

ATTACHMENT A

WHAT IS BEING PROPOSED TO MINISTERS?

In its decision of [October 2018](#) the [Ministerial Forum on Food Regulation](#) decided that FSANZ must develop a mandatory pregnancy warning label, incorporating a warning statement and a pictogram. FSANZ has completed this task, and has [proposed a warning label](#) to the Ministerial Forum (comprised of Federal, State and Territory Government Ministers, and their New Zealand counterpart), which must either approve the proposed label, or send it back to FSANZ for review.

The proposed label is:



Other proposed key requirements:

- Neither location nor orientation is prescribed (you can put it on the back label).
- Containers of
 - o 200ml or less are only required to carry the pictogram (8mm diameter).
 - o 200ml – 800ml (eg. standard bottles), 6mm diameter pictogram and 2.1mm type size.
 - o 800ml or more (eg. casks, magnums), 9mm diameter pictogram/2.8mm type size.
- Warning statement presented exactly as above (eg, white background, black border & text, red text).
- Warning statement on both bottle labels, and outer packaging (eg. cartons).
- Transitional period of two years after gazettal, with exemptions for stock packaged and labelled before the end of the two year transition period, which may be sold after the transition period ends without having to display a pregnancy warning label).

We encourage you to read the [report](#) to fully understand what your obligations would be if this approach is approved by the Ministerial Forum.

Top four concerns for Australian Grape & Wine.

1. Colour

FSANZ proposal:

- The following must be in black:
 - o The warning statement (“Alcohol can cause lifelong harm to your baby”);
 - o The silhouette of the pregnant woman in the pictogram; and
 - o The outer-border (around the combined pictogram and wording).
- The following must be in red:
 - o The ‘signal words’ (“HEALTH WARNING”); and
 - o The circle and diagonal strikethrough of the pictogram.

- The following must be white:
 - o The pictogram must be presented on a white background; and
 - o The background within the outer border.

Australian Grape & Wine assessment:

- Label redesign is a costly exercise, but this is potentially compounded for businesses that do not already use the mandated colours (red, white and black) on their labels.
- Individual businesses will be impacted in different ways, but smaller businesses with a higher number of SKUs will hit the hardest.
 - o The FSANZ approval report (see pages 66 – 75) presents a range of likely costs per SKU, including a best case, average cost per SKU of \$4,166, and worst case, average cost per SKU of \$7,575)
 - o A PriceWaterhouseCoopers report presented to FSANZ in 2008 suggests a much higher approximate average cost for medium-major label changes of \$9,000 - \$10,000.
- In addition to label redesign, FSANZ is proposing that all outer packaging (eg cartons) must also carry the warning in the same mandated colours. For most businesses, this would require the ordering and application of stickers to each and every carton of wine – a time-consuming and costly exercise – or a redesign of cartons.
- The additional benefits of mandating colours, as opposed to mandating contrasting colours on the warning statement, has not been made clear by FSANZ.
- We encourage you to consider how this change might impact your business costs.

A better alternative:

- Ministers should support the mandating of effective colour contrasts as a practical alternative.
- Removal of the requirement for the colours 'red' and a 'white' (background) would dramatically reduce labelling and carton costs.
- This would meet the objective of presenting consumers with clear information about drinking during pregnancy, while reigning in unreasonable costs to businesses, which will have to redesign both bottle labels and cartons (or design and apply stickers).

2. HEALTH WARNING

FSANZ proposal:

- The warning label must include the words "HEALTH WARNING" in red, capital letters.

Australian Grape & Wine assessment:

- This decision is a prime example of regulatory over-reach by FSANZ, which the Ministerial Forum had asked to design a "pregnancy warning" label.
 - o Clearly, the evidence tells us the FSANZ proposal extends well-beyond international norms in terms of health warnings and pregnancy warnings.
- We argue the phrase "HEALTH WARNING" takes attention away from the issue at hand, which is to highlight the fact that pregnant should not drink during pregnancy.
- We also argue that this sets a damaging precedent for future decisions. A box with a general HEALTH WARNING heading is likely to be expanded in the future to capture other health warnings.

- The HEALTH WARNING phrase also has the potential to make Australian wines less competitive in international markets.
 - o While relabelling to meet market requirements is common, for many small producers, exporting smaller consignments of wines, this may be cost-prohibitive.
 - o Ministers should consider how the use of the generic HEALTH WARNING phrase will impact on Australian producers compared to their international competitors. Will overseas consumers considering an Australian wine with a HEALTH WARNING vs a French wine with just a pictogram favour the French option on the basis the French option is perceived as safer? [NOTE: Further information on international arrangements can be provided separately].

A better alternative:

- The HEALTH WARNING heading should be either removed, or amended to say "Pregnancy Warning".

3. The warning statement

FSANZ proposal:

- The warning label must include the statement "Alcohol can cause lifelong harm to your baby".

Australian Grape & Wine assessment:

- We believe the warning statement should reflect the advice provided by the National Health and Medical Research Council's (NHMRC) guidelines in relation to drinking during pregnancy.
- DrinkWise Australia's voluntary pregnancy warning label has incorporated the NHMRC's advice "It's safest not to drink while pregnant".
 - o We note FSANZ suggests that this phrase is "DrinkWise language" throughout its report to Ministers. This is not the case. It is the official government advice.
- Revised draft guidelines are currently out for review, and are likely to be finalised in 2020. The revised draft guidelines propose the following:
 - o *"To reduce the risk of harm to their unborn child, women who are pregnant or planning a pregnancy should not drink alcohol".*
- While we accept the Ministerial Forum's objective of delivering a pregnancy warning as expeditiously as possible, it is not appropriate to supplant the official NHMRC advice with language developed by FSANZ officials, who lack the necessary qualifications and background to make such a decision.
 - o It is also, to our mind, deceptive of FSANZ to suggest the phrase "It's safest not to drink while pregnant" is anything other than the official NHMRC advice, which it does throughout its approval report.
 - o FSANZ are not experts on health and should take appropriate advice from the government authorities that have such expertise.

A better alternative:

- Ministers should note the NHMRC's final guidelines on drinking during pregnancy will be provided soon. The FSANZ proposal should be sent back for review with an instruction

that the warning statement should reflect the Australian government endorsed pregnancy warning statement.

4. Transitional arrangements

FSANZ proposal:

- A two year transition period, with exemptions for stock packaged and labelled before the end of the two year transition period, which may be sold after the transition period ends without having to display a pregnancy warning label.

Australian Grape & Wine assessment:

- The two year transition period and associated exemptions are fairly standard, and broadly acceptable.
- However, the comment on page 78 of the approval report "Alignment of transitional arrangements for any other mandatory changes to alcoholic beverage labels will be considered in the future" is potentially problematic.
 - o FSANZ is considering a range of issues that could impact on wine labelling, including mandatory energy labelling.
- Businesses should not be expected to make one set of mandatory labelling changes, quickly followed by another, particularly when they are originating from the same agency.

A better alternative:

- Ministers should direct FSANZ to ensure transitional arrangements for what is potentially a range of mandatory labelling changes are coordinated and sequenced appropriately.

In conclusion, we encourage all grape and wine business owners to consider how this proposal will impact upon their businesses, drawing upon this information as appropriate to their unique circumstances.