

14 June 2018

Food Regulation Secretariat
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Dear Madam

Attached are the comments that the New Zealand Food & Grocery Council wishes to present on ***Policy options targeted consultation: Pregnancy warning labels on packaged alcoholic beverages.***

This submission need not be treated as confidential. For further information please contact Carole Inkster on +6421 241 2455 or carole.inkster@fgc.org.nz.

Yours sincerely

Katherine Rich
Chief Executive



***Policy options targeted consultation:
Pregnancy warning labels on packaged
alcoholic beverages***

**Submission by the New Zealand Food & Grocery
Council**

14 June 2018

NEW ZEALAND FOOD & GROCERY COUNCIL

1. The New Zealand Food & Grocery Council (“NZFGC”) welcomes the opportunity to comment on *Policy options targeted consultation: Pregnancy warning labels on packaged alcoholic beverages*.
2. NZFGC represents the major manufacturers and suppliers of food, beverage and grocery products in New Zealand. This sector generates over \$34 billion in the New Zealand domestic retail food, beverage and grocery products market, and over \$31 billion in export revenue from exports to 195 countries – some 72% of total merchandise exports. Food and beverage manufacturing is the largest manufacturing sector in New Zealand, representing 44% of total manufacturing income. Our members directly or indirectly employ more than 400,000 people – one in five of the workforce.

OVERARCHING COMMENTS

3. New Zealand has underway an action plan *Taking action on fetal alcohol spectrum disorder [FASD]: 2016-19* to address FASD. Until there has been an opportunity to evaluate and review elements of the Plan, data on effectiveness in New Zealand is limited.
4. Much can be deduced about voluntary labelling systems in Australia and New Zealand from the Health Star Rating (HSR) system.
5. NZFGC supports drawing together elements from the options for voluntary undertakings to provide a stronger and enduring system. Irrespective of the initiator of a Code of Practice or Style Guide, the objectives are the same (communication, consistency and compliance) and the product is stronger and more enduring when this is undertaken collaboratively. Monitoring and evaluation should be key elements of this and determined before the system is changed.
6. Labelling is one initiative that is part of a wider suite of initiatives to support FASD prevention. There is no dispute about the impact of FASD but as the paper notes, labelling on its own cannot directly prevent FASD. Each of the elements in the wider suite of initiatives to support FASD prevention carries risks of coverage, communication, understanding, comprehension and action because of delivery, education level and community involvement. This does not result in mandating each or any element in the initiative but rather identifies the need for continuing to collaborate, raise awareness and continuing the programmes across generations.

DETAILED COMMENTS

Statement of the Problem

7. This section considered the prevalence of pregnant women drinking alcohol when pregnant, and the prevalence and burden of FASD in the Australia and New Zealand communities. The NZ Health Promotion Agency (HPA) is in the third year of an online public education campaign focused on young women. This appears not to have been evaluated yet and there is no trend data on the level of abstention from alcohol by pregnant women in New Zealand.

1: Are these appropriate estimates of the proportion of pregnant women that drink alcoholic beverages? Do you have any additional data to show changes in drinking patterns during pregnancy over time? Please specify if your answers relate to Australia or New Zealand.

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8. In relation to New Zealand, an action plan *Taking action on fetal alcohol spectrum disorder [FASD]: 2016-19* is underway. This has not yet concluded or been evaluated and, as noted above and as reported in the consultation paper, trend data on the level of abstinence from alcohol by pregnant women in New Zealand is not readily available. Our only other comment would be that the lack of currency of data impedes conclusions about next steps. We note, for example that the 2015 reference to the 'Patterns and dynamics of alcohol consumption during pregnancy in a recent New Zealand cohort of expectant mothers'¹ drew on a Growing Up in New Zealand study of 6,800 expectant mothers conducted in 2010.

2: Are these appropriate estimates of the prevalence and burden (including financial burden) of FASD in Australia and New Zealand? Please provide evidence to support your response.

9. We are not aware of alternative estimates of the prevalence and burden (including financial burden) of FASD in New Zealand.

Objectives

10. NZFGC is aware that the voluntary pregnancy labelling on products, at point of sale and through other delivery means (such as websites) is there for two reasons – to remind and act as a trigger for pregnant women to not drink and to provide the community with information about the need for pregnant women to not drink alcohol.

3: Do you have evidence that the voluntary initiative to place pregnancy warning labels on packaged alcoholic beverages has resulted in changes to the prevalence of FASD, or pregnant women drinking alcohol, in Australia or New Zealand? Please provide evidence to justify your position.

11. HPA is in a strong position to assess the impact of voluntary labelling on changes for pregnant women drinking alcohol for New Zealand. The consultation paper acknowledges (p19) the difficulty of attributing any changes in FASD to labelling. HPA receives several million dollars from an industry levy for education, monitoring and evaluation purposes. Nonetheless there may be some alcohol manufacturers who have relevant data that might inform on changes for pregnant women drinking alcohol for New Zealand. This will be advised separately by them if available.

4. Variation in labelling coverage and consistency, and some consumer misunderstanding associated with the current voluntary pregnancy warning labels in Australia and New Zealand were identified as reasons for possible regulatory or non-regulatory actions in relation to pregnancy warning labels on alcoholic beverages.
Are there any other issues with the current voluntary labelling scheme that justify regulatory or non-regulatory actions? Please provide evidence with your response.

12. No evidence is provided in the consultation paper to support the statement that only mandatory pregnancy warning labelling would ensure pregnancy warning labels were not pushed off the label of packaged alcohol. There are other packaged products where voluntary labelling has been retained even in the face of competing consumer information. Most notably, the health star rating (HSR) icon on packaged food and beverages.

¹ Social Policy Evaluation and Research Unit (Superu) (2015) *Patterns and dynamics of alcohol consumption during pregnancy in a recent New Zealand cohort of expectant mothers*. Wellington.

13. The HSR system has demonstrated that uptake by industry across both Australia and New Zealand has continued over time and is continuing. There is evidence around the reasons uptake takes time. With HSR, some companies take longer to be convinced of importance or relevance or want to see the consumer response before embarking. Others are sequencing uptake to coincide with other label changes. These companies are changing over time and we believe this will also happen with alcohol labelling.

5: Has industry undertaken any evaluation on the voluntary pregnancy warning labels? If so, please provide information on the results from these evaluations.

14. NZFGC has not undertaken any evaluation of the voluntary pregnancy warning labels.

Statement of options

15. Four options are presented – three voluntary options and one mandatory. The key features of the four options are:

- 1(a) Voluntary Status quo – voluntary labelling
- 1(b) Voluntary Industry self-regulated, Industry developed Code of Practice (CoP), voluntary sign up to CoP – voluntary labelling
- 1(c) Voluntary Government Style Guide and compliance monitoring – voluntary labelling
- 2 Mandatory labelling with prescribed icons in Food Standards Code and jurisdictional enforcement.

16. As with many other arrangements, options are not mutually exclusive and elements from any could be combined and enhanced to present a future programme.

6: Considering the potential policy options to progress pregnancy labelling on alcoholic beverages and address the implementation issues:

a) Are there additional pros, cons, and risks associated with these options presented that have not been identified? Please provide evidence to support your response.

17. Another pro for Option 1(a) that carries through is the continued opportunity for further uptake of voluntary labelling over time.

18. In the examples of Option 1(b) there is no reference to industry signing up to a CoP. While this may not be a necessary element, nonetheless, there are other examples in New Zealand such as the Packaging Accord, the recently signed 'declaration to tackle plastic waste'² and the Healthy Kids Industry Pledge³ which have required formal signatories.

6: Considering the potential policy options to progress pregnancy labelling on alcoholic beverages and address the implementation issues:

² https://www.dairyreporter.com/Article/2018/06/05/Danone-joins-fight-against-plastic-waste-in-New-Zealand?utm_source=newsletter_daily&utm_medium=email&utm_campaign=GIN_BDd&c=%2BmH%2FWVVRMiv4xk%2F4Haukjcll159iU4K&p2=

³ <https://www.health.govt.nz/our-work/diseases-and-conditions/obesity/childhood-obesity-plan/healthy-kids-industry-pledge>

b) Are there other potential policy options that could be implemented, and if so, what are the pros, cons and risks associated with these alternate approaches? Please provide evidence to support your response.

19. A variation on 1(b) could be applied in New Zealand through utilising the food control system. All food businesses in New Zealand are required to have some kind of documented food control/national plan dealing with safety. An additional 'insert' could be developed for the purposes of labelling packaged alcoholic beverages for the relevant manufacturer/importer. This could then be subject to verification by third parties which is already also in place. While this would not be a completely joint system (since Australian food businesses do not uniformly require such an arrangement), some States do require this and broad coverage would still be possible.
20. It is not clear that a style guide and a CoP are necessarily mutually exclusive or even very different. Both set out expectations about use and application. The HSR Style Guide⁴ covers Principles on use and on pack presentation, information about the system, imported food products, food products that should not or were not intended to display HSR and other logos and certification systems, legal issues, trade measurement and contacts. This would seem to cover all that a CoP for HSR would cover and hence our concern that we are focussed on semantics instead of the objectives of the product.

7: Which option offers the best opportunity to ensure that coverage of the pregnancy warning labelling is high across all types of packaged alcoholic beverages, the pregnancy warning labels are consistent with government recommendations and are seen and understood by the target audiences? Please justify your response.

21. All options provide opportunity for high and consistent coverage of the pregnancy warning labels. Combining elements could deliver improved outcomes. In a discussion of CoP vs Style Guide, there is little difference but development of a joint Guide could be useful. Government involvement could be important to ensure enduring stakeholder confidence in the system. FSANZ is a government agency so whether FSANZ undertakes development with industry (Option 1(b)) or other government agencies undertake development with industry (Option 1(c)) is best determined by FRSC. However, in terms of trans-Tasman coverage, FSANZ would appear to be well placed from that perspective. Public health could be involved under any scenario. The key is collaboration in development.
22. A CoP or Style Guide could both assist with providing additional information that could be either displayed or used on websites.
23. In terms of compliance and enforcement, there are many options – in New Zealand this could be an oversight group of industry and government representatives, separation for compliance by industry or a standalone agency such as the Advertising Standards Authority (ASA) and enforcement by ASA or government.

Ensuring the message is understood

24. This section discussed the relative merits of pictograms (colour, contrast, image) and text about not drinking when pregnant.

⁴ <http://healthstarrating.gov.au/internet/healthstarrating/publishing.nsf/Content/style-guide>

8: Do you support the use of a pictogram? If so, do you have views on what pictogram should be used (e.g. pregnant woman holding beer glass or wine glass), and also, what colour/s should be used, and why? Do you have any views on size, contrast, and position on the package? Please provide research or evidence to support your views.

25. NZFGC supports the pictogram. Use of a pregnant woman holding a wine glass or a beer glass should be options. The important feature is she is holding a glass.

26. In terms of colours, contrasting colours is preferred and a style guide could set out the preferential contrasts. International best practice is not to dictate size or position on a package. The Codex General Standard for the labelling of Prepackaged Foods (Codex STAN 1-1985 (Rev 1-1991) sets out, in clause 8.1.2 the following:

“8.1.2 Statements required to appear on the label by virtue of this standard or any other Codex standards shall be clear, prominent, indelible and readily legible by the consumer under normal conditions of purchase and use.”

In contrast clause 8.1.4 provides ONLY that the name of the food and its net contents “shall appear in a prominent position and in the same field of vision”.

27. These should be the principles applied by the style guide/CoP. We note that recent research conducted by the University of Otago⁵ found that in a sample of 59 alcoholic beverages (beers, wines and ready-to-drink beverages) of which 29 were imported, 80% carried pregnancy-related warnings. This is an impressive voluntary coverage. Paradoxically, the warning size was compared to the entire container size even though a substantial portion of glass containers carry no labelling, and the researchers still recommended mandatory labelling because, amongst other things, of ‘inadequate uptake in New Zealand’.

28. Importantly, a significant influencer for the consumer is awareness and recognition. Education around the labelling regime needs to continue and be enhanced to maximise the desired outcomes in relation pregnant women not drinking alcohol.

9: Do you support the use of warning text on a label? Why or why not? Do you have views on what text should be used, and if so, what is it? Do you support the use of warning messages already used in other markets? Please provide research or evidence to support your views.

29. Unless evidence is provided that demonstrates utility/understanding/application, text on a label could be an optional extra but we consider it unnecessary if education and awareness about the pictogram is comprehensive enough to build recognition and understanding. We have no views on what any text might be.

10: Do you have views on what colour should be used for text, and whether green should be permitted? Do you have any views on size, contrast, and position on the package? Please provide research or evidence to support your views.

30. As noted above, we consider text unnecessary if the pictogram is communicated well. Also see above for comments on size, contrast and position. We note, however that the work of

⁵ Barry H, Brockway G *et al* (2017) *Study of health warning labels on alcoholic beverages on the New Zealand market*. A2 Public Health Group, University of Otago: Dunedin New Zealand.

Braun et al conducted in 1995⁶ found that labels presented in color were perceived to be more hazardous and more readable than those presented in black-and-white. Building on this, research in progress by Silic M *et al*⁷ may shed further light on how colour affects the user's decision making process in the warning context.

11: Should both the text and the pictogram be required on the label, or just one of the two options? Please justify your response.

31. As noted above, we consider text unnecessary if the pictogram is communicated well.

12: Are you aware of any consumer research on understanding and interpretation of the current DrinkWise pictogram and/or text? What about other examples of pictogram and/or text?

32. NZFGC is not aware of any consumer research on understanding and interpretation of the current DrinkWise pictogram and/or text other than has been conducted by the HPA⁸. This research identified that the pictogram was the most effective in conveying the intended messages.

Impact analysis (costs and benefits)

33. Labelling is one initiative that is part of a wider suite of initiative to support FASD prevention. There is no dispute about the impact of FASD but as the paper notes, labelling on its own cannot directly prevent FASD. Each of the elements in the wider suite of initiatives to support FASD prevention carries risks of coverage, communication, understanding, comprehension and action because of discretion, delivery, education level and community involvement. This does not result in mandating each or any initiative but rather identifies the need about continuing to raise awareness and continuing the programmes across generations.

13: Describe the value of pregnancy warning labels. Please provide evidence to support your views.

34. NZFGC has no additional evidence demonstrating the value of pregnancy warning labels to that already included in the consultation paper.

14: Which is the option that is likely to achieve the highest coverage, comprehension and consistency? Please provide evidence with your response.

35. The elements of each option contributes differently to coverage, comprehension and consistency. Combining the best elements of the voluntary arrangements should be undertaken and assessed and evaluated as regulatory best practice before embarking on mandating any initiatives.

15: Which option is likely to achieve the objective of the greatest level of awareness amongst the target audiences about the need for pregnant women to not drink alcohol? What evidence supports your position?

⁶ Braun C, Mine P *et al.* (1995) The influence of colour on warning label perceptions. *International Journal of Industrial Ergonomics* 15(3) pp179-187

⁷ Silc M, Silic D *et al.* (2016) The effects of colour on users' compliance with warning banner messages across cultures. 24th European Conference on Information Systems (ECIS), Istanbul, Turkey.

⁸ Health Promotion Agency (2016) *Consumer awareness and understanding of alcohol pregnancy warning labels: Research report.* HPA: Wellington, New Zealand.

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36. NZFGC has no evidence demonstrating what option might achieve the greatest level of awareness. However, to the extent that previously referenced research demonstrates the extent of uptake and the recall by consumers of existing messaging (pictogram

16: More information is required on the benefits of each of the regulatory options. Do you have any information on the benefits associated with each option in relation to social, economic or health impacts for individuals and the community? Please provide evidence with your response.

37. NZFGC has no evidence concerning the relative benefits of the options.

17: To better predict cost to industry associated with each option, can you provide further information that could inform the cost to industry associated with each of these approaches, particularly costings from a New Zealand industry perspective? Please provide evidence to support your response.

38. NZFGC has no information that could inform the cost to industry associated with each of the approaches. However, this might be inferred from pictogram/text use, existing uptake and costs to change labels provided in the past. One of the keys to minimising cost is the flexibility to sequence any change with label plate changes in the company determined labelling cycle.

18: For Australia, is the estimated cost of \$340 AUD per SKU appropriate for the cost of the label changes? To what extent do these cost estimates capture the likely impacts on smaller producers? Should the cost estimates be adjusted upwards to capture disproportionate impacts on smaller producers?

39. N/A.

19: Is the number of active SKUs used in the cost estimation appropriate? What proportion of SKUs on the market is from smaller producers?

40. NZFGC has no information that could inform the appropriateness of cost estimation.

20: Should there be exemptions or other accommodations (such as longer transition periods) made for boutique or bespoke producers, to minimise the regulatory burden? If so, what exemptions or other accommodations do you suggest?

41. As noted above, flexibility in timing is an important cost offset for any manufacturer but particularly for the small manufacturer. Exemptions for very small operations might be considered but the New Zealand experience would suggest that the popularity of boutique and artisan crafters can grow quickly and a small business one month may not remain small for very long. An example is Wellington's craft beer brewer Garage Project which hit the top spot in the 2015 Deloitte Fast 50 index with growth of 664 per cent for the year.

21: To better predict the proportion of products that would need to change their label to comply with any proposed change, information on the type of pictogram and text currently used is required. Do you have evidence of the proportion of alcohol products that are currently using the red pictogram, and what proportion of products are using an alternate pictogram (e.g. green)? Do you have evidence on the

proportion of alcohol products that are currently using the beer glass pictogram, or the wine glass pictogram? Please specify which country (Australia or New Zealand) your evidence is based on.

42. NZFGC has no evidence of the proportion of alcohol products that are currently using the red pictogram, nor what proportion of products are using an alternate pictogram (e.g. green). Neither does NZFGC have evidence on the proportion of alcohol products that are currently using the beer glass pictogram, or the wine glass pictogram. However, neither a green on green nor red on red pictogram would seem to meet the requirement for contrasting colours if by contrast this was determined to be three features – the circle and bar, the silhouette and the background.

43. Flexibility in the application of beer glass for beer products and a wine glass for wine products would provide the direct association necessary with the product for the consumer.

22: What would be the cost per year for the industry to self-regulate? Please justify your response with hours of time, and number of staff required. Please specify which country (Australia or New Zealand) your evidence is based on.

44. NZFGC has no data on the cost to self-regulate in New Zealand. It is dependent on the scope of involvement, the concentration of players and the range of players involved.

23: For each of the options proposed, would the industry pass the costs associated with labelling changes on to the consumer? Please specify which country (Australia or New Zealand) your evidence is based on.

45. Commercial decisions concerning pricing and passing costs on to consumers depend on many factors. These include size of company, product range, competitor actions, and likely consumer impact. These are not generally shared due to competition law constraints and, in any event, could well change over time.

24: If you identified an alternate policy option in question 5, please provide estimates of the cost to industry associated with this approach.

46. NZFGC has no information about estimating costs to industry associated with combining various elements of the voluntary options. Further work on a more refined voluntary system would be required before cost estimates could be determined. NZFGC would be pleased to be part of that process.

25: Based on the information presented in this paper, which regulatory/non-regulatory policy option do you consider offers the highest net benefit? Please justify your response.

47. NZFGC cannot identify the option that offers highest net benefit since a refined voluntary option would need to be determined and the costs and benefits reassessed after that step was completed. NZFGC would be pleased to assist in refining a voluntary option from a New Zealand perspective and working with colleagues from the wine, beer and spirits associations.