



SUBMISSION TO THE REVIEW OF FOOD LABELLING LAW AND POLICY

14 May 2010

Food Labelling Review Secretariat
Department of Health and Ageing
Canberra ACT 2601 Australia

Introduction

Thank you for the opportunity to make a submission on the Review of Food Labelling Law and Policy, controlled by Food Standards Australia New Zealand.

The Fetal Alcohol Network New Zealand (FANNZ) is an information and communication network of hundreds of people concerned about or living with the effects of alcohol consumed during pregnancy. FANNZ is coordinated by Alcohol Healthwatch under contract to the Ministry of Health in New Zealand (please refer to the Alcohol Healthwatch submission to the Review Panel in the first round of consultation in November 2009).

Primarily, this submission is to convey to the Review Panel our deep concern about alcohol's teratogenic effects and our deep dissatisfaction with the failure to-date to ensure the rights of Australian and New Zealand citizens to be informed about the dangers of consuming alcohol during pregnancy are upheld.

Alcohol during pregnancy

Alcohol consumed during pregnancy has a direct toxic effect on fetal development that can result in Fetal Alcohol Spectrum Disorder (FASD).

However, the list of potential adverse effects from prenatal alcohol exposure is not limited to FASD alone. For example, a new meta-analysis of studies by French researchers has demonstrated a link between in utero alcohol exposure and acute myeloid and lymphoblastic leukemia¹. At one level this should come as no surprise,

¹ Full story <http://health.usnews.com/health-news/family-health/cancer/articles/2010/05/06/drinking-while-pregnant-tied-to-rare-leukemia-in-offspring.html>

because alcohol is a known carcinogen. However, many people remain ignorant of the health effects of consuming alcohol including cancer² - and there is nothing to inform them otherwise on the product.

“Undoubtedly the most tragic neurotoxic scenario involving alcohol is fetal alcohol spectrum disorder (FASD) where babies are born burdened with a preventable form of brain damage.”³

Consumed at any stage of pregnancy, alcohol can alter the course of normal cell growth and the migration of nerve cells, adversely and permanently affecting the health, function, learning and behaviour of an individual. The lived effect of FASD impacts negatively and profoundly on the lives of exposed individuals, their families and society at large.

The incidence of FASD has been estimated to be at 1% of all births in the US. If this conservative estimate is applied to the New Zealand birth rate of around 60,000 babies born per annum, we could expect at least 600 children to be born with FASD each year. However, evidence shows that drinking during pregnancy in New Zealand is markedly higher than in the US. Furthermore, an updated estimate has put the prevalence of FASD in populations of school children aged 5-6 years as high as 2-5%⁴. A similar study recently conducted in Croatia showed a similar rate of FASD but from a lower rate of drinking during pregnancy than that reported for New Zealand⁵. The true rate of FASD in New Zealand therefore could be greater than 2-5%.

The adverse effect of FASD is life-long and for the affected population is an underlying cause of significant levels of secondary disabilities, such as mental health problems, school disruption and trouble with the law.

“The cognitive processes that most people use to regulate their conduct and to adapt to their social environments are located primarily in the anterior lobe of the brain. The effect of alcohol on the fetal brain is such that this region does not develop sufficiently to allow the fetal alcohol syndrome (FAS) individual to appropriately control his or her actions.”⁶

² Alcohol Policy Coalition Media Release 29 April 2010. www.alcoholpolicycoalition.org.au

³ Sellman D & Connor J, *In utero brain damage from alcohol: a preventable tragedy* NZ Medical Journal, 20 November 2009, Vol 122 No 1306.

⁴ Ibid.

⁵ Petkovi G & Baris I. FAS prevalence in a sample of urban schoolchildren in Croatia. *Reproductive Toxicology* 2009.

⁶ Yukon District Court, Regina v: J (T) (1999), cited in Williams, 2006.

Burden of proof

Recently, the Food Review Chairperson Mr Neal Blewett, was quoted in the New Zealand media saying that the links between alcohol and health impacts had to be proven before labels became mandatory and more evidence of the long term health impacts of alcohol is needed⁷. This view is not only worrying, it is baffling.

Alcohol is a toxic substance that is proven to be a significant contributor to acute and long term disease, injury, violence and death worldwide as evidenced by the World Health Organisation and credible national agencies such as the Law Commission in New Zealand in their recent review, “Alcohol in our Lives”⁸ and the National Health and Medical Research Council of Australia 2009 Australian Alcohol Guidelines⁹.

In economic terms alcohol represents 18.5 per cent of the burden of disease in developed nations and evidence now clearly points to the fact there is no level of alcohol consumption that can be considered safe¹⁰. Furthermore, there is now strong evidence to show that alcohol is no longer considered to have a beneficial health outcome¹¹. In fact, the harm from alcohol, like tobacco, can begin at very low levels of consumption. As such, warning labels are as warranted for alcohol as they are for tobacco, to form part of a comprehensive package of measures to reduce harm.

Per capita consumption of alcohol in New Zealand has increased 9% over the past 10 years despite an aging population. A significant part of this increase is due to more young people taking up drinking at a younger age and alcohol being consumed in greater volumes per occasion. The younger the exposure occurs, the higher the risk of long-term problems.

This overall rise in consumption is also driven by increased availability and consumption of ready to drink (RTDs) flavoured liquor products, which are predominantly marketed to young women. This drinking trend is a specific concern for FANNZ and our health advisors given that this pattern of drinking can be devastating to a developing fetus, before an unplanned pregnancy is detected.

It is inconceivable, that the wealth of well proven peer reviewed evidence of acute and long term harm and the risk environment contributing to it, could be summarily dismissed as being inadequate proof for requiring health advisory labelling on the product.

⁷ Alcohol Labelling a challenge for Panel The Press, 27.03.2010

<http://www.stuff.co.nz/national/health/3514467/Alcohol-labelling-a-challenge-for-panel>

⁸ <http://www.lawcom.govt.nz/ProjectPressReleases.aspx?ProjectID=154>

⁹ <http://www.nhmrc.gov.au/publications/synopses/ds9syn.htm>

¹⁰ Ministry of Health. 2002a. *Food and Nutrition Guidelines for Healthy Adults: A Background Paper*. Wellington: Ministry of Health.

¹¹ Australian Heart Foundation Summary of evidence: Antioxidants in food, drinks and supplements for cardiovascular health. www.hearthfoundation.org.au, May 2010.

This statement by Mr Blewett, also has the appearance of pre-empting and negating public consultation and the full deliberation and decision-making by the Review Panel. For the individuals and families living with the negative life-long consequences of alcohol, it invalidates their lived experiences.

Mr Blewett's statement places the burden of proof in the wrong place. We submit that the burden of proof does not rest with external agents having to '*prove harm*'. The true test for the burden of proof rests with the product producers and marketers to '*prove safety*' of their products in the market place.

A good example of this is currently being demonstrated by the USA Food and Drug Administration (FDA) in their pursuit of evidence about the safety or otherwise of caffeinated alcohol beverages that have appeared in the US marketplace without prior approval of the FDA. The FDA is wishing to establish the '*safety*' of caffeinated alcohol beverages by requesting this evidence be provided by the manufacturers of these beverages. Their approach uses the GRAS system (Generally Recognised as Safe).

***"For a substance to be GRAS, there must be evidence of its safety at the levels used and a basis to conclude that this evidence is generally known and accepted by qualified experts."*¹²**

We believe Australian and New Zealand consumers have the right to expect similar emphasis and rigour regarding our food safety. We recommend that the safety of alcohol products combined with caffeine be urgently investigate for the Australian and New Zealand consumer.

If alcoholic beverages are to continue to be sold as a food; if withdrawing alcohol products from sale is not an option; if alcoholic beverages continue to be marketed and promoted as a desirable life-style product; then the only resort left, is for authorities to ensure the public are strongly, clearly and continuously warned of the inherent risk of consumption by all available means. Requiring an alcohol health warning for pregnancy is a priority requiring urgent action. The continual delaying of this decision is not acceptable.

Anomalies in the regulation of alcohol and caffeinated beverages

Significant anomalies currently exist in regard to advice provided by Food Standard Australia New Zealand (FSANZ) and their regulatory codes for alcohol and caffeinated beverages.

On 20 January 2010, to their credit FSANZ released a useful and much needed advisory brochure entitled, "*Thinking of having a baby? Important things you need to know about what you eat and drink.*"¹³ In this resource FSANZ, make recommendations supported by sound evidence-based findings from the National Health and Medical Research Council (NHMRC) stating that alcohol should be avoided during pregnancy

¹² FDA News Release, Nov. 13, 2009

¹³ http://www.foodstandards.gov.au/_srcfiles/FSANZ%20Pregnancy_WEB.pdf

and while breastfeeding (Item 6). Then under item 7 in this booklet FSANZ recommends limiting daily caffeine intake. FSANZ rightly point out that caffeine is non-teratogenic.

While we agree with and support this advice, it raises a significant anomaly in that the FSANZ Food Standard Code 2.6.4 require a *caffeinated* beverage to carry a warning stating "*This food is not recommended for children, pregnant women or lactating women and individuals sensitive to caffeine*", and yet alcohol beverages are not similarly mandated. In other words the FSANZ Food Code is out of step with their current evidence and advice.

The caffeinated beverage health advisory was mandated one year after ruling out a health advisory for alcoholic beverages in 2000, based on spurious arguments regarding 'backlash' and 'ineffectiveness' of alcohol warning labels. Why this should be true for alcohol but no other product is inexplicable.

These anomalous decisions have resulted in the ridiculous situation whereby a caffeinated energy drink must carry a health warning about caffeine but a caffeinated alcoholic beverage, under a different code is not required to carry any warning whatsoever. The FSANZ online information aimed at enabling people to limit or avoid caffeine does not include caffeinated alcoholic beverages in the list of products containing caffeine. This adds further confusion and uncertainty to the situation.

The FSANZ food code regulation must be brought into alignment with the FSANZ evidence and advice for alcohol and caffeine.

Conclusion

Alcohol poses a serious and proven risk to public health and safety. The public has an undeniable right to see health and safety information on this product, regarding the acute and long term risks from its consumption. There is no proven health benefit from consuming any amount of alcohol for adults and a high risk of permanent harm when consumed during pregnancy. Health and safety advisory information on all alcohol products, marketing and merchandise in Australia and New Zealand is seriously overdue.

Recommendations

- We submit that this Review Panel immediately require that all alcohol beverages available for sale in Australia and New Zealand be required to display prominent pregnancy and breastfeeding health advisory statements in accordance with FSANZ own advice.
- This action should be followed by regulation to require further alcohol health and safety warning statements, for example that alcohol can cause cancer.
- The messages must be boldly portrayed, ensuring they can be easily seen when the product is displayed and marketed.
- The onus of proof for requiring health information for alcohol must shift from proving harm to proving safety.

- That a review of the safety of caffeinated alcohol beverages and the alignment of labeling and advice regarding caffeinated beverages and alcoholic beverages advice is urgently required.

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