



Submission to Food Labelling Review Response Discussion Paper

5 September 2011

About the Alcohol Education and Rehabilitation Foundation

The Alcohol Education and Rehabilitation Foundation (the AER Foundation) is an independent, charitable organisation working to prevent the harmful use of alcohol in Australia. Since 2001, the Foundation has invested over \$115 million in research and community projects that aim to address the impact of alcohol misuse on Australians. Through our national grants program and commissioned research, the Foundation has established itself as a leading voice on alcohol.

One of the Foundation's priorities is to advocate for evidence-based alcohol policy reform in Australia. The Foundation promotes population-wide strategies to reduce alcohol-related harm in the areas of pricing and taxation, product labelling, availability and accessibility, promotion and marketing, and child and maternal health.

In order to achieve our mission to improve the health and wellbeing of the Australian community by minimising alcohol-related harm, we work closely with community groups, all levels of government, police, emergency workers, research institutions and the private sector.

For more information about the Foundation please go to www.aerf.com.au

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Recommendations

1. Health warning labels should be specific and alert the consumer to particular harms associated with alcohol consumption.
2. There should be a suite of at least five health warning labels rotated across all alcohol products to avoid message 'wear out'. One health warning label should be about the risks associated with alcohol consumption during pregnancy.
3. The implementation of health warning messages should be accompanied by a public education campaign, including information at the point of sale that expands on the messages in the labels.
4. A health warning label regime should be implemented through mandatory government regulation.
5. The Drinkwise labelling scheme does not address the Review Panel's recommendations and should not be viewed as a substitute to a comprehensive alcohol health warning label regime.
6. The cost to industry of implementing health warning labels is not prohibitive and should not prevent the government from implementing a health warning label regime.
7. Health warning labels can contribute greatly to improving health by increasing awareness of the harms associated with consuming alcohol in excess of the recommended NHMRC guidelines.
8. Existing state and territory liquor licensing legislation which regulates the sale and supply of alcohol will need to incorporate the *Labelling Logic* recommendations if they are adopted, particularly where there is an obligation on licensees to display information at the point-of-sale.
9. The implementation of health warning labels will need to comply with consumer protection provisions under the *Consumer and Competition Act 2010* and also state and territory fair-trading and food safety legislation.
10. In order for health warning labels and a supporting public education campaign to be effective, industry practices that impact on the access and availability of alcohol should also be better regulated. In particular, advertising and marketing practices that appeal to young people will continue to encourage excessive drinking if they are not subjected to tighter regulations.
11. Health warning labels should be accompanied by point-of-sale information in the form of posters and print-based material to ensure that consumers are exposed to the health warning messages when they have not seen the alcohol product container.
12. The point-of-sale information should be part of a broader public education campaign which uses a range of media to promote the health warning labels and provide further supporting information.

13. The implementation of health warning labels is the most effective way to raise awareness of alcohol-related harms and promote the NHMRC Guidelines.
14. Alcohol product labelling targets consumers at both the point-of-sale and point-of-consumption.
15. Labelling is just one part of a comprehensive approach to alcohol policy reform aimed at preventing harm. Government should also consider initiatives to address the price, availability and promotion of alcohol.
16. In line with most other food and beverage products, all alcohol products, not just 'mixtures of alcohol and other beverages', should contain a NIP and declaration of energy content.
17. All alcohol products should contain an ingredients list.
18. The cost of including nutritional information on alcohol product labels is minimal.
19. The consumption of alcoholic beverages is a key concern in regards to weight gain, particularly given that alcohol is a significant source of calories. The provision of nutritional information, including energy content is important to allow consumers to make informed decisions about their energy intake.
20. There is widespread support for the inclusion of NIPs, including energy content and ingredients lists, on alcohol product packaging.
21. There are no reasons to exclude alcoholic beverages from the requirement to include nutritional information on product labels, particularly given that most other food and beverage products are required to include this information.
22. Public health concerns, including the link between alcohol consumption, obesity and increasing levels of chronic disease, highlight the importance of informing people about the contents of the products they consume.
23. All alcoholic beverages should be exempt from any nutrition-related front of pack labelling regime, such as a colour-coded multiple traffic-lights system.
24. All alcoholic beverages should also be exempt from the inclusion of health claims and producers should be prohibited from using language that may mislead consumers into perceiving alcohol products as having positive health qualities, such as 'low carb' or 'low calorie'.
25. NIPs, including energy content, are the best way to provide consumer information at the point-of-consumption.
26. Alcohol product labelling should be subject to mandatory regulation as voluntary alcohol industry co-regulation and self-regulation is ineffective.

27. Alcohol product labelling does not fit neatly into the proposed food labelling regulatory hierarchy. It is both a food safety issue and a preventative health issue and, therefore, it is unclear as to how alcohol product labelling would be regulated.
28. Preventative health should be treated as a priority, particularly given the economic costs of alcohol-related harm and its impact on society.
29. Alcohol product health warning labels should be removed from the Food Standards Code to a separate regulatory structure.
30. The implementation of nutritional information, declaration of energy content and ingredients lists on alcohol product labels should stay within the Food Standards Code to avoid regulatory inefficiency.

Introduction

The AER Foundation welcomes the opportunity to respond to the discussion paper regarding particular recommendations from *Labelling Logic*. The AER Foundation strongly supports the Review Panel's statement in the *Labelling Logic* report that 'there are compelling reasons for applying labelling changes to alcohol in the light of growing evidence relating to short and long-term adverse health effects of alcohol consumption'.

The AER Foundation supports the implementation of health warning labels on all alcohol products that contain specific messages about a range of short and long-term harms resulting from alcohol consumption. The AER Foundation believes that a suite of specific messages should be rotated across all alcohol products to ensure that the messages maintain their resonance and target a broad spectrum of the population. One of these messages should address the risks of consuming alcohol while pregnant.

The AER Foundation also supports the implementation of consumer information on all alcohol products, including Nutrition Information Panels (NIPs), energy content, and ingredients listings. The AER Foundation sees no reason why alcohol products should be exempt from requirements imposed on most other food and beverage products. Given the health and safety implications of alcohol consumption, it is particularly important that consumers are adequately informed about the contents and nature of the products they consume.

The AER Foundation strongly supports mandatory government regulation of alcohol product labelling and believes that the alcohol industry has demonstrated through the Alcohol Beverages Advertising Code that self-regulation does not work.

The AER Foundation believes that health warning labels should be removed from the Food Standards Code and regulated under a separate regulatory structure, as such a regime would require additional resources which may be beyond the scope of FSANZ. Therefore, we propose that health warning labels are regulated through the ACCC. We do, however, support the continuing regulation of consumer information under FSANZ to guard against regulatory inefficiency.

We have attached to this submission a copy of the AER Foundation Policy Position Paper on Alcohol Product Labelling which provides a detailed response to the *Labelling Logic* recommendations and explains how alcohol product labelling should be implemented.

Within this submission we respond to the areas relating to alcohol including:

1. Alcoholic beverages – warning labels
2. Alcoholic beverages – nutrition labelling exemptions
3. Food labelling regulatory hierarchy

Alcoholic Beverages – Warning Labels

Questions relating to the following *Labelling Logic* recommendations:

Recommendation 24: That 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

Recommendation 25: 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, as support for ongoing broader community education

Question 1:

If the recommendations were agreed to how could they be implemented, and what are the likely outcomes?

Outcomes of implementing health warning labels on alcohol products

Alcohol product labelling provides a unique opportunity for governments to target consumers at both the point-of-sale and point-of-consumption. If health warning labels were implemented, the current evidence suggests that they would increase awareness of the risks associated with alcohol-consumption. Broader application of health warning labels has also demonstrated their potential to change health behaviours in the longer term. Another potential outcome of health warning labels is to change people's perception of alcohol. Currently alcohol is perceived as another beverage product. Applying health warning labels to alcohol products, will contribute towards people perceiving alcohol as a potentially harmful product.

The majority of evidence on the effectiveness of health warning messages comes from the USA, where warning labels were introduced in 1989. The health warning label adopted in the USA is:

GOVERNMENT WARNING:

- (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects.
- (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.

Studies on the effectiveness of health warning labels in the USA have shown that their implementation has resulted in increased awareness of the health messages used on the labels.¹ Awareness of the health warning labels was highest among groups deemed high risk, for example, young people and heavy drinkers. Recall was highest for the message regarding the risk of birth defects resulting from alcohol consumption during pregnancy.² Exposure to labels was also found to stimulate conversations about the risks of alcohol consumption.³ Respondents also reported that they were less likely to have driven 'when they probably should not have'.⁴ This increase in awareness of health warning labels in the USA has occurred despite the messages being small in size, having low visibility, and the messages remaining unchanged since inception.⁵

As the Review Panel pointed out in the *Labelling Logic* report, 'it would be premature to rule out the value of alcohol warning labels' based upon the limited evaluative research available.⁶ Instead, other experiences of product health warning label implementation should not be ignored. For example, the tobacco experience demonstrates the potential for health warning labels to effect health behaviour change. This is particularly the case when such a regime is broad in scope, involving a range of health messages as discussed above, and supported by a public education campaign.⁷ This point was also supported by the Preventative Health Taskforce.⁸

Comments on recommendations 24 and 25

The AER Foundation supports the introduction of health warning labels as discussed in recommendation 24, however we believe they should be specific rather than generic. The use of specific warning messages has been found to be more effective than the use of generic warning messages.⁹ Specific health warning messages are more likely to raise awareness as they highlight a causal link between alcohol consumption and a specific harm, for example, 'drinking alcohol harms your liver'.¹⁰ Conversely, a generic warning message warns of the general consequences of alcohol use, for example, 'drinking alcohol can harm your health'.¹¹ Specific warning messages have been found to be more effective because they are unambiguous, convey a vivid message, and elicit an emotive response in the consumer, whereas, generic warning messages are vague and ambivalent in nature.¹²

As suggested in recommendation 25, the AER Foundation supports the inclusion of a warning that specifies the risks associated with drinking alcohol during pregnancy. However, we propose that a warning message about the risks of consuming alcohol during pregnancy should form part of a suite of at least five specific health warning messages¹³ so that the messages maintain their resonance and do not become 'worn out'. This means that instead of a warning message about the risks of consuming alcohol during pregnancy appearing on every alcohol product, the suite of messages will be rotated across all alcohol products. This will also ensure even distribution of health warning messages across all alcohol products so that consumers are exposed to a variety of health warnings about a range of short and long-term harms.¹⁴

The AER Foundation supports the provision of health warning messages at the point-of-sale to ensure that the health warning messages reach consumers that have not seen the product container, for example when ordering a glass of wine in a pub.¹⁵ We believe that point-of-sale information should cover all health warning labels and expand on the messages within these labels.

Implementation of health warning labels and supporting materials

The effective implementation of a health warning label regime needs to consider a range of issues including the design of the labels and campaign strategy, timeframes for implementation, regulation of the regime, and evaluation of effectiveness.

The AER Foundation believes that health warning labels should include both text and a pictorial symbol to ensure that the messages reach a broad audience, including consumers from culturally and linguistically diverse backgrounds and consumers with a low literacy level. The labels must be applied with consistency in regards to size of label, font size, and placement on the front of the alcohol beverage container. The implementation of health warning labels should be supported by a

comprehensive public education campaign to reinforce the messages. The campaign should be research-based and use various forms of media.

The AER Foundation believes that a health warning label regime should be implemented and enforced through mandatory government regulation, not alcohol-industry self-regulation. The AER Foundation proposes that government incur the costs of designing the labels and developing the public education campaign and that the alcohol industry incurs the costs of making changes to alcohol product labels and packaging.

Recommendations:

1. Health warning labels should be specific and alert the consumer to particular harms associated with alcohol consumption.
2. There should be a suite of at least five health warning labels rotated across all alcohol products to avoid message 'wear out'. One health warning label should be about the risks associated with alcohol consumption during pregnancy.
3. The implementation of health warning messages should be accompanied by a public education campaign, including information at the point of sale that expands on the messages in the labels.
4. A health warning label regime should be implemented through mandatory government regulation.

Question 2:

To what extent do existing industry initiatives comprising voluntary health messages address (or partly address) the Review Panel's proposal for generic alcohol warning messages and/or warning messages aimed at pregnant women?

Prior to the release of *Labelling Logic*, some alcohol product containers contained messages such as 'Drink Responsibly', 'Is your drinking harming yourself or others?', and 'True Aussies drink responsibly'.¹⁶ Following the release of the *Labelling Logic* report in January 2011, the alcohol industry funded organisation, Drinkwise, announced a voluntary industry scheme to display 'consumer information labels'.

The consumer information labels carry four different messages which are:

- 'Kids and alcohol don't mix';
- 'It is safest not to drink while pregnant', or use of an image of a pregnant woman holding a glass with a cross through the image;
- 'Is your drinking harming yourself or others?'; and
- 'Get the Facts DRINKWISE.ORG.AU'

The AER Foundation and other public health organisations have concerns about the Drinkwise scheme including:

- The proposed messages are not alcohol warning messages or health messages, but are ‘consumer information messages’.¹⁷ Therefore, this campaign falls short of the recommendations of the *Labelling Logic* report.
- The messages are vaguely worded and highly ambiguous. These messages ignore the current evidence about the need for health warning messages to be specific and unambiguous, and use vivid language that evokes an emotional response from the consumer.¹⁸
- The messages are small and difficult to locate on the back of the product container. Health warning labels are more effective when placed on the front of the container. They must also be big enough to ensure visibility, taking into account the size of the product label and product container. The use of colour is also important, particularly in ensuring that the label clearly stands out on the product label, such as black text with a white background.¹⁹
- There is no consistency in how the labels will be applied to products, with different alcohol producers able to pick and choose which labels to use. For example, a number of the major alcohol industry bodies have indicated that they will only include the message ‘Get the Facts DRINKWISE.ORG.AU’. This includes brands from Carlton and United Breweries such as VB and Carlton Draught.²⁰ This is a particular concern as the message does not provide the consumer with any health information as recommended by *Labelling Logic*.
- The messages are not accompanied by a public education campaign. An effective public education campaign needs to comprise a range of different types of media in order to ensure that the strategy reaches a diverse range of population groups.

Recommendations:

5. The Drinkwise labelling scheme does not address the Review Panel’s recommendations and should not be viewed as a substitute to a comprehensive alcohol health warning label regime.

Question 3

What issues need to be explored from an industry/public health perspective when considering these recommendations?

Industry perspective

From an industry perspective, there is a concern that the cost of implementing health warning labels will be high. However, according to a report by PricewaterhouseCoopers commissioned by Food Standards Australia and New Zealand (FSANZ), the cost of implementing changes to alcohol product labels is relatively low. The report estimated the cost of changing labels for each unique alcohol product, also referred to as the stock keeping unit (SKU). It found that the cost of implementing ‘medium’²¹ changes to labels was AUD\$9,664 per SKU for products packaged in a glass bottle and AUD\$9,042 for aluminium cans. The cost of making ‘major’²² labelling changes to the same

packaging was estimated at AUD\$12,787 per SKU for glass bottles and just AUD\$8,946 for aluminium cans per SKU.²³

It is also important to mention that many alcohol producers have agreed to accept the cost of implementing the new Drinkwise labelling campaign, suggesting the cost of doing so was not prohibitive. Also, many Australian alcohol producers frequently make changes to their product labels in order to export their products to countries where health warning labels are mandatory, such as in France and the USA.

Public health perspective

A particular concern from a public health perspective is the continuing perception that alcohol is just another beverage. However, alcohol use is associated with harms when consumed in excess of NHMRC Guidelines. The growing evidence about alcohol-related harm and the need to raise awareness of these harms among the Australian community should be the primary consideration in responding to the *Labelling Logic* recommendations. This was a point emphasised by the Review Panel in the *Labelling Logic* report.²⁴

Alcohol is a major cause of preventable death, illness, injury, and hospitalisation, which costs the Australian economy \$36 billion annually.²⁵ There is a causal relationship between alcohol and 60 types of disease and injury, including road fatalities, stroke, coronary heart disease, high blood pressure, some cancers, and pancreatitis. Alcohol accounts for 3.2% of the total burden of disease and injury, 3,430 deaths annually, and a loss of 85,435 disability adjusted life years (DALYs).²⁶ It is estimated that 5,070 cases of cancer (or 5% of all cancers) can be attributed to long-term chronic use of alcohol each year in Australia. It is also estimated that 22 % of breast cancer cases in Australia are linked to alcohol consumption.²⁷

Despite the magnitude of these health risks, there are a large number of Australians who are not fully cognisant of the harms associated with alcohol use. The *2011 AER Foundation Annual Alcohol Poll* found that few Australians were aware that alcohol use is associated with mouth and throat cancer (24%), and even fewer people were aware of the link between alcohol and breast cancer (11%).²⁸

Australians are also largely unaware of the *National Health and Medical Research Council's Guidelines to Reduce Health Risks from Drinking Alcohol* (NHMRC Guidelines). 54% of Australians surveyed reported having an awareness of the NHMRC Guidelines, but relatively few (12%) were aware of the content. Further to this, only 10% of all Australians surveyed were aware that the NHMRC Guidelines had been updated in 2009.²⁹

As the Review Panel discussed in the *Labelling Logic* report, it is the responsibility of Government to protect public health and safety and also to prevent longer term harm where possible. The Panel notes that the growing burden of chronic disease and the accompanying economic costs mean that broader preventive health concerns are now a key priority for Governments.³⁰ Given that there are a range of short and long-term harms associated with alcohol consumption, the responsibility of governments to regulate alcohol products cannot be ignored.

Recommendations:

6. The cost to industry of implementing health warning labels is not prohibitive and should not prevent the government from implementing a health warning label regime.
7. Health warning labels can contribute greatly to improving health by increasing awareness of the harms associated with consuming alcohol in excess of the recommended NHMRC guidelines.

Question 4**What other regulatory requirements relevant to the sale of alcohol need to be taken into account?**

If recommendations regarding health warning labels and supporting public education campaigns are implemented, state and territory liquor licensing legislation will need to be amended. For example, the requirement under Recommendation 25 to provide a health warning message at the point-of-sale will most likely need to be incorporated into state and territory statutory frameworks which regulate the sale and supply of alcohol as it places an obligation on licensees to display this information.

In regards to the regulation of health warning labels specifically, they will have to comply with consumer protection provisions under the *Consumer and Competition Act 2010*. They will also have to comply with relevant provisions of state and territory fair-trading and food safety legislation.

Aside from the implications of new regulations on existing statutory frameworks, it is also important to consider the importance of regulating other industry practices that impact the access and availability of alcohol if alcohol product labelling and its supporting public education campaign are to be taken seriously by the general public. At present, there are numerous examples of marketing and advertising of alcohol products that target specific population groups, particularly young people. Advertising and marketing is further aided by the proliferation of social media and this needs to be regulated.

Other industry initiatives that make alcohol consumption attractive, particularly to young people, are point-of-sale promotions and discounting practices. While steps have been taken in some jurisdictions to limit these practices, more needs to be done to discourage excessive alcohol consumption and regulate the sale of alcohol.

Recommendations:

8. Existing state and territory liquor licensing legislation which regulates the sale and supply of alcohol will need to incorporate the *Labelling Logic* recommendations if they are adopted, particularly where there is an obligation on licensees to display information at the point-of-sale.
9. The implementation of health warning labels will need to comply with consumer protection provisions under the *Consumer and Competition Act 2010* and also state and territory fair-trading and food safety legislation.
10. In order for health warning labels and a supporting public education campaign to be effective, industry practices that impact on the access and availability of alcohol should also be better regulated. In particular, advertising and marketing practices that appeal to young people will continue to encourage excessive drinking if they are not subjected to tighter regulations.

Question 5**What implementation considerations need to be taken into account in relation to the Review Panel's proposal for warning messages targeting pregnant women to be provided at point of sale for unpackaged alcoholic beverages?**

The AER Foundation supports the implementation of point-of-sale information and agrees with the Review Panel that it is important to reach consumers who may not have seen the alcohol product container, for example when ordering a glass of wine or a cocktail in a bar. We believe that this policy should be applied to all warning messages, not just warning messages targeting pregnant women.

As discussed under question 1 of this section, a warning message about the risk of drinking alcohol during pregnancy should be one message in a suite of health warning messages covering a range of short and long-term alcohol-related harm.

Posters and other print-based promotional materials should be displayed in alcohol venues to ensure that consumers are exposed to health warning messages when they have not seen the alcohol product container.³¹ The layout and format of the messages to be used in posters and other promotional material should be determined by Government to ensure consistency and prominence of messaging.

The aim of the public education campaign, including point-of-sale information, should be to promote the health warning messages applied to alcohol products and to provide further supporting information. The use of a broad range of media ensures that the messages reach the widest proportion of the population as possible.

In keeping with our proposals about the use of both text and pictorial symbols in the health warning labels, the use of visual representations of the messages where possible in the public education campaign strategy is equally important in reaching consumers with lower literacy levels or people for whom English as a second language.

Recommendations:

11. Health warning labels should be accompanied by point-of-sale information in the form of posters and print-based material to ensure that consumers are exposed to the health warning messages when they have not seen the alcohol product container.
12. The point-of-sale information should be part of a broader public education campaign which uses a range of media to promote the health warning labels and provide further supporting information.

Question 6

Can you suggest alternative solutions to the problems that the recommendations seek to address?

The AER Foundation believes that the implementation of health warning labels is the most effective way to raise awareness of alcohol-related harms. Alcohol product labelling, accompanied by a public education campaign, is a good way for Government to reach alcohol consumers. There is a clear need to provide consumers with more information about the alcohol products that they consume, particularly given the health and safety implications of alcohol consumption.

Changes to alcohol product labelling are relatively cheap to implement and health warning labels on alcohol products are a popular public health initiative with 62% of Australians believing that health warning labels should be placed on alcohol products.³²

Labelling is just one part of a comprehensive approach to alcohol policy reform aimed at preventing harm. The AER Foundation recognises that in order to reduce alcohol-related harm, a range of population-wide initiatives are required to address the price, availability and promotion of alcohol. However, alcohol product labelling is a key part of the solution to reducing alcohol-related harm. If an alcohol product labelling regime is implemented properly through mandatory government regulation, it will raise awareness of the harms caused by alcohol consumption and also has the potential to change drinking behaviours in the long-term.

Recommendations:

13. The implementation of health warning labels is the most effective way to raise awareness of alcohol-related harms and promote the NHMRC Guidelines.
14. Alcohol product labelling targets consumers at both the point-of-sale and point-of-consumption.
15. Labelling is just one part of a comprehensive approach to alcohol policy reform aimed at preventing harm. Government should also consider initiatives to address the price, availability and promotion of alcohol.

Alcoholic Beverages – Nutrition Labelling Exemptions

Questions relating to the following *Labelling Logic* recommendations:

Recommendation 26: That energy content be displayed on the labels of all alcoholic beverages, consistent with the requirements for other food products

Recommendation 27: That drinks that are mixtures of alcohol and other beverages comply with all general nutrition labelling requirements, including disclosure of a mandatory Nutrition Information Panel

Recommendation 55: That any beverages containing alcohol be exempt from nutrition-related front-of-pack labelling requirements.

Question 1

If these recommendations were accepted, how could they be implemented, and what are the likely outcomes?

Outcomes of implementation of the recommendations

Alcohol product labelling currently falls short of the requirements imposed on most other food and beverage products to contain basic consumer information. It is important that alcohol, recognised in the *Labelling Logic* report as a ‘food product of a very special nature with a number of unique characteristics’,³³ is at least brought into line with regulations imposed on other food and beverage products that do not present a health risk in the way that alcohol does. The inclusion of consumer information, such as NIPs and energy content, on alcohol product containers will mean that consumers are able to make informed choices about the products they consume.

The current lack of nutrition information included on alcohol product containers contravenes the consumer’s entitlement to be fully informed about the contents of the products they buy. In accordance with the consumer protection provisions contained in Schedule 2 of the *Competition and Consumer Act 2010*, people are entitled to be informed of the content of the products they drink, including alcohol products, so that they can make informed choices about the products they choose to consume. This position is also reflected in the *Food Standards Australia New Zealand Act 1991* which stipulates one of its objectives as being ‘the provision of adequate information relating to food to enable consumers to make informed choices’.

Comment on recommendations 26 and 27

The AER Foundation agrees with recommendation 26 that energy content should be included on all alcoholic beverage labels. We believe that recommendation 27 needs to go beyond the inclusion of NIPs on products that are a ‘mixture of alcohol and other beverages’ to cover nutrition information on all alcohol products. In addition to a mandatory NIP, all alcohol product labelling should include a list of ingredients. We also agree with recommendation 55 that nutrition-related front-of-pack labelling requirements should be exempt from all alcohol product labels because of the potential to mislead consumers into thinking that some products may have positive health qualities.

Recommendations:

16. In line with most other food and beverage products, all alcohol products, not just 'mixtures of alcohol and other beverages', should contain a NIP and declaration of energy content.
17. All alcohol products should contain an ingredients list.

Question 2**What issues need to be explored from an industry/public health perspective when considering these recommendations?***Industry perspective*

The Winemakers' Federation of Australia has raised concerns about the costs inherent in including energy content on all alcohol product containers and argues that it would cost wineries approximately \$70 to test each product line for energy content.³⁴ This price is relatively small considering the impact it could have on enabling consumers to make decisions about their energy intake.

Public health perspective

There are significant public health arguments in favour of providing nutritional information, including energy content, and also ingredients listings. Weight concerns are growing as rates of overweight and obesity increase in Australia.³⁵ The 2007-2008 National Health Survey results found that 61.4% of the Australian population are either overweight or obese.³⁶

The consumption of alcoholic beverages is a key concern in regards to weight gain, particularly given that alcohol is the second most energy dense macronutrient after fat, with 29 kJ per gram, meaning that it is a significant source of calories.³⁷ Weight concerns are at the forefront of Australia's collective conscience³⁸ and an estimated 6.4% of Australian adult males' and 3.4% of females' energy intake comes from alcoholic beverages.³⁹ The provision of nutritional information, including energy content is, therefore, important for consumers who want to manage their diet, particularly for those managing chronic diseases such as diabetes.⁴⁰

Despite concerns about treating alcohol differently to other food and beverage products, particularly given the health and safety implications of alcohol consumption, the Review Panel recommended in the *Labelling Logic* report that NIPs only be included on containers that hold 'mixtures of alcohol and other beverages' because of a broader concern that some consumers of alcohol products may interpret NIPs as conveying positive health messages.

However, the AER Foundation believes that it is best to arm consumers with as much information as possible so that they can make informed decisions about their consumption. Where there are concerns that the provision of nutritional information may be counterproductive because consumers may misinterpret this information and assume a product has some nutritional benefits, health warning labels are the best way to counteract these concerns and inform the consumer about associated harms.

Recommendations:

18. The cost of including nutritional information on alcohol product labels is minimal.
19. The consumption of alcoholic beverages is a key concern in regards to weight gain, particularly given that alcohol is a significant source of calories. The provision of nutritional information, including energy content is important to allow consumers to make informed decisions about their energy intake.

Question 3

To what extent is there support for the declaration of nutrition information on a mandatory basis on the labels of alcoholic beverages, including the declaration of energy content?

The AER Foundation is strongly supportive of the mandatory inclusion of NIPs, energy content and also ingredients lists on all alcohol products.

There is widespread public support for mandating NIPs and ingredients listings on alcohol products. A survey of 13,000 Australian university students aged between 17-25 years old, found that 75% agreed with the inclusion of nutritional information on alcohol packaging and 81% supported the inclusion of an ingredients list.⁴¹

Support for mandating nutritional information is not just limited to young people. A 2009 VicHealth survey which included participants of various ages, including teenagers, young adults and the parents of teenagers, also found that there was widespread support for the inclusion of nutrition information on alcohol packaging. 76% of respondents either strongly supported or supported the introduction of nutritional information, including energy content, and 86% of respondents strongly supported or supported the inclusion of an ingredients list.⁴²

Recommendations:

20. There is widespread support for the inclusion of NIPs, including energy content and ingredients lists, on alcohol product packaging.

Question 4

What reasons might there be to exclude alcoholic beverages from the requirement to declare nutrition information?

There are no reasons to exclude alcoholic beverages from the requirement to declare nutrition information. As discussed under question two in this section, concerns that NIPs will be misinterpreted by some consumers to suggest positive health claims are outweighed by broader public health concerns, including the link between alcohol consumption, obesity, and increasing levels of chronic disease. Ensuring that consumers are fully informed about the contents of the

products they drink means that they are equipped to make decisions that may affect their health, including decisions about energy intake.

Recommendations:

21. There are no reasons to exclude alcoholic beverages from the requirement to include nutritional information on product labels, particularly given that most other food and beverage products are required to include this information.
22. Public health concerns, including the link between alcohol consumption, obesity and increasing levels of chronic disease, highlight the importance of informing people about the contents of the products they consume.

Question 5

To what extent is there support for the exemption of alcoholic beverages from any nutrition-related front of pack labelling scheme?

The AER Foundation fully supports recommendation 55 that any beverages containing alcohol be exempt from nutrition-related front-of-pack labelling requirements. The proposed 'colour-coded multiple traffic-lights' system for front of pack labelling would be counterproductive in the case of alcohol products as it has the tendency to suggest that a given product has some positive health qualities depending on the products nutritional profile.

The AER Foundation believes that recommendation 55 should be extended to include an exemption on all health claims on alcohol products. Alcohol product labelling should not contain statements, symbols or graphic images that may be interpreted as a positive health claim.

An example of the use of positive health claims on alcohol products that encourages consumers to purchase particular products is 'low carb' beer. These claims have the potential to mislead consumers into perceiving the product as having positive health qualities when these products often have a similar level of kilojoules and alcohol content to ordinary beer.⁴³ A 2010 VicHealth Poll found that more than two thirds (71%) of people surveyed felt 'low carb' beer was a healthier alternative to full-strength beer. 38% of people thought 'low carb' beer was healthier than light beer and 44% of people felt that 'low carb' beer was less fattening.⁴⁴

Recommendations:

23. All alcoholic beverages should be exempt from any nutrition-related front of pack labelling regime, such as a colour-coded multiple traffic-lights system.
24. All alcoholic beverages should also be exempt from the inclusion of health claims and producers should be prohibited from using language that may mislead consumers into perceiving alcohol products as having positive health qualities, such as 'low carb' or 'low calorie'.

Question 6

Can you suggest alternative solutions to the problems that the recommendations seek to address?

NIPs are the best way to provide consumer information at the point-of-consumption. There is no rationale for exempting alcohol from regulations that are required of most other food and beverage products, particularly given that alcohol consumption can result in a range of short and long-term harms. This is an initiative that has widespread community support, is relatively cheap to implement, and is already included on some alcohol product labels.

Recommendations:

25. NIPs, including energy content, are the best way to provide consumer information at the point-of-consumption.

Conceptual Framework – Food Labelling Regulatory Hierarchy – A principles-based framework for food labelling regulation

Discussion questions relating to the following *Labelling Logic* recommendation:

Recommendation 2: ‘That food labelling policy be guided by an issues hierarchy in descending order of food safety, preventative health, new technologies and consumer values issues. Regulatory action in relation to food safety, preventative health and new technologies should primarily be initiated by government and referenced in the Food Standards Code. Regulatory action in relation to consumer values issues should generally be initiated by industry and referenced to consumer protection legislation, with the possibility of some specific methods or processes of production being referenced in the Food Standards Code.

The modes of intervention should be mandatory for food safety; a mixture of mandatory and co-regulation for preventative health, the choice dependent on government health priorities and the effectiveness or otherwise of co-regulatory measures; and mandatory with time limits for new technologies. The modes of intervention for consumer values issues should be self-regulatory but subject to more prescriptive forms of intervention in cases of market failure or the ineffectiveness of self-regulatory schemes.’

Introduction

Due to the AER Foundation’s focus on alcohol, we will discuss the appropriateness of the hierarchy in addressing alcohol product labelling. The AER Foundation has responded to question one and question two in this section.

Question 1

As a broad concept, is a Principles-based Framework and hierarchy of food labelling issues a useful basis for guiding decisions on the appropriate regulatory approach for different food labelling issues?

Whilst alcohol product labelling is both a food safety and preventative health issue according to the principles-based framework, alcohol-related issues tend to be treated as a preventive health concern. This means that according to the issues hierarchy alcohol product labelling may be regulated through either mandatory regulation or co-regulation and, according to the Review Panel, sometimes self-regulation.

The alcohol industry has demonstrated through their experience with self-regulation and co-regulation that they are not committed to introducing evidence based policies to reduce harms. Therefore, we are not supportive of a hierarchy that suggests the best way to address preventative health is through co-regulation and sometimes self-regulation in the first instance.

The AER Foundation has particular concerns about how decisions are ultimately made about when to utilise co-regulation or self-regulation. According to the *Labelling Logic* report, decisions between mandatory regulation and self-regulation should ‘reflect the significance of the public health concerns’.⁴⁵ This is further supported by the Preventative Health Taskforce report which states that ‘self-regulation should [only] be considered where... there is no strong public interest concern, in

particular, no major public health and safety concern [and]... the problem is a low risk event, of low impact/ significance'. On the basis of these assertions, alcohol product labelling, should never be subject to industry self-regulation given the significant health and safety implications of alcohol consumption.

However, whilst self-regulatory measures tend to feature at the bottom of the issues hierarchy, there is still a suggestion that self-regulation can be used instead of co-regulation, particularly where it is not clear that regulation will be effective in changing health behaviours. This is a particular concern for preventative health issues as clear results tend to be achieved over a long period of time. It is, therefore, important to emphasise that the Review Panel uses the example of tobacco product labelling and associated public education campaigns in reducing rates of smoking to demonstrate an effective preventative health initiative.⁴⁶

The AER Foundation believes that voluntary industry self-regulation is ineffective. A key concern with both co-regulation and self-regulation is that the financial interests of the industry will overpower the best interests of consumers to be provided with an appropriate level of information to make informed choices about the products that they consume. The examples below demonstrate AER Foundation's concerns about industry self-regulation.

Drinkwise labelling campaign

As we have highlighted through the flaws of the current Drinkwise led approach to alcohol product warning labels, voluntary industry self-regulation prohibits a consistent approach to public health initiatives. Consistency is paramount in ensuring that consumers of all alcohol products receive the same messages and that the health warning labels are implemented in the most effective way possible. The only way to achieve this is through mandatory government regulation.

The Alcohol Beverages Advertising Code

There are a number of examples of the ineffectiveness of alcohol industry self-regulation. These include the regulation of alcohol advertising by peak industry bodies through the Alcohol Beverages Advertising Code (ABAC). Continued research and a formal review carried out in 2003 by the National Committee for Review on Alcohol Advertising (NCRAA) have found substantial flaws in the ABAC. For example, the review found that many complaints were not investigated in a timely manner, some complaints were not investigated at all and very few complaints were upheld.⁴⁷ Despite amendments to the ABAC in 2004, the ABAC has substantial limitations that contribute to its ineffectiveness in regulating alcohol advertising. These include the need to appropriately address new media, including *Facebook* and mobile phone content. Also, the ABAC was developed to address producer advertising and does not appropriately consider advertisements made by retailers.

Whilst the ABAC scheme was extended to include internet advertising and sponsorship of events, a particular loophole exists in the televising of sport where alcohol companies are major sponsors and alcohol branding imagery is highly visible on signage at sporting grounds. Sporting events are often televised before 8.30pm, during time slots where ABAC dictates that children must not be exposed to alcohol advertising. This is particularly problematic during the school summer holidays when both cricket and tennis are televised throughout the week and during the day, exposing young viewers to alcohol advertising signage at the venue.⁴⁸ In addition, the Commercial Television Code of Practice

contradicts the aims of ABAC as it allows alcohol advertising during live broadcasts of sporting events on weekends and public holidays, an opportunity of which alcohol sponsors make use.

Recommendations:

26. Alcohol product labelling should be subject to mandatory regulation as voluntary alcohol industry co-regulation and self-regulation is ineffective.

Question 2

What are your views on the various elements of the Review Panel’s proposed Framework, and in particular the distinct tiers for food safety, preventative health, new technologies and consumer values issues?

The use of a hierarchy framework for food labelling issues is problematic, particularly when a food labelling issue, such as alcohol product labelling, does not fit neatly into the distinct tiers of the hierarchy. The principles-based framework is problematic when referring to alcohol product labelling because it is both a food safety and preventive health issue as alcohol consumption can result in both short and long-term harms.⁴⁹ Short-term harms include motor vehicle accidents, crime, violent behaviour and losses in workplace productivity. Some examples of longer term health consequence of alcohol consumption include liver disease, cancers, cardiovascular disease, diabetes and overweight and obesity.⁵⁰

The AER Foundation is concerned that in a principles-based framework preventive health is given lesser priority over acute illness. This is particularly concerning given the growing economic cost of disease. For example, as noted in the *Labelling Logic* report, 3.8 million Australians are affected by obesity which costs the Australian economy \$58 billion annually.⁵¹

As discussed under question one, the regulatory implications for preventive health issues is a concern as they may be subject to co-regulation and sometimes even self-regulation. The AER Foundation believes that mandatory regulation is necessary to ensure that alcohol product labelling is implemented effectively, as the alcohol industry has demonstrated that it is unable to comply with self-regulation.

With this in mind, the AER Foundation believes that health warning labels should be removed from the Food Standards Code and regulated under a separate regulatory structure, as such a regime would require additional resources which may be beyond the scope of FSANZ. Therefore, we propose that health warning labels are regulated through the ACCC given the direct link between health warning labels and issues of consumer entitlements to information and protection against misleading and deceptive conduct. We do, however, support the continuing regulation of consumer information under FSANZ to guard against regulatory inefficiency.

As the Food Standards Code already regulates nutritional information, energy content and ingredients lists, these elements of alcohol product labelling regulation should remain within the Food Standards Code to avoid regulatory inefficiency.

Recommendations:

27. Alcohol product labelling does not fit neatly into the proposed food labelling regulatory hierarchy. It is both a food safety issue and a preventative health issue and, therefore, it is unclear as to how alcohol product labelling would be regulated.
28. Preventative health should be treated as a priority, particularly given the economic costs of alcohol-related harm and its impact on society.
29. Alcohol product health warning labels should be removed from the Food Standards Code to a separate regulatory structure.
30. The implementation of nutritional information, declaration of energy content and ingredients lists on alcohol product labels should stay within the Food Standards Code to avoid regulatory inefficiency.

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²¹ Note: 'Medium' is defined as 'changes to text and/or label layout, changes to three printing plates and proofing required'.

²² Note: 'Major' is defined as 'changes to text and/or label layout, changes to six printing plates, proofing required and changes to packaging shape/size/design'.

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