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ALCOHOL REFORM BILL SUBMISSION TO:

Justice and Electoral Select Committee

Parliament Buildings

Wellington

FROM:

Fetal Alcohol Network New Zealand (FANNZ)

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INTRODUCTION

The Fetal Alcohol Network New Zealand (FANNZ) is a collective of people and agencies with a shared concern about Fetal Alcohol Spectrum Disorder (FASD) and with experience and expertise with regards to its prevention and intervention.

The purpose of the network is to connect and inform people and to encourage and facilitate working collaboratively on the prevention of FASD and improving the

outcomes for those born affected. FANNZ is linked through an email information update service, face-to-face meetings, community and workforce educational activities and international affiliations with FASWORLD and other organisations. The coordination of FANNZ activities is managed by Alcohol Healthwatch. FANNZ has a contact website www.fan.org.nz which is supported by the New Zealand Organisation for Rare Disorders (NZORD) and further information can be found on the Alcohol Healthwatch website www.ahw.org.nz.

The people who make up the Fetal Alcohol Network come from families living with an FASD and from a wide range of professions including health & disability, public health, addictions, mental health, mainstream and special education, youth justice, CYFs, probation and a variety of other social services and community-based services. Over 300 individuals currently make up the network, with many of these disseminating the information on FASD prevention and support through their own networks.

It was the resolve of the network to make a submission on the Alcohol Reform Bill:

- a) to express a shared concern about alcohol use in general and during pregnancy in particular
- b) to reiterate the recognition that this is influenced by the current regulated and social environment in New Zealand
- c) to support action that will strengthen the legislative environment and
- d) to call for action beyond the proposed changes in the Bill.

FANNZ requests an opportunity to make an oral submission.

GENERAL COMMENTS RELATING TO THE BILL

We commend the Government for acknowledging that alcohol-related harm is at unacceptable levels and for moving some way toward proposals to reduce that harm. The Law Commission is to be congratulated for its 'First Principles' review of alcohol and recommendations to Government set out in their comprehensive review of alcohol in NZ, "Curbing the Harm".

Our overall concern is that the Alcohol Reform Bill as it is currently drafted is insufficiently robust and broad enough in its scope to reduce the significant harm that is concerning so many New Zealanders.

Given the level of harm being experienced, especially among young drinkers, strong measures are urgent and overdue, not just to reduce harm for this generation but for the next. Reducing alcohol-related harm requires a long term integrated approach and there is a high cost to not doing so adequately.

The obvious trauma associated with alcohol in our lives can be influenced by legislation – youth access, drink-driving, violence, injury, alcoholism. These are serious preventable traumas that demand action. However, as the Law Commission recognised in their review, these are but the visible tip of a far greater range of consequences that are currently below the radar and diffuse in society. Fetal Alcohol Spectrum Disorder and its impact on our society are found among these.

Our experience tells us that children are being seriously disadvantaged in our communities through alcohol exposure, prenatally and postnatally and that not enough has been done to shed light on the problem and work together on solutions. Consequently the issues balloons out to become entrenched, intractable and generational.

We note and appreciate that the Law Commission has recognised FASD as an adverse outcome from drinking that has been under-recognised and marginalised across the sectors. We strongly agree! Preventing even one child, from being born affected by alcohol, saves a lifetime of disability, social disconnection and cost burden on the individual, their family/whanau and public health system.

Preventing further harm to those who have been born affected has been neglected in policy and service development to date. If we are serious about reducing alcohol-related harm, these can no longer be swept aside as miscellaneous matters.

FANNZ asks that the Select Committee and the Government does all in its power to support our long term call for resources to be directed toward FASD prevention,

diagnosis and interventions across all sectors - not just in health. To do so, we believe it is important that you know a little of what we speak.

Alcohol the teratogenic beverage

Alcohol is a drug that is marketed and regulated as a beverage, a food. However, this 'food' depletes vital nutrients needed for healthy growth and development such as folate, is devoid of nutrients itself, and is a chemical agent with teratogenic effects - that is it is a toxic substance that during gestation can permanently alters the course of normal cellular development. What's more, as pointed out by Warrant and Hewitt (2009), "*Because of its common availability and usage, alcohol is more than just a teratogen; it is the most prominent behavioural teratogen in the world.*"¹

The adverse effects of alcohol on the developing fetus are well documented in the medical literature and evidence is continuing to mount as to just how pervasive and long term that is in reality. Prenatal alcohol exposure is linked to a range of diseases and disorders that extend beyond those most directly associated with a fetal alcohol spectrum disorder. Science (epigenetics) is investigating the link between the prenatal environment and adult diseases and some of that work internationally is turning its attention to alcohol's prenatal influence on the wider burden of disease. However, public knowledge of the extent and nature of the harm from drinking during pregnancy is currently lacking.

In a 2006 nationwide survey², over 50 per cent of New Zealand women believed some alcohol during pregnancy was safe to consume. And who could blame them since so little has been done to ensure there is adequate information available on which to make a well informed decision about the consumption of this food/drug.

The most recent national drinking survey for New Zealand shows that 28 percent of women who had been pregnant in the past three years drank alcohol during

¹ Warren K and Hewitt B (2009). *Fetal Alcohol Spectrum Disorders: When Science, Medicine, Public Policy and Laws Collide*. Developmental Disabilities Research Reviews, 15: 170-175.

² Parackal S, Parackal M, Ferguson E & Harraway J (2006). *Report on Awareness of the Effects of Alcohol Use During Pregnancy Among New Zealand Women of Childbearing Age. Submitted to the Alcohol Advisory Council & Ministry of Health*.

pregnancy³. Only 68 percent of those surveyed were advised not to drink. This is indicative of a strong social pressure to drink, a reluctance to regularly advise abstinence and a lack of information about the harmful effects.

The longer this situation continues the greater the likelihood that FASD - and possibly a host of other diseases - will be the outcome, with much of it remaining invisible, having never being associated with the alcohol consumption in the first place.

International evidence over the past 30 years shows that FASD is linked to a range of ongoing adverse health, disability and social outcomes, and that failing to address these early and appropriately, leads to a second wave of disabilities – mental health problems, school failure, trouble with the law and generational alcohol & drug problems⁴.

Ultimately the goal is to prevent an individual being born affected. However, in a society where drinking is a normalised behaviour, the elimination of this disability is unlikely, so we need to ensure those born affected are equally supported to reach their potential.

Meantime this 'food' sits on market shelves, is promoted and festooned with seductive, colourful imagery and clever words to encourage consumers to drink, without a hint of its capacity to destroy lives.

What follows is our response to specific aspects in the Alcohol Reform Bill and other matters the Government Bill has not addressed that will contribute significantly to reducing the likelihood of FASD and other harm.

MINIMUM AGE

FANNZ supports the age for alcohol purchase being returned to 20 years.

³ *Alcohol Use in New Zealand: Key results of the 2007/08 New Zealand Alcohol and Drug Use Survey.* (2009). Ministry of Health.

⁴ Streissguth A, Barr H, Kogan J and Bookstein F (1996). *Understanding the Occurrence of Secondary Disabilities in Clients with Fetal Alcohol Syndrome (FAS) and Fetal Alcohol Effects (FAE).* Final Report. University of Washington School of Medicine Department of Psychiatry and Behavioural Sciences.

All children are developmentally immature. Yet they are exposed to alcohol normalisation every day through constant high levels of pro-drinking messages, sponsorship of their sporting and cultural interests, role modelling and easy accessibility.

Such is the social pressure to drink that risky drinking behaviour and harmful outcomes has become part of 'legend' that defines their identity. The pro-drinking messages are so enmeshed that the non-drinking option is viewed as socially lacking. Young people are often blamed for poor social behaviour and adverse outcomes while surrounded by a strongly permissive environment. It is not they who are being irresponsible!

The lowering of the legal purchase age encouraged young people to start drinking younger than ever before facilitating binge drinking and the higher chance of problem drinking in adulthood. This is counter to the Object of the Act.

We note that the Bill favours a 'split age' of 18 years for on-licensed purchase and 20 for off-license. We are not aware of this being tried in other jurisdictions and it may be a step toward precluding access by children, but at present we are not convinced it is sufficient and could increase existing problem associated with drinking at on-licenses venues where much violence and injury and heavy drinking still occurs.

SOCIAL SUPPLY TO MINORS

To achieve clarity under the law, FANNZ supports *ONLY* parents and legal guardians being able to legally supply alcohol to minors in their care under the age of 18 years. An adequate penalty for illegal social supply should apply as a deterrent and this should increase when that supply has proven to result in significant harm to a minor.

New research from Australia (Deakin University, Unpublished 2011 www.adf.org.nz), shows that children who are supplied alcohol by people other than parents are up to 6 times more likely to binge drink. We see no good reason to

introduce a system that enables anyone other than a legal parent or guardian to supply alcohol to a minor under 18 years.

Parents are already under enormous pressure regarding alcohol supply to their children without adding further to this by having to decide on 'consent to others' each time their child attends a social occasion without them. The proposed parental consent to supply not only fails in its duty to protect youth from alcohol's harmful effects, its application in practice would be problematic to administer and enforce, for parents, for host responsibility and for the Police.

Parents need education in the importance of delaying the onset of drinking for as long as possible for their child, and when providing alcohol, how best to moderate and supervise the occasion. We see the role of health promotion and community action as being key to facilitating this.

LIQUOR LICENSING

Fannz supports all measures that increase community input into liquor licenses and local alcohol planning.

Communities have been marginalised in the liquor licensing process but these are the very people who must endure the harm and disorder that results in their neighbourhoods. Citizens must be allowed to have input into how many, where and what type of license premise can be in their local communities.

All local councils should be required to have a Local Alcohol Plan so that everyone knows the rules and conditions relating to liquor licensing.

HOUR OF OPERATION

FANNZ supports maximum hours of opening set nationally with discretion to reduce these taken at the local level. This would achieve consistency. Any extension to the national hours should only be allowed in special circumstances and through a rigorous application process.

FANNZ supports - in line with many communities concerned about off-licence sales to minors and the influence of promotion - that licensed premises should be cited well away from schools and kindergartens.

ENFORCEMENT

So much of police time is used dealing with the result of alcohol intoxication, which is not only a waste of police resources but a preventable waste of health resources, given the degree of injury, violence and poisoning-related hospitalisation. It is ironic and a concern given that alcohol creates a large and preventable drain on in-patient resources, that alcohol is not being given a greater priority for district health boards.

Police need resources directed toward better licensing controls and monitoring of host responsibility practices within licensed premises, instead of spending their time constantly cleaning up the mess. Currently there is inadequate capacity to monitor the number of licenses in each area. The Medical officer of Health is part of the process but unlike Police and local government licensing agents, they have not been given the same statutory power to enforce the law. This has the effect of diminishing the health role and limiting capacity to monitor and enforce the Act.

We recommend that penalties increase to encourage greater compliance with host responsibility practice and that greater resources and powers be given to the police the licensing agency *AND* the medical officer's of health and for monitoring and enforcement of the licensed drinking environment.

SUPERMARKETS

FANNZ supports separate supervised areas and checkouts for alcohol if it is to be sold from within supermarket.

We also support maintaining the current provisions under the Act that preclude the sale of spirits and spirit-based liquor being sold in such premises.

There is no doubt that the sale of beer and wine from supermarket has been aggressive, bolstered by their bulk purchasing power and ability to discount deeply to maintain custom. The price of alcohol is a key indicator of alcohol-related harm. **Deep discounting should be discontinued as being contrary to harm reduction.**

Supermarkets must be required to comply with maximum national trading hours. This would be simpler for them if alcohol was contained in a separate section. It would also allow them to ensure that minors did not work in the alcohol area.

FANNZ supports provisions that preclude dairies or other such convenience stores, being licensed to sell liquor as these perpetuate an already out of control proliferation of outlets in communities that never asked for them.

READY TO DRINK (RTDS) PRODUCTS

We are very concerned about the increasing harm relating to young women following the introduction of Ready to Drink (alco-pop) products that specifically target them. Most are purpose designed in their colour, taste and imagery to appeal to youth and young women in particular.

Since their introduction the alcohol content of many has increased with some now having an alcohol content of up to 12%. It is disingenuous for the manufacturers and marketers of alcohol to claim on one hand concern about youth binge drinking and how they are not targeting them while on the other hand profiting from the sale of products designed for that purpose.

Other irresponsible innovations are RTDs that have been caffeinated. This masks the effects of intoxication in the drinker which has been described as leading to a 'wide awake drunk' effect. According to the Food and Drug Administration in the USA these alcoholic beverages has led to preventable poisonings, injury and violence and they have been recalled for sale.

We recommend that the alcohol content of RTD should not exceed a maximum of 5% alcohol by volume.

We further recommend that alcoholic beverages should not be combined with other substances that enhance their intoxicating effect.

ALCOHOL LABELLING

We strongly support requiring clear and graphic warning labels about the risk of drinking during pregnancy be prominently displayed on all alcohol containers, at point of sale and any permitted advertising.

The current application for a pregnancy warning label from the Alcohol Advisory Council on behalf of the former Government has been before the Food Standards Australia New Zealand (FSANZ) for 5 years and nothing has been decided.

Members of this network took a public petition to Parliament 10 years ago asking for Government action. The FSANZ application is the result of that process. However, over $\frac{3}{4}$ million babies have been born in New Zealand since that petition was tabled in Parliament and none of the parents of these children had the opportunity to see a health warning on the bottle of alcohol they may have consumed.

Requiring large, graphic warning labels on all alcohol beverage containers and at point of sale would be a helpful starting point. Not only does it draw attention to the fact there are proven risks associated with consumption, but it would provide health professionals and families with a pointer if concerns are raised about drinking. Health warning would also help to counter to the proliferation of positive alcohol marketing messages.

If liquor is to remain a 'food' it must be regulated far more stringently than other produce, since alcohol is no ordinary commodity, it is a drug and must be controlled according to its harm status, not its food status. Currently for example, alcoholic beverages that are caffeinated are not required to carry the mandatory caffeine warning required for caffeinated beverages. This glaring anomaly is one example of alcohol health risks not being taken seriously.

FANNZ is very pleased to see the key recommendations regarding alcohol made by the Independent Panel reviewing Food Labelling Policy and Regulation in Australia

and New Zealand, in their report entitled 'Labelling Logic' to the Ministerial Council on Food Standardsⁱ. While not addressing all concerns raised about alcohol as a food, to their credit they recommend much more stringent rules for labelling of alcohol as follows:

"The Panel further believes that there are compelling reasons for applying labelling changes to alcohol in the light of the growing evidence relating to the short- and long-term adverse health effects of alcohol consumption. The Panel therefore recommends that a suitably worded warning message about the risks of consuming alcohol while pregnant be mandated on individual containers of alcoholic beverages and at the point of sale for unpackaged alcoholic beverages [25]; that the energy content be displayed on the labels of all alcoholic beverages, consistent with the requirements for other food products [26]; and that drinks that are mixtures of alcohol and other beverages comply with all general nutrition food labelling requirements [27]."

The Panel also recommended (24) that a generic alcohol warning messages be placed on alcohol labels, but only as an element of a comprehensive multifaceted national campaign targeting the public health problems of alcohol in society. We believe the level of harm and general ignorance of that harm among the public warrants the generic warning being enacted first, closely followed by a public education campaign to bed in the message.

Graphic warning labels have been a key tool in the overall international efforts to reduce the burden of harm for tobacco and there are compelling reasons to do similar for alcohol. We therefore strongly urge the New Zealand Government to support these recommendations through their representation on the Ministerial Council by the Minister of Food Safety.

ADVERTISING

Health warnings on product and at point of sale will be far more effective in their educative role if the counting message of liquor marketing and sponsorship were gone. In particular we wish to see the end of 'life style' and entertainment type of

advertising which portrays alcohol consumption in a positive alluring light and also marketing through sponsorship and discounting. These forms of advertising simply entrench the normalisation and culture of drinking alcohol. It also makes it more difficult for parents to set boundaries and for those wishing or needing to abstain to do so, such as during pregnancy.

Failing a ban on all alcohol advertising and sponsorship we suggest that the French model (Loi Evin) offers an alternate. This must be managed by an independent health authority.

FANNZ recommends that alcohol advertising and sponsorship be phased out of all media.

We further recommend it be replaced over time by a sponsorship fund so our sport, community and cultural endeavours are not disadvantaged – as is currently the case for tobacco.

The alcohol excise tax is sufficient each year to adequately cover this cost and/or it could be met through an increase in the alcohol excise tax which would also work to reduce harm.

TREATMENT

Treatment must not be seen as separate to other harm prevention efforts, rather as an essential part of a continuum of prevention measures.

We support introducing a comprehensive national programme of early and brief intervention programmes for those needing assistance with moderating their drinking and better in-patient services for those with addiction problem.

In particular these must include appropriate and culturally responsive intervention programmes for all women of child-bearing age to assess their knowledge of the risk of drinking during pregnancy and be encouraging and supportive of them making a positive change for their own and their baby's health regardless of age. Midwives surveyed nationwide in 2001, reported that 80 percent of their pregnant

teenage client drink during pregnancy⁵. Other studies have shown that older mothers are also likely to drink during pregnancy.

Treatment depends upon the ability to identify and diagnose a problem. This is an obvious unmet need in regards to Fetal Alcohol Spectrum Disorder in New Zealand. Through our national network (FANNZ) we receive multiple calls from families desperately seeking help from services that are simply not equipped to respond appropriately. This results in a grossly inefficient 'revolving door' situation that is frustrating and exhausting for families and wasteful for services, government departments and the taxpayer.

FANNZ seeks greater recognition of FASD and action to address a serious unmet need and calls on the Select Committee to ensure that FASD and its impact is addressed at all levels in relevant health, justice, education and social services.

The excise tax collected by the Government each year would enable such services to be adequately and sustainably resourced.

EXCISE TAX

Increases in price are shown to effectively reduce drinking by youth who are price sensitive, reduce the amount of alcohol consumed per occasion and stop or slow drinkers from progressing from moderate to heavy drinking. All alcohol-related harms can be reduced by utilizing pricing strategies. They also have no impact on non-drinkers and lower impact on the moderate drinker. What's more, as a effective tool for reducing harm, the taxpayer benefits from the reduction in the burden on services and since the tax is on drinkers it's essentially 'user pays'.

FANNZ commends the Law Commission for recognizing and responding to the excise tax as a means to reduce harm. Taxation is one of the most cost-effective

⁵ Mathew S, Kitson K and Watson P (2001). *Assessment of Risk of Foetal Alcohol Syndrome and other Alcohol Related Effects in New Zealand: A survey of Midwives in New Zealand*. Report to the Alcohol Advisory Council of New Zealand.

tools we have to achieve alcohol-harm reduction and one that is not well utilised currently in New Zealand.

We note that shortly after dismissing out of hand an increase to alcohol excise, the Government moved to increase yet again the tax on tobacco. This is illogical given the evidence of harm and effectiveness of the strategy and unreasonable to apply it to reduce harm from one legal substance but rule it out for another with a proven substantial burden of harm.

FANNZ supports a significant overall alcohol excise tax increase to help deter risky drinking and better reflect the cost to society of addressing alcohol-related harm.

FANNZ also supports a greater proportion of the revenue generated from alcohol excise taxation be allocated to a specified budget for evidence-based, co-ordinated harm prevention strategies, law enforcement, research and treatment.

CONCLUSION

In a just society, the health and safety of children and the people who care for them is a paramount consideration. When it comes to the way in which we address the sale and supply of alcohol, our point of reference must be the question – what type of law do we need for our children and families to be strong and well? The Fetal Alcohol Network New Zealand, strongly support a new integrated approach to reducing alcohol-related harm that is not limited by the application of the law, but is strengthened by it.

As recognised by the Law Commission review, alcohol-related harm is extensive, pervasive and complex in its nature and New Zealand needs far greater investment in prevention to reduce the costly burden of harm. Alcohol is a drug with serious associated and proven harm at all levels of consumption. Mounting evidence tells us that it is no longer tenable to take a laissez-faire approach to liquor control. Addressing this adequately requires a national framework and a comprehensive mix

of law and strategies that can take account of the often multiple aspects that are involved at any one time.

Investment in FASD understanding, recognition, treatment and prevention, can save a lifetime of harm and another generation of harm. We trust that the Justice and Electoral Select Committee and other lawmakers in Parliament understand and support this request.

We wish you well in your decision-making process.

SUMMARY OF KEY POINTS AND RECOMMENDATIONS:

- **Our overall concern is that the Alcohol Reform Bill as it is currently drafted is insufficiently robust and broad enough in its scope to reduce the significant harm that is concerning so many New Zealanders.**
- **Work from the paramount principle of protecting children from alcohol-related harm which begins at conception.**
- **Recognise that the harm from drinking during pregnancy poses a significant, preventable and long-term risk to public health.**
- **Ultimately the goal is to prevent an individual being born affected. However, in a society where drinking is a normalised behaviour, the elimination of this disability is unlikely, so we need to ensure those born affected are better supported.**
- **FANNZ supports the age for alcohol purchase being returned to 20 years.**
- **To achieve clarity under the law, FANNZ supports *ONLY* parents and legal guardians being able to legally supply alcohol to minors in their care under the age of 18 years.**

- **An adequate penalty for illegal social supply should apply as a deterrent and this should increase when that supply has proven to result in significant harm to a minor.**
- **FANNZ supports all measures that increase community input into liquor licenses and local alcohol planning.**
- **FANNZ supports maximum hours of opening set nationally with discretion to reduce these taken at the local level. This would achieve consistency. Any extension to the national hours should only be allowed in special circumstances and through a rigorous application process.**
- **FANNZ supports, in line with many communities concerned about off licence sales to minors and the influence of promotions, that licensed premises should be cited well away from schools and kindergartens.**
- **FANNZ supports separate supervised areas and checkouts for alcohol sales within supermarket.**
- **Deep discounting should be discontinued as being contrary to harm reduction.**
- **Supermarkets must be required to comply with maximum national trading hours, made easier by being in a separate section.**
- **FANNZ supports provisions that preclude dairies or other such convenience stores, being licensed to sell liquor as these perpetuate an already out of control proliferation of outlets in communities that never asked for them.**
- **We strongly support requiring clear and graphic warning labels about the risk of drinking during pregnancy be prominently displayed on all alcohol containers, at point of sale and any permitted advertising.**

- **FANNZ recommends that alcohol advertising and sponsorship be phased out of all media.**
 - **We further recommend it be replaced over time by a sponsorship fund so our sport, community and cultural endeavours are not disadvantaged – as is currently the case for tobacco.**
 - **We support introducing a comprehensive national programme of early and brief intervention programmes for those needing assistance with moderating their drinking and better in-patient services for those with addiction problem.**
 - **FANNZ seeks greater recognition of FASD and action to address a serious unmet need and calls on the Select Committee to ensure that FASD and its impact is addressed at all levels in relevant health, justice, education and social services.**
 - **FANNZ supports a significant overall alcohol excise tax increase to help deter risky drinking and better reflect the cost to society of addressing alcohol-related harm.**
 - **FANNZ also supports a greater proportion of the revenue generated from alcohol excise taxation be allocated to a specified budget for evidence-based, co-ordinated harm prevention strategies, law enforcement, research and treatment.**
 - **The excise tax collected by the Government each year from the sale of alcohol would enable the systems and services referred to in this submission to be adequately and sustainably self-funding if put to that purpose.**
-