

**SUBMISSION TO**

**FOOD STANDARDS**  
**AUSTRALIA NEW ZEALAND**

**CONSIDERING**

**APPLICATION A576**  
**Labelling of Alcoholic Beverages with a**  
**Pregnancy Health Advisory Label**

**February 2008**

## **SUMMARY & RECOMMENDATION**

The Distilled Spirits Association does not believe that ALAC's application for alcohol beverage containers to be labelled with a pregnancy health advisory statement will positively change the behaviour of women who drink irresponsibly or to excess.

### **The basis for our view**

Our view reflects a number of factors, including evidence from a range of studies that advisories on alcohol beverage labels are ineffective in promoting responsible drinking and reducing excessive consumption levels. These studies have revealed that:

- “at-risk” groups are least likely to heed warnings
- warnings may contribute to increased abuse through the “forbidden fruit” mentality
- there are better ways of educating people about alcohol that specifically target at-risk groups

It is also significant that most New Zealand women already know about the risks of irresponsible and abusive drinking behaviour for unborn babies. The vast majority act responsibly – and using a “sledge-hammer to crack a nut” is both unnecessary and inappropriate.

Finally, the costs to the industry of implementing health advisory labels are enormous – both in capital expenditure and in meeting the two-year implementation timeframe (our products are bottled years in advance due to maturation and storage requirements). It is also worth noting that every one of New Zealand's and Australia's expert agencies – and our Parliament – has over the past decade rejected health advisory or warning labels on alcoholic beverages.

### **Our recommended solution**

We believe that the solution lies in harnessing the invaluable services of health and social services' professionals as authoritative, trusted contacts for women seeking information and advice. We also recommend the development of targeted education programmes, including for secondary school-aged young women, and the involvement of other influential media.

We would welcome the opportunity to be involved in developing these and other initiatives and collaborating with those in our industry, with government agencies and with health and social services providers.

<p>The Distilled Spirits Association recommends that Food Standards Australia New Zealand does NOT proceed with Application A576 and instead selects Regulatory Option 1 “Maintain the status quo”.</p>
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## **THE DISTILLED SPIRITS ASSOCIATION**

The Distilled Spirits Association is the national trade organisation representing New Zealand's leading producers and marketers of premium spirits (e.g. Brandy, Whisky, Rum, Gin, Vodka) and liqueurs.

Members include: Anchor Ethanol Ltd, Bacardi Martini Asia Pacific Ltd, Brown Forman Beverages Worldwide, Diageo (New Zealand) Ltd, Federal\*Geo, Lion Nathan Wines and Spirits Ltd, Maxxium NZ Ltd, Moët Hennessy NZ Ltd, Pernod Ricard New Zealand Limited, The Rum Company (New Zealand) Ltd and Vintage Wines and Spirits Ltd.

## **PRELIMINARY COMMENTS**

The Food Standards Australia New Zealand (FSANZ) is considering a proposal (from the Alcohol Advisory Council [ALAC]) to mandate a health advisory label on alcoholic beverage containers, advising of the risks of consuming alcohol when planning to become pregnant and during pregnancy.

The Distilled Spirits Association does not believe these labels can change the behaviour of women who might drink irresponsibly or to excess.

Our view is based on extensive studies already undertaken, and reports supplied, on alcohol health warnings. It also reflects thorough investigations into the wider issue completed in New Zealand (and Australia) by a number of authorities and under independent auspices. These include the:

- 1990 private members bill from Joy McLaughlan MP<sup>1</sup>
- 1997 review of the Sale of Liquor Act by a three-person Ministry of Justice committee
- 1999 Australia New Zealand Food Authority investigation of Application A359, which provided 17 reasons against labelling
- 2000 private members bill from Dianne Yates MP<sup>2</sup>
- 2001 appeal by an Australian anti-alcohol group to the Australian Administrative Appeals Tribunal<sup>3</sup>, which was withdrawn for lack of evidence

All of these proposals were rejected or opposed for similar reasons – that:

- “at-risk” groups are the least likely to heed warnings
- warnings may contribute to increased abuse through the “forbidden fruit” mentality
- there are better ways of educating people about alcohol that specifically target at-risk groups

We also believe that the application goes against the principles of good regulation and the Government's stated aim of removing unnecessary

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<sup>1</sup> Broadcast (Liquor Advertising) Bill

<sup>2</sup> Sale of Liquor Amendment Bill 2000

<sup>3</sup> Decision and reasons for Decision [2001] AATA 126 Administrative Appeals Tribunal, No A2000/243 General Administrative Division, Re Society Without Alcohol Trauma Inc.

constraints on business and creating a high-quality regulatory environment.<sup>4</sup> If implemented, it could have significant detrimental impacts for New Zealand businesses.

The Association recognises that we need to inform consumers of the negative consequences of risky consumption patterns. We are committed to ensuring this information is both evidence based and designed for those who need it most.

In light of the poor evidence for the effectiveness of warning labels in positively changing the drinking behaviour of those at risk, or reducing foetal alcohol syndrome (FAS), we do not support ALAC's Application. Instead, we advocate targeted advice and information delivered by trained health professionals and other media, and a comprehensive education programme for secondary school-aged young women.

The Association recommends that FSANZ does NOT proceed with Application A576.
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<sup>4</sup> Hon Lianne Dalziel speech "Taking a Fresh Approach to Regulation: Delivering Quality Regulation for the Community", 22 May 2006 and "Minister's Announcement: Quality Regulation Review – Final Report", 5 September 2007.

## **INITIAL ASSESSMENT QUESTIONS FOR PUBLIC COMMENT**

The rest of this submission responds to the questions asked in the Initial Assessment Report.

### **1) What other strategies or programs are there in Australia or New Zealand (initiated by industry, public health, government, and consumer groups) to advise women of childbearing age of the risk of consuming alcohol when pregnant or if planning a pregnancy?**

Advisory messages on alcohol beverage containers cannot (and do not) compare with the vitally important and influential role of primary health care and social services' providers.

Whether they are trusted family doctors, obstetricians, nutritionists, midwives, nurses or social workers, these people are useful and effective channels for delivering relevant, evidence-based advice and education to women on the risks of excessive alcohol consumption when pregnant or planning a pregnancy.

We also believe that schools, dedicated medical websites and other freely available literature have the power to be far better and more influential communications mechanisms than labels.

### **2) What information (from industry, public health, government and consumer groups) is available to women planning a pregnancy or pregnant women, about the risk of consuming alcohol?**

Most New Zealanders drink responsibly, and do not cause problems for themselves or others with their drinking. We are not aware of any conclusive scientific evidence that a light or infrequent (one standard) drink causes problems for mother or baby.

This point has been well reported by local and international media<sup>5</sup> and is supported by:

- the United Kingdom Department of Health<sup>6</sup> and British Medical Association<sup>7</sup> advising that one to two units of alcohol a week is not harmful for pregnant women
- the UK's National Institute for Health and Clinical Excellence (NICE)<sup>8</sup> issuing draft guidelines that up to 1.5 units of alcohol a day after the first trimester is not harmful. NICE also states, "there is no consistent

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<sup>5</sup> "Occasional binge drinking may not harm foetus", 14 November 2007, *The New Zealand Herald*.

<sup>6</sup> <http://www.dh.gov.uk/en/Policyandguidance/>.

<sup>7</sup> *The Guardian*, 4 June 2007.

<sup>8</sup> BBC News 11 October 2007, see: <http://news.bbc.co.uk/1/hi/health/7039249.stm>.

evidence to show a small amount of alcohol damaged unborn children”<sup>9</sup>

- the *Journal of Epidemiology and Community Health*’s comment that “there is ample evidence that consistent heavy drinking during pregnancy causes severe birth defects and even death but... the same evidence is ‘not there’ for women who occasionally binge drink”<sup>10</sup>

People who drink beer, wine and spirits already know and understand the dangers of excessive consumption. The proposed health advisory label does not appear to add to the existing understanding or provide the public with any agreed or consistent information.

### **3) What published and unpublished information is available that may provide answers to the risk assessment questions regarding FASD that will be addressed at Draft Assessment?**

Proponents of health warnings cite advisory labels as a way to reduce FAS, but their effectiveness is far from proven.

The Initial Assessment Report acknowledges that FAS is strongly related to excessive and binge drinking (six or more drinks a day throughout pregnancy), but there are other contributing and compounding factors related to the condition, including:

- poor maternal diet
- maternal drug and substance abuse
- maternal age
- maternal smoking
- biological and genetic factors

The proposed health advisory label related to alcohol and pregnancy is too narrowly focused. By ignoring other key causal factors for FAS, it fails to give the comprehensive advice required.

### **5) Are there any other data available on the incidence of FAS/FASD in Australia or New Zealand?**

There is little or no publicly available empirical data on FAS incidence or mortality numbers in New Zealand – and there are no specialised agencies in New Zealand currently monitoring them. Referenced data is commonly sourced overseas, so is not directly applicable to New Zealand, and it is often based on inconsistent methodologies and a lack of peer review.

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<sup>9</sup> “Firms seek clear pregnancy advice”, 12 December 2007, PA News, <http://www.channel4.com/news/articles/society/health/firms+seek+clear+pregnancy+advice/1175947>.

<sup>10</sup> “Now mother told: binge drinking won’t harm the baby”, 14 November 2007, *Daily Express*, <http://www.express.co.uk/posts/view/25147/Now-mothers-to-be-told-Binge-drinking-won-t-harm-the-baby>.

We believe that important policy decisions like this should be based on a local assessment and evaluation of the most robust and rigorous empirical facts.

**6) Are there any other data available relating to the level of awareness amongst women of childbearing age of the risk of consuming alcohol when planning to become pregnant and during pregnancy in Australia and New Zealand?**

Most New Zealand women already know about the risks of irresponsible and abusive drinking behaviour for unborn babies.

This is borne out in ALAC's application to FSANZ, which states that 87% of women in New Zealand report being aware of the risks and either reducing or abstaining alcohol consumption during pregnancy. Furthermore, according to ALAC's own survey findings and a recent press statement<sup>11,12</sup>, 76% state "stop use of alcohol" as a maternal behaviour to increase the chances of a healthy baby.

ALAC's research did not show a clear majority view among women that warnings are well supported.

Findings from other research published by the Ministry of Health<sup>13</sup> stated that 82% of pregnant females stopped their drinking during pregnancy and 79% stopped drinking while planning a pregnancy.

Given this high awareness of the dangers of alcohol and pregnancy, the proposed advisory message does not appear to be necessary.

**7) Do you think a health advisory statement about the risk of consuming alcohol when planning to become pregnant and during pregnancy on all alcoholic beverage containers should be required? Why/why not?**

No. See the submission comments on page 4 onwards.

**8) What further evidence is available about the use and/or effectiveness of a health advisory statement on alcoholic beverage containers regarding the risk of consuming alcohol when planning to become pregnant and during pregnancy?**

Research from around the world increasingly demonstrates that health advisory labels on alcohol beverage labels are ineffective in:

- promoting responsible drinking

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<sup>11</sup> Alcohol.org.nz, Vol 17 No 2, September 2006.

<sup>12</sup> "Raising awareness of danger of alcohol to fetus", 21 March 2007, ALAC press release.

<sup>13</sup> *Alcohol Use in New Zealand – Analysis of the 2004 New Zealand Health Behaviours Survey – Alcohol Use*, Ministry of Health Public Health Intelligence, March 2007.

- reducing consumption levels in individuals who may drink in a harmful way

The Association is not aware of any convincing evidence that health warnings would have a significant effect on the drinking patterns or behaviour of pregnant women.

Warnings of the type proposed and those in use in the United States:

- fail to distinguish between “alcohol use” and “alcohol abuse”
- can be patronising and misleading – and often lose credibility and are ignored through contradicting people’s knowledge that they can consume a glass of beer, wine or spirits without dire consequences
- tend to focus simplistically on alcohol as the cause of problems, without covering the crucial role of biological, psychological, societal and other factors
- do not provide detailed or comprehensive guidance on how much consumption is actually harmful

The US labelling regime is regularly hailed as the “gold-standard” for advisory labels. However, FSANZ should be aware that US labels are intended more to protect the US drinks industry from litigation than to inform consumers.

This proposal may actually cause mothers-to-be who have had an occasional drink to fear they have harmed their baby in the extreme, and possibly seek an abortion.<sup>14</sup>

**9) What wording for a statement about the risk of consuming alcohol when planning to become pregnant and during pregnancy would be appropriate on an alcoholic beverage container to raise awareness in pregnant women and women planning to become pregnant?**

If labels are used, the wording must be:

- substantiated by solid scientific fact
- be detailed, unequivocal and proven to be effective in modifying an individual’s drinking patterns
- produced in all the major languages spoken in New Zealand

There will always be women who choose to abuse their own bodies or those of their unborn children. Written advisories will not be effective until people take responsibility for their own actions and behaviours.

**10) What further evidence is relevant to the wording of such a statement, such as its likely effectiveness or appeal to women of childbearing age and/or understanding of the statement by women of childbearing age?**

See Question 11.

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<sup>14</sup> College of Obstetricians warning, *Nelson Mail* 24 November 2007.



**11) What are the advantages and disadvantages of a written statement compared with a pictorial image for conveying the risks of consuming alcohol when planning a pregnancy and during pregnancy?**

Whether the advisory label is in words or a pictorial image, overseas examples indicate flaws in their implementation. For example:

- the person consuming the beverage will only see them if they have access to the original container. In people's homes, alcoholic beverages are often decanted into glasses, so the consumer misses the label
- labels are rarely, if ever, seen by consumers in on-licence settings such as restaurants, taverns, bars, night clubs and sports clubs
- labels are likely never to be seen on bulk-dispensed or home-produced alcohol

There are also issues with the labels themselves:

- it is not possible to convey detailed, accurate and readable information on a small label – and existing labels are already cluttered with at least nine fields of mandatory information<sup>15</sup>
- even the most vivid labels lose impact with consumers over time. In the case of tobacco, warnings of death and lung disease have not deterred the next generation of smokers or reduced the uptake by Maori, women and young people.<sup>16</sup>

To be entirely consistent, it may be necessary to include information on the label to the effect that it has been scientifically proven that light to moderate consumption could form part of a healthy and balanced lifestyle – or to provide sensible drinking guidelines alongside the proposed advisory.

**12) What percentage of alcohol by volume should be used to determine which alcoholic beverages are to carry an advisory statement, if required?**

Any mandated advisory statement should apply to all alcohol beverages. The scientific evidence is that “alcohol is alcohol”, whether it has been fermented or distilled – and all beverage types deliver the same effects.

**14) What is the likely impact on consumers, industry, and/or government if an advisory statement on the risks of consuming alcohol when planning a pregnancy and during pregnancy is required on alcoholic beverage containers?**

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<sup>15</sup> Alcohol beverage labels contain a number of mandatory elements over and above graphics and barcodes, including: Name of food, Lot identification, Name and address of supplier, Ingredients, Date marking, Declaration of alcohol by volume, Declaration of standard drinks, Nett contents, Country of origin (Australia only), and Nutrition information (for non-standard beverages).

<sup>16</sup> Tobacco Trends 2006 – Ministry of Health  
[http://www.moh.govt.nz/moh.nsf/pagesmh/5658/\\$File/tobacco-trends-2006.pdf](http://www.moh.govt.nz/moh.nsf/pagesmh/5658/$File/tobacco-trends-2006.pdf).

### **Costly and problematic implementation**

The spirits industry would incur huge expenses if advisory labels were required.

The industry would be profoundly affected by the proposed two-year transition period to amend product labels, as products are bottled years in advance due to maturation and storage requirements. Capital expenditure would include label redesign, production line re-tooling and compliance across many thousands of stock keeping units (SKUs).

To mitigate implementation problems, spirits and liqueurs produced before the commencement date of any change to the labelling regime would need to be exempted.

(It is worth noting that implementation costs were one of the key reasons for the New Zealand Government rejecting the implementation of country-of-origin labelling.<sup>17</sup>)

### **Bill of Rights**

The Association submits that the proposed application could have serious Bill of Rights and business rights implications.

The New Zealand Attorney General<sup>18</sup> has already found that health warnings proposed under the Sale of Liquor (Health Warnings) Amendment Bill were an unreasonable limitation on the Bill of Rights. This current proposal is likely to create similar issues.

### **International ramifications**

Mandatory health advisories on product labels could have significant cross-border implications, with detrimental effects for international trade and jurisdictions beyond New Zealand.

They will also have impacts at the World Trade Organisation level and could be interpreted by our trading partners as a technical barrier to trade.

### **15) How would labelling alcoholic beverages compare in terms of effectiveness and cost-effectiveness with other public health measures to inform pregnant women of the risks of alcohol consumption during pregnancy?**

The minority of the population who abuse alcohol are highly unlikely to change their behaviour as a result of the proposed health advisory labels. Encouraging personal responsibility through evidence-based, appropriate and targeted education programmes is a more effective and cost-effective approach.

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<sup>17</sup> "Labour not budging on food origin labelling", 13/12/07 *The Dominion Post*.

<sup>18</sup> Report of the Attorney-General under the New Zealand Bill of Rights Act 1990 on the Sale of Liquor (Health Warnings) Amendment Bill.

There is already a case to argue that primary health professionals (GPs, obstetricians, nutritionists, midwives, nurses, social workers and other health professionals) can have a significant influence on women's behaviour – especially through providing comprehensive, individually tailored information and advice.

In addition, we would be happy to support and participate in education programmes for secondary school-aged young women – ideally in concert with current Government-endorsed promotions such as “standard drinks” (to help people monitor their drinking habits), “sensible drinking guidelines” and the “*it's not the drinking but how we drink*” campaign.

FSANZ<sup>19</sup> has already taken a similar approach in listeria warning issued after it was reported that 57% of pregnant women were not aware of potentially high-risk foods. FSANZ and others did not recommend mandatory health warnings to pregnant women on these foods, but instead prepared informational brochures. This could be a more effective model for FAS.

We would welcome the opportunity to participate in collaborative industry/public health/government approaches to improving education and information for women.

## **CONCLUSION**

The proposal to mandate a pregnancy health advisory on alcohol beverage packaging and containers is unlikely to be necessary or effective. Overseas experience, combined with existing awareness of the risks of alcohol consumption for women, indicates that labels will not stop FAS and other undesirable outcomes, nor some women's abusive and irresponsible drinking behaviour.

The Association advocates alternative, more targeted approaches designed to effect behaviour change among the small group of women who have yet to “get the message” about the effects of excessive alcohol consumption on unborn babies. These include tapping into the invaluable role of authoritative and trusted health and social services' professionals, and developing effective, evidence-based education programmes.

We would be delighted to work with other industry, government and health partners on improving education and information on this important issue.

**Distilled Spirits Association of New Zealand Inc.**

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<sup>19</sup> “FSANZ issues Listeria warning” 1/11/07, FSANZ  
<http://www.foodstandards.gov.au/newsroom/mediareleases/mediareleases2007/1nov2007fsanzissuesl3750.cfm>