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Foreign Affairs, Defence and Trade Committee
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To the Foreign Affairs, Defence and Trade Committee

SUBMISSION TO THE INQUIRY INTO THE PROPOSED COMPREHENSIVE AND PROGRESSIVE AGREEMENT FOR THE TRANS-PACIFIC PARTNERSHIP (TPP-11).

The Foundation for Alcohol Research and Education (FARE) welcomes the opportunity to provide a submission to your inquiry into the proposed Comprehensive and Progressive Agreement for the Trans-Pacific Partnership (TPP-11).

FARE is an independent not-for profit organisation working to stop the harm from alcohol. FARE's purpose and associated activities are diverse. Alcohol is a harmful product, responsible for nearly 6,000 deaths and 157,000 hospitalisations each year.ⁱ It is associated with more than 200 health conditions related to heart disease, cancer and other chronic health conditions, it contributes to short term harms such as injury and falls, and it is associated with road traffic accidents, suicide, homicide, alcohol poisoning, and violence.ⁱⁱ

Alcohol also contributes to significant harm to people other than the drinker. These harms include acts of violence on our streets and in our homes, road traffic accidents, child maltreatment and neglect and lost productivity. As a result of other people's drinking, there are more than 360 deaths, 14,000 hospitalisations and 70,000 victims of alcohol-related assault each year.ⁱⁱⁱ More than one million Australian children are affected in some way by others' drinking, 140,000 are substantially affected and more than 10,000 are in the child protection system because of a carers' drinking.^{iv}

A key action within FARE's Strategic Plan is to defend the public interest by advocating for policies and programs that inform, empower and protect the public from alcohol harm through:

1. Promoting knowledge about the range and magnitude of alcohol harm,
2. Advocating for alcohol warning labels on all products sold in Australia, and
3. Working with governments to communicate the Australian Guidelines to Reduce Health Risks from Drinking Alcohol to ensure the community is aware of the risk associated with alcohol consumption.

FARE's response to the proposed Comprehensive and Progressive Agreement for Trans-Pacific Partnership (TPP-11) therefore predominantly relates to defending the public interest.

The TPP-11 wine and distilled spirits annex (Annex 8-A) contains provisions for wine and spirits that require parties to enable suppliers to place country-specific labelling information on a supplementary label. Potentially, such provisions pose challenges for countries working towards introducing effective health warning labels along with other forms of health information (for example, kilojoules) on alcohol containers.

Globally, the burden of alcohol harm is substantial and alcohol health warning labels are an important public health strategy as they promote health messages in ways that other health initiatives do not, at point of sale and at point of consumption. Therefore, there is a strong rationale for better health information to be provided on alcohol containers as an important element of a comprehensive strategy to reduce alcohol harm. In many countries, including Australia, alcoholic beverages have been exempted from several labeling requirements that are required for other food products, for example lists of ingredients and energy content. In addition, no mandated warning messages regarding the risks of short or long terms health harms from consumption exist in Australia; they do however exist in the United States.

Alcohol warning labels are effective in both raising awareness of health risks and changing health behaviours when applied with specific guidelines known to increase salience.^v

As the body of scientific evidence grows and public sentiment changes in relation to the risks associated with alcohol consumption, it is critical that a future Australian government should be able to move on an effective alcohol labelling regime. However, it may find this policy more difficult to pursue if it is blocked by treaty provisions that reserve producers' and bottlers' control over labelling. As such, it is imperative that a state's right is preserved to introduce alcohol health information to inform, educate, and change drinking behaviour in order to reduce harm caused by alcohol.

Recent publications in the *Melbourne University Law Review*^{vi} and *Alcohol and Alcoholism*^{vii} stipulate arguments in detail in support of FARE's position. Key aspects of these arguments are provided below.

In order to effectively influence behaviour change or intention to change, warning labels must: consist of text and symbol together; be positioned on the front of product containers, with horizontal orientation and separated by a stark black border; have a minimum of five different health warning messages (one must include the risks of consuming alcohol while pregnant); and cover a specific percentage of the container's entire surface area.

Currently, the rules on supplementary labelling in TPP Annex 8-A pose uncertainty regarding whether or not Parties retain the right to mandate these features for warnings (as well as other health-related information) provided on supplementary labels. The uncertainty about the Parties' rights emerges in the following ways.

1. No definition of 'supplementary label' is provided within the Annex. As a result, it is possible that the 'supplementary label' may be understood to mean an additional label fitting into unused space on the container (for example, alongside two main labels on a product container). If this definition was used, a Party would be in breach of the supplementary labelling rule (within paragraphs 5 and 10) in

the Annex as requirements for supplementary labels are such that a label cannot be added in unused space on the container.

2. The right of the Parties to ensure any information indicated on a supplementary label meets the requirements in paragraph 4 is affirmed in paragraphs 5 and 10. This stipulates a requirement that the statements provided on labels must be legible. As a result, it can be argued that such provisions could lead to the removal of the right of Parties to enforce any placement or presentation requirements apart from legibility.

FARE supports the following recommendations made by leading academics (Paula O'Brien, Deborah Gleeson, Robin Room, and Claire Wilkinson) in the field of trade and health with the goal to remedy these problems associated with the supplementary labelling rules:

1. *In the TPP-11 or in the negotiation of future trade agreements where the supplementary labelling rules are being considered for inclusion, the best course for the protection of public health would be to explicitly exclude health information from the supplementary labelling rules. There would be two options for achieving this exclusion.*
 - (a) *The existing text of TPP-11 Annex 8-A paragraph 5 could be amended to include the italicised text: 'If a Party requires a distilled spirits label to indicate information other than information about human health, it shall permit the supplier to indicate that information on a supplementary label...'. The comparable amendment for paragraph 10 would read: 'If a Party requires a wine label to indicate information other than ... (e) information about human health, it shall permit the supplier to indicate that information on a supplementary label...'. OR*
 - (b) *Alternatively, an additional paragraph could be added to the Annex: 'The obligation in paragraphs 5 and 10 for a Party to permit information to be indicated on a supplementary label does not apply to information about human health required by the Party. For certainty, nothing in this Annex prevents a Party from requiring that information about human health be indicated on the main label.'*
2. *Alternatively, at the very least, the text should be amended to affirm that a state may prescribe the presentation and placement features for information it requires to be included on wine and spirits containers, including on supplementary labels. The amendment to paras 5 and 10 could be in the following terms:*

'For greater certainty, a Party may require that the information indicated on a supplementary label meet the requirements in paragraph 4 and any other requirements determined by the Party with respect to the presentation and placement of the information. Further, the Party may impose the same presentation and placement requirements for information indicated on a supplementary label or on the main label.'

In its current form, the proposed TPP Annex 8-A lacks these explicit public health safeguards and therefore poses an unnecessary impediment to Australia using health information labelling to minimize the significant harms caused by alcohol consumption.

Yours sincerely

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CHIEF EXECUTIVE

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- ⁱ Gao, C., Ogeil, R.P., & Lloyd, B. (2014). Alcohol's burden of disease in Australia. Canberra: FARE and VicHealth in collaboration with Turning Point.
- ⁱⁱ World Health Organization (WHO). (2010). *Global strategy to reduce the harmful use of alcohol*. Geneva: WHO. Retrieved from: http://www.who.int/substance_abuse/alcstratenglishfinal.pdf?ua=1
- ⁱⁱⁱ Laslett, A-M., Catalano, P., Chikritzhs, T., Dale, C., Dora, C., Ferris, J., Jainullabudeen, T., Livingston, M., Matthews, S., Mugavin, J., Room, R., Schlotterlein, M. & Wilkinson, C. (2010). *The range and magnitude of alcohol's harm to others*. Fitzroy, Victoria: Centre for Alcohol Policy Research, Turning Point Alcohol and Drug Centre, Eastern Health, and the Foundation for Alcohol Research and Education.
- ^{iv} Laslett, A. M., Mugavin, J., Jiang, H., Manton, E., Callinan, S., MacLean, S., & Room, R. (2015). The hidden harm: Alcohol's impact on children and families.
- ^v Wogalter, M. S., Conzola, V. C., & Smith-Jackson, T. L. (2002). Evidence-based guidelines for warning design and evaluation. *Applied ergonomics*, 33(3), 219-230.
- ^{vi} O'Brien, P., Gleeson, D., Room, R., & Wilkinson, C. (2017). Marginalising health information: implications of the trans-pacific partnership agreement for alcohol labelling. *Melb. UL Rev.*, 41, 341.
- ^{vii} O'Brien, P., Gleeson, D., Room, R., & Wilkinson, C. (2018). Commentary on 'Communicating Messages About Drinking': Using the 'Big Legal Guns' to Block Alcohol Health Warning Labels. *Alcohol and Alcoholism*.