



ALCOHOL POLICY COALITION

Submission to the Review of Food Labelling Law and Policy

14 May 2010

Introduction

The Alcohol Policy Coalition (“APC”) is a collaboration of health agencies – Australian Drug Foundation, Cancer Council Victoria, Turning Point Alcohol and Drug Centre and the Victorian Health Promotion Foundation (VicHealth) – with shared concern relating to the misuse of alcohol and its health/social impacts on the community. The APC’s long-term goal is to promote a safer community drinking culture.

Review of Food Labelling Law and Policy

The Council of Australian Governments (COAG) and the Australia and New Zealand Food Regulation Ministerial Council are carrying out a comprehensive and independent review of food labelling law and policy, in the context of reducing the regulatory burden in food labelling without compromising public health and safety.

In November 2009, the Food Labelling Law and Policy Review Committee accepted initial submissions designed to identify issues to be considered in the review and to collect data, evidence and/or documentation in relation to labelling matters. The APC were pleased to be part of that initial review process.

As a result of that process, a consultation paper was developed summarising the issues that were raised in the first round of submissions, as well as issues in the literature and media in recent years. The consultation paper also elaborates on the review’s terms of reference. The Committee has encouraged stakeholders to make submissions in response to the questions raised in the consultation paper and to provide appropriate evidence.

Submission format

The APC is focussed on creating a consolidated and coordinated approach and effort by key agencies in preventing and reducing alcohol related problems.

We are concerned about the lack of mandatory alcohol labelling requirements in current labelling law. Consumer information and health advisory labels on alcohol products have the potential to increase consumer awareness of the potential harms relating to alcohol consumption. Labelling can be an important component of a comprehensive public health strategy to educate the community on safer alcohol consumption.

The APC acknowledges that, in general terms, food labelling regulation is an ongoing issue of concern for the food industry, consumers and government. In particular, we are aware that there are contentious issues in relation to matters such as labelling of genetically modified foods, consistency in relation to terms such as 'free range' and 'organic' and that there are crucial food safety issues that need to be addressed through labelling reform. However, because the APC exists to reduce alcohol related harm, this submission is based around the evidence and arguments for alcohol labelling.

We note that the construction of the consultation paper addresses alcohol at question twenty only; however, the remainder of the paper contains questions that are also broadly relevant to alcohol labelling and the alcohol policies developed by the APC. Accordingly, we have addressed those questions in the consultation paper that are directly relevant to alcohol labelling, including but not limited to question twenty.

Executive summary

Alcohol poses significant public health and safety risks and consumers have a right to be properly informed of these risks.

Alcohol is a product more harmful than other foods and must be identified as such; accordingly alcohol products must have labelling requirements commensurate with their level of harm. Labelling of alcohol products must be regulated in a distinct and separate way from the labelling scheme applied to other foods. But as a first step, alcohol should meet the minimum labelling standards expected of other comestibles.

The appearance and placement of alcohol labels, (including in the display of alcohol products in promotional materials) will impact on the overall effectiveness of alcohol labels, particularly health advisory labels. It is therefore essential that mandatory requirements be introduced for alcohol labels, including in relation to their colour, placement and size.

Labelling provides a unique opportunity to inform consumers about the health risks associated with alcohol at the 'point of consumption', which is not easily achieved with other methods of health messaging.

The APC recommends:

1. that public health and safety take priority in relation to alcohol labelling. Adopting such a focus demands the introduction of health advisory labels for alcohol products;
2. that a comprehensive alcohol labelling scheme would be consistent with the Government's broad commitment to reduce alcohol related harm; and
3. independent regulation of labelling over self- or co- regulatory models.

More specifically:

1. Alcohol products should not be exempt from labelling requirements that are currently imposed on other food products.
2. Health advisory labels should be mandatory on all alcohol products; such labels must be large and regularly rotated;
3. Alcohol products should be prohibited from bearing health claims
4. Consumer information labels must be introduced to fully inform consumers of the contents of alcohol products;

A good alcohol labelling scheme should:

1. Be guided by overriding national labelling principles;
2. Be governed by a peak body (the ACCC or otherwise) responsible for:
 - a. developing labelling standards;
 - b. monitoring compliance with labelling standards
 - c. investigating and resolving complaints; and
 - d. coordinating enforcement activities and
3. Involve the states and territories in the day-to-day implementation and limited enforcement of its standards.

Background – what’s the problem with alcohol?

Surveys show that most Australian adults drink alcohol – about half drink at levels that put them at higher risk of short-term alcohol related harm, while one quarter drink at levels that put them at higher risk of chronic alcohol related conditions.¹

At least two in five Australians drink more than once a week and when they do so, typically have about six standard drinks.² Fourteen to 17 year olds are consuming the highest number of standard drinks on a typical occasion (9.86 standard drinks).³

Alcohol use is more harmful than healthy, especially when consumed at risky levels. Research shows that alcohol is an important contributor to the overall burden of disease and injury in Australia. In *The Burden of Disease and Injury in Australia 2003*, Begg *et al* rank alcohol sixth after tobacco, high blood pressure, high body mass, physical inactivity and high blood cholesterol in terms of overall contribution to disease and injury in Australia.⁴ Begg’s report further estimates that alcohol intake accounts for 3.1 per cent of the total cancer burden and 3.2 per cent of the total burden of disease.⁵

Alcohol use is a cause of cancer. Since 1988, alcoholic beverages have been recognised as a Group One carcinogen (the highest rating for carcinogens, which are agents causing cancer in humans) by the International Agency for Research on Cancer.⁶

In addition to cancer, alcohol causes short and long-term health problems such as cirrhosis of the liver, alcohol dependence, strokes, suicide, injury and car accidents. In Australia alcohol use is a major preventable cause of death, illness, injury and hospitalisation.⁷ Alcohol consumption costs the Australian community more than \$15 billion, including \$3.5 billion in lost productivity in the workplace.⁸ The effects of high-risk alcohol consumption are not just economic. According to a recent study, which looked at the benefit that could be gained by meeting achievable targets for reduced alcohol consumption, harmful drinking also contributes to 282,000 new cases of alcohol-related disease annually and 61,000 years lost annually to illness and death.⁹

If Australians reduced their alcohol consumption by one third (from 9.8 litres of pure alcohol a year to 6.4 litres[∅]) there could be 98,000 fewer new cases annually of alcohol-caused disease and 21,000 fewer years lost to illness and death.¹⁰

[∅] Compared with Americans (8.4 litres), Canadians (eight litres) and Norwegians (6.4 litres) – figures obtained from the Organisation for Economic Co-operation and Development.

MATTERS FOR REVIEW

Part 2 Food labelling – overview

The consultation paper notes that the crux of this Review is to address the tensions between:

- fair and competitive trade in the market;
- the minimisation of the regulatory burden for business;
- the securing of government objectives in food labelling; and
- the needs of consumers in order to make informed choices”.

The consultation paper also sets out Food Standards Australia and New Zealand’s (“FSANZ”) objectives in relation to labelling standards. In order of descending priority these objectives are:

- (a) the protection of public health and safety;
- (b) the provision of adequate information relating to food to enable consumers to make informed choices; and
- (c) the prevention of misleading or deceptive conduct.

Taking into account these tensions and objectives, the following section sets out the key considerations around alcohol labelling, and in particular focuses on the following consultation paper questions:

Q.1 To what extent should the food regulatory system be used to meet broader public health objectives?

Q.2 What is adequate information and to what extent does such information need to be physically present on the label or be provided through other means (eg education or website)

Q.3 How can accurate and consistent labelling be ensured?

Q.4 What principles should guide decisions about government intervention on food labelling?

Q.5 What criteria should determine the appropriate tools for intervention?

Public Health and Safety

Public health is based on the idea that it is the state's responsibility to protect its citizens from foreseeable threats of harm.¹¹ It takes a collective rather than an individual approach to health.¹² Broad public health objectives demand that food regulation focus on reducing the risks of a food that can be harmful if used inappropriately. Yet alcohol, which is arguably one of the most harmful products, is subject to very minimal labelling regulation under the current scheme. Such a position fails to recognise the significant harms that alcohol use contributes to, particularly at a population level.

Effective alcohol harm reduction policy focuses on the prevention of alcohol related harm to the population as a whole, rather than just the provision of health services for individuals who suffer from alcohol related illness and disease.¹³ The value of a population-wide alcohol policy lies in its ability to identify health risks and suggest appropriate interventions, such as labelling, that are most likely to benefit the greatest number of people.¹⁴ This approach tackles the cause of the problem rather than treating the symptoms.

Alcohol labelling has the potential to inhibit chronic disease, by seeking to inform all drinkers of the dangers associated with drinking, and not just high-risk drinkers. For example, we know that alcohol tax and price increases can reduce overall consumption; however increases are most effective to reduce consumption in young people and high-risk drinkers.¹⁵ Labelling on the other hand is likely to have a more broad-brush approach and population wide effect. This is because labelling provides a unique opportunity to inform consumers about the health risks associated with alcohol at the 'point of consumption', which is not easily achieved with other methods of health messaging. This also provides for a dose-response relationship, whereby consumers are exposed to health messages each time they consume a labelled product.

Needs of Consumers

It is recommended that alcohol labelling include:

- (a) factual information such as a list of ingredients (consumer information labelling – see a) below); and
- (b) directional information, including advice and recommendations about drinking (health advisory labels see b) below).

The benefits sought through the introduction of mandatory consumer information and health advisory labels are:

1. for consumer information labels - a more informed and equipped consumer; and
2. for health advisory labels - to effectively communicate health promotion messages associated with the risks of alcohol consumption

There is strong community support for the inclusion of information and health advisory labels on alcohol products. The Victorian Health Promotion Foundation (“VicHealth”) conducted research with consumers (teenagers, young adults and parents of teenagers) on alcohol health information labels.[®] A copy of this report together with sample labels is attached to this submission. The results of this research showed strong consumer support for health advisory labels on alcohol beverage containers. (Table 1)

*Proposed content of information and warning labels, and proportion of survey respondents who indicated support or strong support.*¹⁶

Information	% of respondents who indicated support or strong support
Recommended daily guidelines for low risk alcohol consumption	85%
Advice that exceeding daily guidelines may be harmful	89%
Targeted advice for specific groups	91%
Nutritional information	76%
List of ingredients	86%
Number of standard drinks (displayed in a uniform way)	95%
Alcohol content (alcohol by volume)	96%

Table 1

These results corroborate the findings of many other Australian surveys:

1. More than two thirds of respondents in the past three National Drug Strategy Household Surveys¹⁷ have indicated support for health advisory labels.
2. More than three-quarters of those sampled would like ingredient and nutritional information (i.e. consumer information) displayed on alcoholic beverage packaging.¹⁸
3. Sixty-eight per cent of Victorians supported the idea of all alcohol products, by law, carrying health warnings and 13 per cent said they would buy less alcohol if warnings were on products.¹⁹

[®] The VicHealth Community Attitude Survey to Alcohol Policy was a statewide telephone survey to a random sample of 1523 Victorians aged 16 years and over. Respondents were asked a series of questions about their views on alcohol policy. The survey was conducted between February and March 2009.

a) Consumer information labelling

Informed choice is based on the premise that consumers are in a vulnerable position and that lack of information is a market failure needing to be addressed by regulatory interference in the market.²⁰ In Australian law this principle is recognised in Part V of the *Trade Practices Act* 1974.

The *Food Standards Australia New Zealand Act* 1991 also recognises the importance of informing consumers. The objects section of the *Food Standards Australia New Zealand Act* 1991 includes “the provision of adequate information relating to food to enable consumers to make informed choices”.²¹

In Australia, Standard 2.7.1 of the Australia New Zealand Food Standards Code (“Code”) stipulates only that all alcohol labels are to include alcohol by volume (expressed in ml/100g or % alcohol) and the estimated number of standard drinks contained. However, the packaging of alcoholic beverages, unlike that of non-alcoholic beverages, is not required to display a list of ingredients or nutritional information, such as the amount of sugar, kilojoules or any preservatives contained in the drink. However, the inconsistencies in labelling requirements are not just between alcohol and food labelling requirements - alcoholic beverages not covered by Part 2.7 of the Code (for example, ready to drink spirits) or those making nutrition claims (for example ‘low carb’ beers) are required to comply with the Code and must be fully ingredient labelled.²² It is our experience however, that on those alcohol products that do display a NIP, the placement, size and legibility of this information varies greatly from product to product.

This regulatory position does not equip consumers to interpret nutritional content claims, or make comparisons and informed choices about products. There must be one rule for all alcohol products, and it should be at the very least, consistent with the requirements for other foods.

Consumers have a right to know what is in a product that is deemed fit for human consumption and which is marketed heavily for human consumption. Not one other product, which consumers eat or drink on a scale comparable to alcohol, is permitted such an exemption from providing information about the basic constituent ingredients of the product. And in this respect we don't simply mean that consumers ought know of the harmful effects of alcohol (which is more appropriately dealt with through health advisory labels) but as a basic consumer right, information about the energy content, sugar content, additives and preservatives should be made available to all consumers.

If it is accepted that consumers have the right to know what is in, say a can of soft drink, then there seems no valid argument to say that same right does not exist for alcohol products - where arguably, the right to information is even more crucial. Knowing the facts about alcohol assists consumers to make informed choices about what and how much they drink. Alcohol content information can also guide consumers' choice about actions after drinking e.g. driving or operating machinery.

b) Health labelling

Currently, Australian alcohol consumers are provided with information about standard drink per serving figures and a notation of alcohol by volume.

In Australia, the National Health and Medical Research Council ("NHMRC") guidelines are based on the number of standard drinks per serving and state:

1. For healthy men and women, drinking no more than two standard drinks on any day reduces the lifetime risk of harm from alcohol-related disease or injury;
2. For healthy men and women, drinking no more than four standard drinks on a single occasion reduces the risk of alcohol-related injury arising from that occasion;
3. For children and young people under 18 years of age, not drinking is the safest option; and
4. For women who are pregnant, planning a pregnancy or breastfeeding, not drinking is the safest option.²³

A 2004 review of the prevention of substance use found the use of standard drink labelling to be a very efficient means of providing information to risky and high-risk drinkers.²⁴ The VicHealth study referenced above, found that consumers have limited knowledge of the NHMRC guidelines. Thus there is an opportunity for the current standard drink labels to be improved by making consumers aware of the guidelines on reducing health risks by referencing the NHMRC guidelines on alcohol labels.

However, as explained below (part 4), the priority for health labelling must be large, rotating health warning and advisory labels, that convey to consumers the harms associated with alcohol use. Where a product is associated with risks that are increased through high levels of consumption, then it is appropriate that a label identifies that risk. For example, labelling on caffeinated beverages must include an advisory statement in relation to daily maximum limits to reduce the risk of immediate harm, and a statement to the effect that the food contains caffeine and is not recommended for, amongst others, children and pregnant women.²⁵

There are nationally accepted and evidence based guidelines in relation to the risk of short and long-term harm associated with alcohol consumption; and there is good evidence to link alcohol use to serious health risks, including cancer. Consumers should be made aware of the potential consequences associated with excessive alcohol consumption; labelling is a proven, immediate way of communicating that risk.

Competition and Regulatory Burden

As noted in the consultation paper, the current COAG regulatory agenda requires a cost benefit analysis of regulatory intervention, and an assessment of the appropriate tools for intervention. The paper also notes that one of the designs for food labelling interventions is to provide a fair playing field to competitors in the food industry.

The APC is of the opinion that alcohol should not continue to be subject to lesser labelling regulation than other foods – indeed, due to the nature of the product, it should attract more labelling regulation.

This is not to say that alcohol labelling should be regulated separately from other food labelling - there are good public policy reasons for retaining alcohol within a broader labelling regulatory scheme. Alcohol should still be subject to the minimum requirements of safety and production that apply to all other foods. Removing alcohol entirely from the labelling regulatory scheme will likely result in the repetition of existing food safety requirements in a new alcohol scheme. This creates a situation where similar products are regulated by different rules and organisations, and has the potential to lead to regulatory inefficiency and inconsistency.

There are other examples of consumable goods that are regulated outside of the broad food regulatory scheme – tobacco and pharmaceuticals being the obvious examples. Tobacco products are regulated under the *Trade Practices Act 1974* and pharmaceuticals under the *Therapeutic Goods Act 1989*. There are some who would argue for similar treatment for alcohol. However, we do not support this proposition for the following reasons:

1. Alcohol (compared with tobacco and pharmaceuticals) is both a food and a drug. Just as it should not be regulated solely as a food product, it also cannot be regulated just as a drug.
2. We support alcohol labelling having the same minimum requirements as other foods in the labelling regulatory scheme.
3. Alcohol sales and production are already regulated through state licensing schemes and it would be ineffective, costly and potentially unconstitutional for a national agency to take over regulation for alcohol availability and licensing, as well as labelling.

4. Tobacco kills half of all lifetime smokers – its risk to and impact on public health is so great that it cannot be treated as a food product. And although alcohol is second only to tobacco in terms of health impacts to Australians, it can be distinguished from tobacco in this respect because alcohol is less addictive than tobacco and it is easier to quit once addicted.

Alcohol labelling should be regulated within a broad labelling scheme, but as a distinct and potentially harmful product, it must be subject to an additional set of labelling rules. The evidence that shows alcohol has numerous and serious health effects, justifies such specialist treatment.

Currently, alcohol is treated differently from food in the way that it is not subject to the same level of labelling regulation as other foods. We submit that this regulatory arrangement should be reversed. It is not a fair playing field when only some products in the current labelling scheme are obliged to inform and warn their consumers, while another product (alcohol) is exempt from providing similar information. The regulatory burden currently imposed on alcohol producers in relation to labelling is very low, particularly when compared with regular food products.

Costs

In 2008, PricewaterhouseCoopers prepared a report for FSANZ, that detailed estimated costs incurred by food companies required to change food and beverage labelling as a result of regulatory changes.²⁶ The total estimated cost per stock keeping unit (SKU) - that is to say, (for example) per each distinct alcohol product - was considered. The cost range was from \$8,000 per SKU for medium labelling changes, to \$12,000 for major labelling changes.²⁷

The cost of introducing consumer information labels is not substantial – and given most food producers are currently able to meet those costs suggests that alcohol producers can also. Furthermore, businesses regularly and voluntarily update their own labels. The costs of including health advisory labels are also considered low.²⁸ Australian wine producers and manufacturers that export their alcohol products to the US already label their products with a health warning to meet the requirements of the US government. Further, alcohol products often change their labels to support promotions or different types of ‘one off’ or limited marketing strategies. In practice, the costs of labels are likely to be borne by consumers through increased price of some alcohol products.

And, no consideration of costs can ignore the fact that as noted above, alcohol consumption costs the Australian community more than \$15 billion, including \$3.5 billion in lost productivity in the workplace.²⁹

Government objectives

The government has established clear objectives in relation to alcohol policy. For example:

- National Binge Drinking Strategy³⁰: announced by Kevin Rudd in March 2008, aiming to address the binge drinking epidemic among young Australians;
- COAG Binge Drinking Agreement³¹: COAG have agreed that the harmful consumption of alcohol amongst young people is vitally important and, relevantly to this submission, the Ministerial Council through FSANZ has been asked to consider mandatory health warnings on packaged alcohol; and
- Ministerial Council on Drug Strategy³²: including a focus on policing and responsible service guidelines.

National Preventative Health Taskforce

In relation to labelling the National Preventative Health Taskforce (“Taskforce”) recommended the introduction of “health advisory information labelling on containers and packaging of all alcohol products to communicate key information that promotes informed consumption of alcohol”.³³

Specifically the Taskforce recommended the following action:

1. *Require health advisory information labelling on containers and packaging of all alcohol products to communicate key information that promotes safer consumption of alcohol, including:*

1. The current NHMRC Australian Guidelines to Reduce Health Risks from Drinking Alcohol;
2. Text and graphic warnings about the range of health and safety risks of alcohol consumption;
3. Nutritional data;
4. Ingredients;
5. Clearly legible information on the amount of alcohol by volume and number of standard drinks³⁴

The Taskforce further stated that based on the tobacco warning label experience, alcohol-warning labels should:

- be graphic and attention-getting
- occupy a considerable portion of the package surface, for example at least 25 per cent of the physical space
- involve rotating and changing measures³⁵

On 11 May 2010, the Government announced that they noted this recommendation and would give it further consideration.³⁶ The response goes on to reference work being carried out by FSANZ, COAG, and the Ministerial Council on Drug Strategy in relation to alcohol labelling.³⁷

It may be said that the Government intends to take a multi-organisational approach to the issue of alcohol labelling, and in particular has indicated a preference for the development of policy and recommendations by organisations currently working in the area of labelling law and policy. The APC is of the opinion that this review presents an opportunity for effective alcohol labelling reform that is consistent with and may further the Government's clear objectives in relation to alcohol harm.

Tools for intervention:

As the consultation paper points out, in each case of intervention, there needs to be a careful assessment of the most appropriate tools to be used.

Labelling has the potential to increase awareness but in 'at risk' populations, may not result in any change in awareness.³⁸ However if awareness results in an overall reduction in consumption, then surely this is a valid health promotion intervention, even if at the ends of the consumption spectrum there is little change. This is because a comprehensive alcohol policy utilises a multi strategy approach to achieve overall cultural and population change, and not simply change in high-risk groups.

The tobacco labelling experience provides compelling evidence that consumer information and warning labels can be effective not only in increasing information and changing attitudes, but also in changing behaviour.³⁹ A Canadian study found that nine months after the introduction of tobacco warning labels, 91 per cent of smokers recalled reading the labels and had a good knowledge of their content.⁴⁰ Smokers who recalled the labels reported stronger intentions to quit, while smokers who had read and discussed the labels were significantly more likely to have stopped smoking.⁴¹

To have any real impact, alcohol labelling requirements must be

- comprehensive (i.e. consumer information and health advisory labels) and
- targeted, so that the appropriate warning message is specifically reaching consumers who drink at risky levels.

An overhaul in alcohol labelling must also be accompanied by social marketing initiatives that reinforce the risk-reducing message. The capacity for social marketing initiatives already exists within state and federal governments as well as health promotion agencies, to take on the responsibility for social marketing. In the response to the Taskforce on 11 May 2010, the Government promised \$20 million for “hard-hitting social marketing campaigns highlighting the dangers of binge drinking.”⁴² However, it must be emphasised here that just as labels alone cannot achieve overall change social marketing initiatives must also be supported by other interventions, including alcohol labels, availability restrictions, and price increases.

Labels would be an important addition to a larger and ongoing campaign to raise consumer awareness and education on health risks. In this context, labelling may present a tool to achieve overall cultural change, and can enhance alcohol treatment policies or tighter licensing laws; moreover, the introduction of consumer information and health labels would be consistent with current government objectives in relation to alcohol harm reduction policy.

The case for a mandatory scheme:

The consultation paper outlines the spectrum of tools for intervention, from mandatory intervention, through to the encouragement of voluntary codes of practice, industry drive self-regulatory approaches and community education. The review Committee should be mindful of the tendency of alcohol industry to support alcohol harm reduction measures that are ineffective and to actively oppose interventions that are effective. This is because alcohol companies’ primary aim is to sell more alcohol products to consumers.

In a recent letter to the Medical Journal of Australia, Doran et al noted:

[T]he alcohol industry consistently opposes any policy that may reduce demand for alcohol. This is perhaps the most politically relevant factor in alcohol policy today. The alcohol industry has become increasingly involved in the policy arena to protect its commercial interests, leading to a common criticism among public health professionals that the industry has been influential in setting the policy agenda, shaping the perspectives of legislators on policy issues, and pushing alcohol policy towards “self-regulation”.⁴³

In the UK, following the introduction of a voluntary labelling initiative, a survey of alcohol beverages for sale in supermarkets in the UK showed poor compliance with the voluntary system with only four per cent of products reviewed carrying all five of the required label elements; and 56 per cent carrying unit information.⁴⁴ Overall, only 15 per cent of drinks carried messages despite the provisions of the voluntary code. In the UK, this has prompted calls for their government to introduce mandatory labelling.⁴⁵

Self-regulation and to a lesser extent, co-regulation of alcohol labelling, are not appropriate policy options for alcohol labelling reform. Permitting industry involvement in alcohol regulatory schemes, including those for labelling, creates tension between government objectives of public health, and industry objectives for alcohol sales – the likely result being to the detriment of the consumer. The APC's recommendation is that alcohol labelling law and policy remains within a comprehensive new labelling scheme, and to be administered by a specialist unit within the ACCC (or similar organisation).

In summary, alcohol labelling law and policy must be developed with a view to satisfying public health and safety interests:

- consumers' right to information;
- industry failures to inform consumers;
- effects on competition and regulatory burden on industry; and
- in the broader context of government objectives in relation to reducing the harm caused by alcohol use.

Alcohol poses significant public health and safety risks that consumers have a right to be properly informed of. Alcohol should be treated commensurately with other products that have health risks and the imposition of labelling requirements for alcohol products would create a fairer labelling scheme more reflective of the risks inherent in alcohol products. Therefore, the APC:

1. supports the Committee prioritising public health and safety in relation to alcohol labelling and considers that such an approach demands the introduction of health advisory labels for alcohol products;
2. opposes the continued exemption from labelling requirements for alcohol products. Due to the risk associated with alcohol consumption, the regulation of alcohol products should reflect their risk;
3. supports the Government's broad commitment in a number of areas to reduce alcohol related harm. More effective and comprehensive alcohol labelling would assist in a multi strategic approach to reducing alcohol related harm.

More effective and comprehensive alcohol labelling would assist in a multi strategic approach to reducing alcohol related harm.

The APC supports regulatory intervention to be implemented and enforced by governments. Self-regulation and voluntary labelling schemes are neither an appropriate nor effective tool for intervention.

Part 3: Key roles of food labelling

Health Promotion

This section addresses the following questions from the consultation paper:

Q8. In what ways can food labelling be used to support health promotion initiatives?

Q9. In what ways can disclosure of ingredients be improved?

Q10. To what extent should health claims that can be objectively supported by evidence be permitted?

Q12. Should specific health warnings (e.g., high level of sodium or saturated fat per serve) and related health consequences be required?

Health Benefits

As noted previously, alcohol is associated with serious short and long-term health risks. The current food labelling scheme restricts the potential for producers making health claims about their products in certain circumstances. The consultation paper raises the argument “that provided there is objective evidence for the claim, such claims could improve the health of the community and that a less restrictive approach could be adopted. Such permitted health claims can also augment broader public health messages.”

The APC opposes any relaxation to the restrictions around the use of health claims for alcoholic beverages.

The Royal College of Physicians in Britain believes that the most significant barrier to reducing hazardous drinking is the widespread perception that alcohol has beneficial effects.⁴⁶

The World Health Organisation (“WHO”), when evaluating the research linking moderate alcohol consumption to potential health benefits, pointed out that there were significant deficits in this research and stated that, taking into account the wide range of health and social problems caused by alcohol use, “...from both the public health and clinical viewpoints, there is no merit in promoting alcohol consumption as a preventive strategy.”⁴⁷

In 2006, the European Commission adopted a Regulation on the use of nutrition and health claims for foods.⁴⁸ Article 4 of the Regulation states that food and beverages containing more than 1.2 % alcohol are not permitted to make health or nutrition claims, unless the claim refers to a reduction in alcohol or energy content.⁴⁹ The rationale behind this provision is that the over consumption of alcohol is associated with significant health problems, which the European Union and Member State authorities are working to reduce or eliminate, and therefore alcohol should not be promoted on the basis of its nutritional properties.⁵⁰ The APC supports the inclusion of a similar restriction in Australian and New Zealand labelling regulations.

There are a wide variety of chronic health and injury risks associated with alcohol consumption – and in relation to some risks (for example cancer) there is no safe level of alcohol consumption. The Committee notes at page 5 of the consultation document, “statements regarding potentially negative effects of a product may need to be included to balance the information being provided – for example should a low fat claim be allowed if the product has substantial amounts of sugar and/or salt to provide flavour without a corresponding warning?”

The APC supports the premise of this statement. In relation to alcohol products, consumers should be warned of health risks associated with alcohol, with the use of large rotating labels. The main reason for rotation is that labels will be more likely to be noticed. Additionally, because alcohol use is associated with more than one health risk and because the ‘safe’ level of alcohol consumption to reduce any one health risk differs, rotating labels may convey information about more than one type of adverse health outcome arising from alcohol consumption.

Labelling priorities

The consultation paper makes reference to on-pack sources of information used by consumers to facilitate health food choices, including mandatory (NIP and the listing of ingredients) and voluntary indicators. The paper also notes that the amount and complexity of the information can be daunting to consumers and is looking for suggestions for improvements in the manner in which ingredients can be disclosed and represented.

In a review of the provision of information on low carb beers the APC noted that while some low carb beers displayed a NIP, this information was not always present, and is almost never present on regular full strength wines, beers and spirits. Moreover, while the accurate content of most nutrients (including the nutrients that make a product unhealthy overall, such as alcohol and sugar content) were present in the NIP of the low carb beers reviewed, the NIP was typically placed on one side or the back of the bottle, in tiny hard-to-read font, and was not readily visible to consumers at the point of sale. Research has also found that consumers can find NIPs confusing⁵¹ and difficult to interpret.⁵²

Consumers do pay attention to labels, particularly standard drinks information. We know that consumers also regularly read ingredient and NIP labels.⁵³ However, the packaging of alcoholic beverages, unlike that of non-alcoholic beverages, is not required to display a list of ingredients or nutritional information, such as the amount of sugar, kilojoules or any preservatives contained in the drink.⁵⁴ This regulatory position does not equip consumers to interpret nutritional content claims, and cannot be said to be an adequate disclosure of ingredients. The APC expects that, as a bare minimum, this exemption for alcohol products will not be maintained following this review.

Every drink contributes to a person's overall risk of lifetime and immediate harm; and alcohol consumption can result in a number of different adverse outcomes. Therefore it is essential that warning labels are comprehensive – labels should address all aspects of alcohol related harm – from dangers to pregnant and breastfeeding women, young people, long term and immediate health risks. All the health risks that are supported by good evidence should be included by way of rotating health advisory labels.

Alcohol

In the course of this submission we have addressed some of the general discussion questions in the context of the relationship to alcohol labelling, and therefore, some parts of the following question have been addressed elsewhere in this submission. Accordingly, the following section will address the third element of this question only, that is, how alcohol products should be regulated.

Q20. Should alcohol products be regulated as a food? If so, should alcohol products have the same labelling requirements as other foods (i.e., nutrition panels and list of ingredients)? If not, how should alcohol products be regulated?

In our initial submission, the APC advocated for removal of alcohol products from the Code and for regulation of alcohol labelling to instead be overseen by a dedicated and independent authority with robust compliance and enforcement powers. This position arose from the concern that the APC has in relation to the operation of the FSANZ standards development process, particularly around alcohol labels, and the danger of applying food labelling policies to alcohol issues in a wholesale manner.

The APC accepts that in some instances, the standards applied to the labelling of food products will necessarily be the same as those that should be applied to alcohol products – for example, food safety standards and country of origin. Yet as this submission has stressed, alcohol products have distinct health and safety effects over and above those posed by most foods, and thus alcohol must have some differentiated treatment within the Code. The effect of the current scheme is that alcohol is subject to less labelling regulation,

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rather than greater restrictions. Again, we submit that this is the opposite of what the regulatory scheme should be.

The APC would also draw the Committee's attention to the process whereby new food labelling standards are developed by FSANZ. The current process is extremely lengthy and complex. For example, in February 2006 the Alcohol Advisory Council of New Zealand lodged an application with FSANZ for the inclusion of pregnancy health advisory labels on alcohol products. No recommendations in relation to this application have been made. By way of another example, the proposed Standard 1.2.7 to regulate health and nutrition claims, discussed above in the context of low carbohydrate beers, has been under consideration for more than five years.

The APC does not support the continuation of a regulatory scheme that is cumbersome and that cannot respond quickly and appropriately to emerging issues, particularly in relation to alcohol products. To continue to consider alcohol as a food like any other, will result in the inconsistent application of standards in relation to food labelling policy, or alcohol labelling policy, or both.

The APC would encourage the Committee to recommend the development of a separate set of alcohol specific labelling rules to be administered under a broadened labelling scheme - firstly on account of alcohol's high degree of risk and harm, and secondly, to take into account the particular considerations and environment of alcohol consumption and research. However, the content of regulations in relation to the ingredient and nutritional labelling of alcohol products should be no less, and no less specific than regulations for other foods.

In summary, alcohol use is associated with a multitude of short- and long- term harms and accordingly, warrants separate labelling regulation according to its high degree of risk and harm.

Therefore, the APC:

1. Recommends the introduction of health advisory labels that would have the effect of warning the consumers of the risks associated with alcohol consumption; and
2. Does not support any alcohol product being permitted to make any health claim.

Part 4: Food labelling presentation

Experience from food labelling shows that the placement, size and legibility of nutritional information varies greatly between different products. Because alcohol labels are limited in scope, there is no good evidence around the placement, size and legibility of nutritional information on the packaging of alcoholic beverages.

The APC has developed an evidence-based position statement to advocate for the inclusion of consumer information and health labels on alcohol products, a copy of which is enclosed with this submission. As part of this process, the APC have settled on some minimum requirements for alcohol labels, the substance of which are set out below, and are intended to address the following questions from the consultation paper:

Q21. Should minimum font sizes be specified for all wording?

Q22. Are there ways of objectively testing legibility and readability? To what extent should objective testing be required?

Q23. How best can the information on food labels be arranged to balance the presentation of a range of information while minimising information overload?

Q24. In what ways can consumers be best informed to maximise their understanding of the terms and figures used on food labels?

Q25. What is an appropriate role for government in relation to use of pictorial icons on food labels?

Q28. To what degree should the Food Standards Code address food advertising?

The APC is of the opinion that both consumer information and health labels need to follow strict guidelines about:

1. wording;
 2. format;
 3. legibility;
 4. colours used; and
 5. size of the label and position on the bottle.
- It is essential to the effectiveness of labels and for the evaluation of their effectiveness that specific elements of labels, including colour, placement and size, have minimum compliance standards and are *not open to manipulation* by producers.
 - The regulatory authority should update labels as new evidence becomes available about the risks associated with alcohol consumption.
 - Priority should be given to *large size and rotating health advisory labels*, while lists of ingredients (consumer information labels) can be in smaller print.
 - Health advisory labels should be *compulsory* on all alcohol products so consumers can be informed that the product they are purchasing and/or consuming can have a serious impact on their health and wellbeing. Accordingly, health advisory labels should include messages covering all alcohol related adverse outcomes, such as:
 - i) medical side effects of alcohol;
 - ii) risks during pregnancy;
 - iii) increased risk of physical violence;
 - iv) risks to safety when operating machinery, driving, swimming etc.; and;
 - v) social, health and injury problems.

For example, mandatory rotating labels in Sweden, which are required to cover an eighth of the alcohol advertising space in newspapers, include such warnings as:

- *Alcohol can cause nerve and brain damage*
- *Alcohol can cause stroke and cancer*
- *Every second driver who dies in a single-vehicle traffic crash is under the influence of alcohol*
- *Half of all who drown have alcohol in their blood*
- *Alcohol in connection with work increases the risk of injuries*
- *Children who are given alcohol at home drink to drunkenness more often than other children*
- *To begin to drink at an early age increase the risk of alcohol problems⁵⁵*

In order to maximise the impact, awareness and comprehension of health advisory labels, they need to be:

- i) placed on the main label (as opposed to the neck label);
- ii) boxed;
- iii) of letters no less than 3mm high;
- iv) textual and graphic;
- v) attention-getting;
- vi) full colour or black writing on white background to ensure written messages stand out
- vii) occupying a considerable portion of the package surface, with the minimum size of labels stipulated;
- viii) rotated with different messages; and
- ix) easy to comprehend - they need to be tested with consumers to ensure they are understood especially by people with low literacy numeracy or who speak languages other than English.

Consumer information labels should include:

1. a full list of ingredients and nutritional information, in accordance with Standard 1.2.8 of the Code,⁵⁶ including the energy content per container and per 100mls. This is particularly important in relation to overweight, obesity and allergy health concerns.
2. Consistent and uniform information about the estimated number of standard drinks in relation to the size and legibility, using a clear, consistent logo across all products

Labels can be designed and focus tested to achieve the best label in terms of readability and legibility, but also in terms of the information that they contain, and the impact of the message. This is particularly important in relation to health warnings, which should be designed to coordinate with public health campaigns on alcohol harm reduction.

The Committee notes that the rights of consumers to information on which to base food purchase decisions need to be balanced against the quantity and complexity of information that can be assimilated. In relation to nutritional information, there are normally only a few ingredients in alcohol products and consequently, it is unlikely that information overload is going to be a particular problem in relation to consumer information labels on alcohol products. The key pieces of information are ingredients, energy and alcohol content, and standard drinks per unit.

Alcohol Health Watch notes that, based on U.S. surveys on alcohol labeling, the major barrier to the effectiveness of warning statements was that they were hard to notice and hard to read.⁵⁷ Additionally, the obscurity of the warning label on the container was perceived by drinkers to mean that the government was not serious about the subject.⁵⁸ As far as health advisory labels are concerned, straightforward, effective and informative messages can be easily devised. Research conducted by VicHealth last year indicates that effective health-warning labels can be devised and tested.⁵⁹ This information can be tailored to the type of product as well as packaging design. A copy of this research paper is enclosed this submission.

As outlined previously in this paper, it is the APC's position that self-regulation is not an appropriate intervention tool, when matters of public health need to be balanced against commercial interests. Therefore, we do not support a role for the alcohol industry in determining the content and placement of consumer information and health labels, due to the likelihood that the effectiveness of such labels will be diminished with alcohol industry involvement.

Pictorial icons:

The use of icons can be useful method to passing on information, particularly information regarding specific health risks. If the government does chose to implement a pictorial icon for alcohol products (through FSANZ or otherwise), then it is essential that any icon is focus tested to determine unintended consequences.

In relation to alcohol labelling, no pictorial icons that refer to the health benefits of a product (i.e. National Heart Foundation 'tick') should be permitted. The APC supports the inclusion of icons that refer back to harm minimisation initiatives – for example the pregnant woman icon, which we understand is soon to be introduced on all alcohol products. However, it is important that health advisory labels are not simply limited to this measure – to limit alcohol warning information to just a warning in relation to pregnancy, is to imply by omission that alcohol is not harmful to other sections of the population, which is untrue.

The government should approach the issues of pictorial icons in much the same way as other alcohol labelling issues – there should be no promotion of alcohol as having any particular health benefits and that icons warning against the harmful effects of alcohol should be considered and evaluated in the same way as health advisory labels in general.

Advertising:

The Alcoholic Beverages Advertising Code - a self-regulatory code - regulates the content of alcohol advertising (including packaging and labelling). The placement of standard alcohol advertising is regulated by a variety of codes, including the Commercial Television Code of Practice, the Children's Television Advertising Code of Practice, the ASTRA Subscription TV Code and the Outdoor Advertising Code of Practice.

It is appropriate that the FSANZ or any new agency has jurisdiction to ensure consistency between the labelling message on alcohol products, and advertising and promotional materials. If comprehensive alcohol labelling requirements are introduced (including health advisory labels), then it is important that the Code (or its replacement) mandates for the inclusion of similar health advisory messages in alcohol advertising – whether in print, online or televised adverts.

That said, the APC is advocating for strengthened alcohol advertising regulation, including for the phased introduction of a ban on all alcohol advertising and sponsorship. Therefore, while we support the Code covering alcohol labelling advertising restrictions, the APC are of the opinion that effective regulation of alcohol advertising can only come with the appointment of an *independent* advertising regulator (with the intention that any new advertising regulatory scheme be subject to minimum mandatory requirements in the Code).

In summary, the appearance and placement of labels, as well as the display of labelled products in promotion materials, impacts on the effectiveness of alcohol labels, particularly health advisory labels. It is essential that mandatory requirements be introduced for alcohol labels, including in relation to their colour, placement and size.

Therefore, the APC:

1. Proposes that health advisory labels be mandatory on all alcohol products, and that such labels be large and regularly rotated;
2. Recommends that priority should be given to large, rotating health advisory labels;
3. Supports thorough testing of the impact and perception of health advisory labels;
4. Supports the use of pictorial icons so long as they do not derogate from broad health promotion principles associated with alcohol labelling law and policy;
5. Recommends that the Code (or its replacement) includes provisions governing the display of health advisory messages in alcohol advertising – whether in print, online or televised adverts.

Part 5: Administering and enforcing food-labelling standards

Due to the distinct nature of each of the following questions, the format of this section will address those questions in turn, and as relevant to alcohol labelling law and policy.

The APC acknowledges the importance of seeking common understanding and enforcement of all food-labelling standards, and that a number of the questions for consideration in Part 5 of this consultation apply equally to alcohol and food labelling issues. However, because the APC exists to reduce alcohol related harm, the responses to the following consultation questions are, where possible, limited to a discussion relevant to alcohol policy.

Q29. In what ways can consistency across Australia and New Zealand in the interpretation and administration of food labelling standards be improved?

The Committee has noted that the administration and enforcement of food labelling standards has had some inconsistent interpretation and erratic enforcement, and is seeking to ensure a consistent approach across all jurisdictions.

In responding to these questions, it is helpful to consider the regulatory requirements for food labelling in the European Union. Due to the nature of food labelling regulations in the European Union, and the competing considerations of national policies of the countries party to the Rome Treaty, the APC consider that the European experience can be beneficial to the development of the Australian and New Zealand standards.

All new and existing labelling regulations should be subject to regular systematic reviews. This can be helpful to maintain, improve and modify regulatory objectives, particularly in light of changes in economic or social situations.⁶⁰ Ideally such reviews should be conducted after the collection of new research data; this is particularly relevant to alcohol labelling given that there is currently limited evidence in relation to the effect of health warning labels.⁶¹ As labels are introduced, this will provide an opportunity for assessment of the operation of labelling as a health promotion tool, and enable policy makers to fine-tune alcohol labelling requirements. Systematic reviews will also ensure that regulations remain targeted while allowing for adjustments to maintain consistency across the thematic area (in this case, alcohol labelling).⁶²

As part of a 2008 review of food labelling requirements, the European Commission (“Commission”) set out plain and unequivocal food labelling requirements noting, “so that there can be no excuses for non-compliance. The clearer and simpler the rules, the more likely they are to be properly implemented in all Member States.”⁶³ The APC supports the premise of this statement and encourages the Committee to be mindful of the importance of clarity in labelling law and regulation.

The Commission noted the variation in interpretation and understanding of food labels across member states, and acknowledged that different jurisdictions would operate in different environments.⁶⁴ The Commission proposed allowing for national non-binding schemes for food labelling to be developed, in addition to the European Union labelling requirements.⁶⁵ It was further stated that national based schemes should be evidence based, and would not be permitted to undermine or detract from the mandatory European Union requirements for food labelling.⁶⁶ The Commission proposed supporting national led initiatives with information exchanges on the effects and operations of the same initiatives.⁶⁷

The APC believes that it is essential for the purposes of labelling consistency, that clear and unequivocal requirements are established for alcohol labelling regulations. From this perspective, the development and use of overriding national labelling principles would be helpful to guide jurisdictions in the development of locally specific policies (where permitted by law). A set of labelling principles would be a good way to establish the objects of labelling regulation, which is then backed up by the application of mandatory national requirements. The Committee should be mindful of maintaining a degree of simplicity in relation to alcohol labelling regulations, and should where possible, present regulations in plain English.

Q30. In what ways can consistency, especially within Australia, in the enforcement of food labelling standards be improved?

The Committee notes the difficulty of achieving uniform enforcement in respect of breaches of food labelling standards.

Breaches of consumer protection provisions set out in the *Trade Practices Act 1974* are enforced by the Australian Competition and Consumer Commission, and a substantial body of consumer protection case law exists in both Australia and New Zealand. The APC does not propose any changes to the enforcement of matters that fall within the ambit of the Trade Practices Act.

In relation to labelling regulations, the APC supports the vesting of all responsibility in one national administration and enforcement body. This could be the ACCC, which currently carries out a number of regulatory functions in relation to consumer protection. The particulars of such an agency are discussed below; however in relation to enforcement, the APC is of the opinion that the existence of such an agency would improve the consistency of enforcement by having a centralised decision making body with set rules and terms of reference. This is preferable to states and territories making determinations in relation to labelling regulations, particularly considering that the majority of labels will be nationally implemented. The states and territories would have some limited capacity to develop locally specific enforcement and administration policies; however the power to do so would be

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delegated by the peak body (ACCC or otherwise), and would be subject to restrictions to ensure that a national approach to enforcement and administration is not undermined.

The national authority would be charged with making determinations in relation to various breaches, with right of appeal to an independent review body. Such a body should have the ability to call on expert panellists with specific knowledge and experience of food labelling and health promotion.

It would also be appropriate to provide a further right of appeal to a court or tribunal, (for example, the Australian Administrative Appeals Tribunal); however, this right should be limited to appeal on points of law only.

The key consideration for the Committee should be to develop and promote specialist and targeted treatment of labelling law breaches. By having a national body with an independent review body, it is hoped that this will ensure similar and targeted enforcement of particular breaches.

Q31. What are the strengths and weaknesses of placing the responsibility for the interpretation, administration and enforcement of labelling standards in Australia with a national authority applying Commonwealth law and with compatible arrangements for New Zealand?

Q32. If such an approach was adopted, what are the strengths and weaknesses of such a national authority being an existing agency; or a specific food labelling agency; or a specific unit within an existing agency?

Q33. If such an approach was adopted, what are appropriate mechanisms to deal with the constitutional limits to the Commonwealth's powers?

The consultation paper notes that uniformity in the interpretation, administration and enforcement of labelling standards in Australia may be achieved by vesting responsibility in a national agency or unit. As noted above, this agency could be the ACCC, or a new specialist labelling agency.

The APC is of the opinion that responsibility for alcohol labelling and regulation should rest with a central agency applying Commonwealth law (for example ACCC).

Despite some minor differences at a local level, alcohol labelling issues are going to be largely similar from jurisdiction to jurisdiction. Most alcohol products are manufactured and sold nationally. The type of consumer information that is required is common; health advisory labels should be nationally consistent and in line with government campaigns to

reduce harmful drinking. Enforcement of alcohol labelling standards is distinct from the enforcement of standards such as food hygiene and safety – whose functions necessarily need to be carried out at a local level as it involves inspection of local businesses and manufacturers. This is a further argument for specialist treatment of alcohol labelling, which will not require local enforcement in the same way as most food labelling requirements.

This review has identified the protection of public health as a government driver impacting on food labelling. As noted in Part 2 of the consultation paper, public health includes health promotion, and thereby encompasses activities designed to inhibit chronic disease by the promotion of healthy eating. Health promotion necessarily takes a population based approach; thus it is appropriate that regulation of alcohol labelling sit at a level of government that can effectively govern and regulate on a national basis.

Responsibility for alcohol labelling at a Commonwealth level may also have the effect of minimising regulatory costs to business, costs that commonly arise from inconsistent interpretation and enforcement of labelling standards between states/territories.

The APC suggests that responsibility for all labelling law and policy is vested one national organisation – for example, the ACCC - as peak body. This organisation should have the power to delegate certain functions to standards development and compliance organisations (either existing, or new). For example, the development of new food labelling standards could continue to be administered by FSANZ as a delegated function from the ACCC.

Similarly, complaints, compliance and enforcement of labelling law and policy could be delegated to a new national agency operating under the ACCC and alongside FSANZ. This Agency would also oversee labelling compliance matters requiring lower tier (i.e. state) implementation and enforcement.

We would anticipate that both the standards development body (FSANZ or otherwise) and the new national compliance and enforcement body would be responsible for for issuing guidelines in relation to interpretation and enforcement of food labelling standards, and providing training to enforcing authorities in the jurisdictions.

As noted in the Consultation Paper, there may be constitutional limits to the Commonwealth's powers to enforce labelling standards. For the purposes of this response, we commend to the Committee the submission prepared by the Obesity Policy Coalition, and in particular, Part 5 of that submission. As noted in that section, one way to manage the limitations of Commonwealth power would be to ensure that states and territories enact complementary food labelling laws (in a manner similar to the status quo where state and territory food acts give effect to the Code).

In relation to the administration and enforcement of alcohol labelling, the APC favours a model whereby states and territories have delegated, limited enforcement powers, relating to compliance with mandatory national alcohol labelling standards. State and territory consumer affairs agencies and/or Departments of Health would be responsible for the implementation and enforcement of alcohol labels. Such powers would be limited and would not permit state-to-state variation of alcohol label content or placement.

The peak body would, with the assistance of state authorities, monitor compliance with labelling standards, act as a one-stop shop or clearinghouse for food labelling complaints, and coordinate enforcement activities to be carried out at a state level by state authorities. The national body should also have the power to investigate complaints and refer potential cases of non-compliance to appropriate authorities in relevant jurisdictions for enforcement.

Q34. What are the advantages and disadvantages of retaining governments' primary responsibility for administering food-labelling regulations?

Q35. If a move to either: self regulation by industry of labelling requirements; or co-regulation involving industry, government and consumers were to be considered, how would such an arrangement work and what issues would need to be addressed?

“Good Regulation serves the public interest through supporting ongoing confidence in processes, such as the market process, in which the public participates and in activities, such as auditing, on which the public relies”.⁶⁸

Food and alcohol labelling regulation should inspire consumer trust in a regulatory system that ensures compliance with labelling requirements.

As discussed previously in this paper, in relation to alcohol policy in general terms, self-regulation has been shown to be a wholly ineffective tool. The APC does not support self- nor co- regulation in relation to alcohol labelling; in particular because of the intransigence that the alcohol industry has exhibited in other areas of alcohol policy, and because the poor record of regulation exhibited by the alcohol industry in other arenas.

The Committee notes in the consultation paper, in relation to self- and co- regulation that “models for this exist in related fields such as advertising....” In Australia, the deficient alcohol advertising regulatory scheme is evidence that self-regulation is not effective. The National Preventative Health Taskforce noted that there have been significant shortcomings in the administration of the Alcoholic Beverages Advertising Code (“the ABAC”), which regulates the advertising of alcoholic beverages.⁶⁹ The APC has advocated on many occasions, and has numerous examples of the consistent failure of the alcohol industry to comply with voluntary advertising codes of conduct.

An implementation plan for the alcohol industry to include consumer information and health labels should allow for a reasonable transition period – for example 3 years - before the new mandatory labelling requirements must be applied, with additional allowances to be made for small businesses. Most companies would change their food packaging in such a timeframe anyway, so they would merely need to incorporate the new requirements into their new packaging.⁷⁰

Q36. In what ways does such split or shared responsibility strengthen or weaken the interpretation and enforcement of food labelling requirements?

The Committee points out that boundary issues commonly arise between food units and other agencies in interpreting, administering and enforcing labelling requirements.

Split responsibility traditionally leads to inconsistencies in both the interpretation and enforcement of regulations. As outlined above, the APC supports alcohol products to be subject to a distinct set of labelling laws, but for those rules to be administered and enforced under a general food and alcohol labelling agency. This is because alcohol products should still be compliant with all of the base level labelling requirements – as well as special and additional alcohol labelling requirements. To separate alcohol completely from all comestible labelling requirements would likely result in interpretation and enforcement inconsistencies between the organisations responsible for food and alcohol labelling respectively.

Accordingly, the APC supports the appointment of a peak national body to oversee all labelling law and policy (food and alcohol).

The ACCC currently regulate and adjudicate matters falling within the jurisdiction of the *Trade Practices Act 1974*. Specifically, the ACCC is responsible for minimising the risks associated with unsafe products or inappropriate use of products; including tobacco and health cosmetic products. There is a strong argument for vesting responsibility for labelling regulation with the ACCC – and in particular, alcohol labelling. Considering the risk posed by alcohol use, the labelling of this product is deserving of a strong national regulatory authority. Additionally, the ACCC is responsible for tobacco labelling and accordingly there is a precedent for this organisation to have conduct of product warning labels, similar to the health advisory labels discussed above.

In summary, complex issues arise when considering the practicalities of administering, implementing and enforcing labelling laws. It is essential that clear and unequivocal requirements be established for alcohol labelling regulations.

Therefore the APC:

1. supports the development and use of overriding national labelling principles;
2. supports the establishment of a peak body (the ACCC or otherwise) to:
 - a. develop labelling standards;
 - b. monitor compliance with labelling standards
 - c. investigate and resolve complaints; and
 - d. coordinate enforcement activities
3. supports the involvement of states and territories in the day to day implementation and enforcement of labelling standards
4. does not support self- nor co- regulation in relation to alcohol labelling;

Conclusion

Alcohol should first be subject to the same minimum labelling standards expected of other food products. However, its inherently harmful nature demands that alcohol have greater labelling requirements, and more effective enforcement. Alcohol harm is a national problem demanding a whole of government approach; accordingly, alcohol labelling law and policy should be the responsibility of a national agency with established links to state and territory food safety organisations.

Imposing mandatory consumer information and health advisory labels are but one component of an overall strategy aimed at dealing with, and minimising, alcohol-related harm. A comprehensive approach to dealing with this serious public health risk requires concerted action in all areas, including labelling law and policy. The practice of applying regulation to food and alcohol labelling equally results in the degradation of regulatory efforts for both products and it is essential, that any new labelling scheme adequately reflects the unique characteristics of alcohol as a consumable product, and responds accordingly.

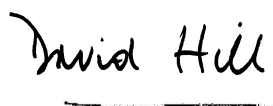
Alcohol labels have the capacity to change the behaviour of consumers by enabling people to understand what they are drinking and the potential health risks at the most critical moment, i.e. when they buy alcohol and when they drink it.

Please contact Sondra Davoren, Legal Policy Advisor to the APC, on (03) 9635 5062 or at sondra.davoren@cancervic.org.au if you have any queries about this submission or require further information.

14 May 2010



John Rogerson
Chief Executive Officer
Australian Drug Foundation



Professor David Hill AO
Director
Cancer Council Victoria



Professor Robin Room
Director, AER Centre for Alcohol Policy,
Turning Point Alcohol & Drug Centre



Todd Harper
Chief Executive Officer
VicHealth

Encs. Alcohol Policy Coalition Position Statement *Health Information and Warning Labels on Alcohol Beverage Containers*

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- ⁵⁶ Standard 1.2.8, Australia New Zealand Food Standards Code. http://www.foodstandards.gov.au/srcfiles/Standard_1_2_8_Nutrition_Info_v109.pdf at 11 May 2010
- ⁵⁷ Alcohol Health Watch above note 38, 3.
- ⁵⁸ *Ibid.*
- ⁵⁹ VicHealth above note 16.
- ⁶⁰ Department of the Taoiseach (Eire) *Regulating Better – A Government White Paper setting out six principles of Better Regulation* (2004) http://www.betterregulation.ie/images_upload/Regulating_Better_html/consistency.html at 11 May 2010
- ⁶¹ *Ibid.*
- ⁶² *Ibid.*
- ⁶³ European Union *Questions about food labelling* (Press release 30 January 2008) <http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/08/64&type=HTML> at 11 May 2010
- ⁶⁴ European Commission Directorate-General for Health and Consumer Protection *Labelling: competitiveness, consumer information and better regulation for the EU* (2006) http://ec.europa.eu/food/food/labellingnutrition/betterregulation/competitiveness_consumer_info.pdf at 11 May 2010
- ⁶⁵ European Union above note 63
- ⁶⁶ *Ibid.*
- ⁶⁷ *Ibid.*
- ⁶⁸ Stavros B. Thomadakis 'What makes good regulation?' Chairman Public Interest Oversight Board International Federation of Accountants Council Seminar Mexico City November 14, 2007 Stavros B. Thomadakis 'What makes good regulation?' (Speech delivered at International Federation of

Accountants Council Seminar Mexico City 14 November 2007)

http://web.ifac.org/download/30th_anniversary_Thomadakis_Pres_Nov_07.pdf at 11 May 2010

⁶⁹ Alcohol Working Group (for the National Preventative Health Taskforce), *Australia: The Healthiest Country by 2020. Technical Report 3 Preventing alcohol-related harm in Australia* (2009) 34

⁷⁰ European Union above note 63