcohol-exposed pregnancies, we believe significant weight should be given to the existing evidence base on the effective elements of warning labels, the representations made by the public health and related stakeholders, and existing FSANZ standards and processes. The alcohol industry, which spends hundreds of millions of dollars each year promoting its products, with much of this promotion having a clear appeal to young people and to women of child-bearing age, should not be involved in developing pregnancy warning labels. Therefore, we were disappointed to see that significant weight has been given to the alcohol industry opinions and positions throughout the processes and in the consultation paper.

We are also disappointed in and reject the public comments made by alcohol industry representatives about the proposed pregnancy warning labels. For example, in a Sydney Morning Herald article titled *Alcohol industry resisting proposed pregnancy warning labels*, Andrew Wilshire from Alcohol Beverages Australia commented, "The truth is if there's too much information, you get this thing called label haze, where nothing gets taken in at all."<sup>1</sup> Mr Wilshire also insisted that rather than mandating a warning label on alcohol products, we should instead rely on consumers to ask their smartphones about the dangers of drinking alcohol. We believe these comments to be absurd; they are not based on any evidence and we are concerned that groups that promote misinformation of this nature are contributing to this consultation process.

We recognise that the alcohol industry would have a role in implementing the labels, but we believe industry involvement should be limited and clearly defined. Given the alcohol industry representatives' concerning comments, we strongly encourage FSANZ to reconsider the weight given to the alcohol industry views, particularly in terms of the transition timeframe and the label size.

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### B. Level at which the submission was authorised

Public Health Advocacy Institute of WA, School of Public Health, Curtin University

### C. Summary

We do not have any specific comments on this section.

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<sup>1</sup> McCauley D. Alcohol industry resisting proposed pregnancy warning labels [updated 2019 Oct 16; cited 2019 Oct 22]. Sydney Morning Herald. Available from: <https://www.smh.com.au/politics/federal/alcohol-industry-resisting-proposed-pregnancy-warning-labels-20191014-p530mm.html>

**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)**

We do not have any specific comments on this section.

**E. Consumer testing of warning statements (section 3.1.2)**

The Alcohol Programs Team is pleased that consumer testing has been undertaken to help inform development of the warning statement. The warning statement chosen '*Any amount of alcohol can harm your baby*', seems well-supported by the formative research and in our view would appropriately communicate the National Health and Medical Research Council (NHMRC) guideline that for women who are pregnant or planning a pregnancy, not drinking is the safest option. We are also supportive of the longer "Any amount of alcohol can cause lifelong harm to your baby" statement, which received strong support from consumer testing. We support a peer review process being undertaken to help ensure integrity of the consumer testing survey methods and results. Peer review processes should be undertaken by independent researchers without any links to the alcohol industry.

**F. Pictogram (section 3.2.2.2) and G. Warning statement (section 3.2.2.3)**

Research regarding warning labels on tobacco products suggests that a combination of a text and pictorial label is very effective at informing consumers of the dangers of smoking and inciting intentions to quit smoking.<sup>2</sup> Therefore, we support the approach proposed by FSANZ for the warning labels to include both a pictogram and a warning statement.

The proposed pictogram in the consultation document appears to be appropriate and easily understood, particularly when partnered with the warning statement. The use of the colour red appropriately signals a warning. Therefore, we support the use of the colours red, black and white for the pregnancy warning labels.

As we've submitted previously, it is important that the warning statement reflects the evidence and the NHMRC guideline. We agree with the assessment provided by FSANZ that the statement "It's safest not to drink while pregnant", which has been used on the voluntary DrinkWise labels, does not sufficiently convey the current public health advice and the risks of alcohol consumption during pregnancy. It is also evident that a significant proportion of consumers interpret this message in a manner that does not align with the public health advice.

Therefore, the Alcohol Programs Team is supportive of the proposed warning statement '*Any amount of alcohol can harm your baby*'. Given the results of the consumer testing survey, we believe that the proposed statement is appropriate and has potential to effectively inform the community of the risks of drinking alcohol during pregnancy.

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<sup>2</sup> Noar SM, Hall MG, Francis DB, et al. Pictorial cigarette pack warnings: a meta-analysis of experimental studies. *Tobacco Control*. 2016;25:341-354.

## H. Design labelling elements (3.2.2.4)

### Proposed alcohol beverage size categories

FSANZ has proposed that there be three categories for alcohol beverages – equal to and smaller than 200ml, between 200ml and up to and including 800ml, and above 800ml. These appear to be quite arbitrary, without clear reasoning provided for their selection. We believe that there is room to improve the categories to ensure that a large range of products, including smaller bottles of wine, have the most impactful warning label, which is a warning that is large and noticeable and includes both a pictogram and a warning statement. We recommend that the 200ml-800ml category be removed and that the smallest beverage category be amended to only include beverages that are 100ml or smaller. This would mean that there would be two categories for alcohol beverages: alcohol products  $\leq 100\text{ml}$  and alcohol products  $> 100\text{ml}$ .

### Proposed size of the warning labels

We agree with the statement in the consultation paper that “For a pregnancy warning label to be effective it first must be noticed and the consumer direct their attention to it.” We have significant concern that the proposed label sizing for alcohol beverages is not large enough to ensure the warning statement is legible and to attract attention. It is our understanding based on *Attachment F* that the Australia and New Zealand Food Standards Code requires that font of warning statements be at least 3mm (and at least 1.5mm for small packages). We also note that Australian guidance for standard drink information and the recycle logo requires these to have a minimum height of 14mm. There appear to be no strong arguments within the consultation paper for failing to ensure consistency with the FSANZ Code requirements for warning statements.

To help ensure that the warning labels are at least legible, we recommend that the font size for pregnancy warning labels on packages above 100ml be at least 3mm and that the pictogram be at least 8mm in diameter. This would bring the pregnancy warning label for most alcohol products in line with the FSANZ Code requirements for warning statements. The size of the warning label and text within it will be particularly important to help ensure legibility if FSANZ is unable to regulate the placement or orientation of the warning label.

We support the use of only the pictogram for the smallest alcohol beverage category (products equal to or smaller than 100ml).

### Location and label orientation

Research, including that summarised in the consultation paper, shows that front-of-pack warning labels are more effective and more likely to be noticed by consumers. There is also evidence that labels placed vertically may not be as noticeable as labels placed horizontally. While we understand that there may be some concerns around controls on label warning location and orientation in relation to the free trade agreements, the lack of controls on the location and orientation provides further impetus for the size of the warning labels to be significantly increased so that they are large enough to be easily noticed.

### Signal words

The Alcohol Programs Team agrees with the signals words proposed by FSANZ (‘Health Warning’) and accepts the justification provided in the consultation paper. This is preferred over the words ‘Pregnancy Warning’ to capture the attention of the broader community. We also support the use of the colour red and capitalisation of the signal words to indicate importance and attract attention.

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

We do not have specific comments on this section other than that covered in section H. Design labelling elements above.

#### **J. Beverages to carry warning labels (section 3.2.3)**

We believe that ultimately people have a right to be informed of the dangers of the product they are consuming. As the pregnancy warning label notes that any alcohol can cause harm, then a warning statement should be placed on beverages that contain any alcohol, including those with low levels of alcohol. As noted in the consultation paper, beverages with more than 0.5% ABV require a statement of the number of standard drinks. We believe that the companies that are required to comply with labelling of standard drinks should also be required to place pregnancy warning labels on their products. Therefore, we believe that beverages containing more than 0.5% ABV should contain the pregnancy warning statements.

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

We do not have specific comments on this section.

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

The Alcohol Programs Team supports the FSANZ proposal for the warning labels to be placed on every layer of packaging and on each individual portion pack for beverages with more than one layer of packaging.

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

While overall we accept the cost-benefit assessment in the consultation paper, we have concern about the information provided by DrinkWise about its FASD awareness program. DrinkWise note that changing the warning statement would render its existing assets inconsistent and that this would cost its FASD awareness program \$650,000, excluding staffing costs. We believe it to be disingenuous for DrinkWise to note changes to pregnancy warning labels as a cost to the alcohol industry. We don't believe that the cost of corporate social responsibility activities, particularly those that have been shown to be ineffective, should be taken into account when considering the cost to the industry for implementation of pregnancy warning labels.

#### **N. Transitional arrangements (section 4.1 of CFS)**

We maintain that a 12 month transition period would be appropriate given the urgency of preventing alcohol-exposed pregnancies. The proposed transition period of two years is excessive, particularly considering the impact of FASD on individuals, families and communities and the length of time it has taken for pregnancy warning labels to be mandated in Australia and New Zealand. Given the finding of the consumer testing that the current message on the voluntary labels ("It's safest not to drink while pregnant") is misunderstood by more than 20% of women, we believe it is important to replace this message with an evidence-based statement as a matter of priority. We are concerned that further delaying the introduction of pregnancy warning labels on alcohol products will unduly risk more alcohol-exposed pregnancies, with devastating consequences for those living with FASD.

By the time that pregnancy warning labels are to be gazetted, it will have been 11 years since the alcohol industry was first provided with the opportunity to introduce voluntary labelling. We believe

## OFFICIAL

that no further concessions should be provided to the alcohol industry. We strongly urge FSANZ to recommend a one-year transition timeframe.

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

We do not have specific comments on this section.

### P. Other comments

#### Education

We agree with the statement in the consultation paper that pregnancy warning labels should be part of a broader suite of measures to raise awareness of the risks of drinking alcohol during pregnancy. While it is absolutely appropriate for public health agencies to raise awareness of the pregnancy warning labels and the risks of drinking alcohol while pregnant, appropriate funding needs to be allocated by the Australian and New Zealand governments for well-designed mass-media public education campaigns. It is not appropriate to rely on NGOs and their limited funding to promote the warning labels without appropriate funding being allocated.

While we recognise that this may be outside the remit of FSANZ, we wish to encourage the Australian Government to consider further opportunities to raise awareness of the pregnancy warning labels and risks of drinking alcohol during pregnancy. For example, the Senate is currently inquiring into the effective approaches to prevention and diagnosis of FASD and strategies for optimising life outcomes for people with FASD, and the National Health and Medical Research Council is undertaking a review of the low risk drinking guidelines. Both of these provide opportunities to inform the development of and allocate funding towards public education campaigns to raise awareness of the risks of drinking alcohol during pregnancy.

#### DrinkWise corporate social responsibility activities

We understand that DrinkWise, the alcohol industry social aspects/public relations organisation, runs corporate social responsibility activities focussed on FASD.<sup>3</sup> We are deeply concerned about the Australian Government's partnership with DrinkWise on the industry's alcohol and pregnancy campaign. DrinkWise is a public relations organisation funded by the alcohol industry, and is not an appropriate source of information on risks of alcohol in pregnancy. We are particularly concerned that the partnership between the Australian Government and DrinkWise gives undue credibility to the industry's corporate social responsibility activities.

Information provided by DrinkWise has been shown to be misleading and ineffective. DrinkWise posters on alcohol and pregnancy were criticised for presenting misleading and inaccurate information and had to be removed.<sup>4</sup> The DrinkWise alcohol and pregnancy campaign is also supported by the WineMakers' Federation, Lion, Coopers, Carlton United Breweries and Coca-Cola Amatil. The campaign is an effort by the alcohol and sugary drinks industries to legitimise their

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<sup>3</sup> DrinkWise. DrinkWise Fetal Alcohol Spectrum Disorder Awareness Program. Available from: <https://drinkwise.org.au/our-work/drinkwise-fasd-awareness-program-partners-with-federal-government-for-new-education-materials-featuring-deborah-mailman-and-aaron-pedersen/#>.

<sup>4</sup> Han E. 'Utterly wrong': What happens when the alcohol industry makes pregnancy warning posters [updated 2018 Aug 28; cited 2019 Oct 15]. Sydney Morning Herald. Available from: <https://www.smh.com.au/healthcare/utterly-wrong-what-happens-when-the-alcohol-industry-makes-pregnancy-warning-posters-20180827-p50022.html>

## OFFICIAL

corporate social responsibility activities and to delay implementation of evidence-based policies that we know will work to prevent harm.

In a paper published earlier this month, researchers from the UK analysed information on alcohol consumption in relation to fertility, pregnancy and breastfeeding from 23 alcohol industry-funded bodies, including DrinkWise, and 19 public health organisations.<sup>5</sup> They found that alcohol industry-funded websites were significantly less likely than public health organisations to include information on most topics relevant to fertility, pregnancy, breastfeeding, and FAS/FASD. Alcohol industry websites were also found to emphasise uncertainties and to use ambiguous contexts and language to reduce the impact of, or distract from, information on harms. For example, the DrinkWise website was found to state that there is “confusion about how much one can safely drink during pregnancy”, which the authors argued was “with the added apparent implication that such a safe level exists.” The authors concluded that “alcohol industry-funded bodies may increase risk to pregnancy women by disseminating misinformation” and that the public should be made aware of the risks in using these resources.

We strongly urge the Australian Government, including FSANZ, to ensure that it plays no part in legitimising an alcohol industry public relations organisation and its activities, and in promoting potentially dangerous health information developed by the industry. Health information should come from governments and health agencies, not alcohol industry groups. We recommend that appropriate funding be allocated by the Australian and New Zealand Governments for well-designed mass-media public education campaigns that have no links to the alcohol industry.

### Monitoring and evaluation

Monitoring and evaluation of any health measures introduced by governments is extremely important to ensure that the measures are having the intended purpose. We believe that there needs to be a formal and comprehensive evaluation of the pregnancy warning labels.

We strongly encourage FSANZ to prioritise monitoring and evaluation of the pregnancy warning labels when discussing options with the Food Regulation Standing Committee and other stakeholders. It is crucial that governments are committed to ensuring compliance with the FSANZ requirements and to evaluation of the pregnancy warning labels and their effectiveness.

In addition to assessing the coverage of the label, compliance with the presentation of the label on the packaging and the extent to which consumers notice the warning, we believe that evaluation of the pregnancy warning labels should also consider their effectiveness in informing the community of the risks associated with the use of alcohol in pregnancy.

### Conclusion

In summary, the Alcohol Programs Team is supportive of the design of the proposed pregnancy warning label, including the proposed warning statement that “Any amount of alcohol can harm your baby.”

However, we have serious concerns about the proposed size of the warning label, and strongly encourage FSANZ to ensure that the warning labels are at least in line with the FSANZ Code

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<sup>5</sup> Lim AWY, Schalkwyk MCIV, Hessari NM, Petticrew MP. Pregnancy, Fertility, Breastfeeding, and Alcohol Consumption: An Analysis of Framing and Completeness of Information Disseminated by Alcohol Industry-Funded Organizations. *Journal of Studies on Alcohol and Drugs*. 2019; 80(5):524-533.

## **OFFICIAL**

requirements for warning statements. We also strongly encourage FSANZ to recommend a 12-month transition timeframe for the introduction of mandatory labelling in light of the fact that pregnancy warning labels were initially recommended to be introduced in 2009, which is now 10 years ago.

A lot of work has been done to date by government agencies, public health organisations and others on pregnancy warning labels. We now have a real chance to make sure that the pregnancy warning labels will make a meaningful difference by being large and easily noticeable. This cannot be done if too much weight is given to the alcohol industry views. Therefore, we strongly encourage FSANZ to reflect on the reasons for introducing pregnancy warning labels – that is, informing the community of the dangers of drinking alcohol while pregnant – when considering the submissions and proposing the design of the pregnancy warning label to be mandated.