

# Wine labelling regulations reviewed – health-related and compositional claims, geographical indications and traditional expressions

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***Drawing on a workshop they convened at this year's Australian Wine Industry Technical Conference, Creina and Rachel bring wine producers up to speed on the changes to winemaking, labelling and marketing regulations that have occurred in the last three years.***

The Australian Wine Research Institute (AWRI) and Wine Australia recently convened a workshop titled 'The changing regulatory environment of Australian wine' at the 16th Australian Wine Industry Technical Conference. The workshop focussed on the changes that have occurred to winemaking, labelling and marketing regulations over the past three years. Speakers at the workshop included representatives from the AWRI, Food Standards Australia New Zealand (FSANZ), Wine Australia, Accolade Wines and Treasury Wine Estates.

Key topics covered in the workshop were:

- nutrition, health and related claims on wine labels
- health warnings on wine labels
- analytical testing for compliance
- social media regulatory risks
- the use of geographical indications (GIs) and traditional expressions (TEs) on wine labels
- Free Trade Agreement developments in wine industry.

This article provides a brief summary of the material covered in these topics at the workshop.

## NUTRITION AND HEALTH CLAIMS

In Australian and New Zealand consumer law any claims and labelling for foods must not be false or misleading. A claim is considered to be an express or implied statement, representation, design or information in relation to a food, or a property of food, which is not mandatory in the Australia New Zealand Food Standards Code. Claims are generally made to support healthy food choices and accordingly can be about nutrition content and certain disease risk reductions. For example, according to Standard 1.2.7, 'source of calcium' is considered a nutrition content claim, 'calcium builds stronger bones' is a general level health claim linking to a function but not to a disease, and 'calcium reduces the risk of osteoporosis' is a high level health claim linking to a disease. A statement such as 'Healthy Bones Australia' included on a food label is considered to be an endorsement.

Nutrition and health claims are not permitted for any alcoholic beverages with an alcohol content greater than 1.15%v/v, except for claims about carbohydrate, energy or

gluten content. Correspondingly, nutrition information panels are only mandatorily required for wine labels if claims are made about the carbohydrate, energy or gluten content of a wine. They may, however, be voluntarily included on a wine label. In addition, no endorsements are permitted.

Claims about the alcohol content of a wine are not considered to be a nutrition content claim, such as 'reduced alcohol', although a claim of 'low alcohol' cannot be made if the wine contains greater than 1.15%v/v.

Claims about the risk or danger of immoderate wine consumption or that wine should only be consumed in moderation are permitted. Any other claims that are expressly permitted by another standard, such as claims about allergens, are also permitted on the label of wines of any alcohol content.

Further information on nutrition, health and related claims for wine sold in Australia, can be found in these resources:

- The health claims section of the FSANZ website (<http://www.foodstandards.gov.au/industry/labelling/Pages/Nutrition-health-and-related-claims.aspx>)
- The Implementation Subcommittee for Food Regulation (ISFR) website (<http://www.health.gov.au/internet/publications/publishing.nsf/Content/frs-getting-your-claims-right-toc>). This provides a 62-page guide to complying with the relevant Standard [1.27] of the Australia New Zealand Food Standards Code, as well as a flowchart which is a useful tool in determining which type of claim is being made on a particular label and, therefore, which section of the guide to refer to.

## HEALTH WARNING LABELS

Claims about the risk or dangers of immoderate wine consumption are generally considered health warnings. Although there is no mandatory requirement for any form of health warning in Australia, at least 37 countries to which Australia exports wine have mandated health warning labelling; a further six countries endorse voluntary health warning labelling. This number has grown since 1997 when only nine countries had mandated such labelling. The increase has been predominantly in non-traditional alcohol consuming

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Figure 1. The French government's pictogram (left) and DrinkWise Australia's pictogram (right).

cultures, developing and emerging economies and non-grape growing/non-winemaking countries.

Health warning labelling can be classified as either general health messages, or specific health messages such as that in relation to drinking while driving or operating machinery, if breast feeding or pregnant or underage, or in relation to alcohol drinking guidelines. In addition to written labels, countries such as France have introduced pictograms. The French pictogram is similar to that developed by DrinkWise Australia which is currently being adopted by the Australian wine industry as well as by other alcohol beverage producers following the Federal Government's Review of Food Labelling Law and Policy of 2011. In 2007, a systematic review by World Health Organization's Expert Committee on Problems Related to Alcohol Consumption found that consumer exposure to health warning labels did not change drinking behaviour per se or have a direct impact on behaviour, as do tobacco warning labels. They did find, however, that they do influence intervening variables, such as intention to change drinking patterns that could heighten risk, having conversations about drinking and willingness to intervene with people who are seen as hazardous drinkers.

The Winemakers' Federation of Australia (WFA) has formed a partnership with DrinkWise Australia that gives all wineries access to DrinkWise Australia's campaign material at no cost to them, regardless of whether they are direct funding contributors to either DrinkWise Australia or WFA. For wineries wishing to register for access to the Get the facts logos for use on their products, it is available at: <https://drinkwise.org.au/our-work/get-the-facts-labeling-on-alcohol-products-and-packaging/#> and <https://industry.drinkwise.org.au/>

## ANALYTICAL COMPLIANCE

All Australia's wine markets do not necessarily have a long history of wine consumption or regulation. This can lead to applications of analytical procedures or standards that were originally designed for other food and beverage groups but are not necessarily suitable for wine. Regulations and standards can also be based on national rather than international criteria. One example is the concentration of sugar in wine, where certain markets have set strict labelling criteria. The Codex Alimentarius Commission's prescribed analytical method, which is used as the basis of one market's national standard, is a generalised method for all foods and beverages and does not consider wine-specific matrix issues, such as colour interference. The same analytical methods

are also used in the determination of total dry extract, which has been used to identify adulteration by water, where national standards refer to historical outdated data which is not universally applicable. The accurate measurement of the concentration of sugar in wine has become increasingly important as wines have recently been rejected in certain markets due to labelling disputes related to the analysis of sugar in wine.

Although modern winemaking generally relies on a direct 'glucose + fructose' method which gives more accurate, precise and relevant results in the wine matrix, the older indirect reducing sugar method gives artificially high results with a much greater spread between laboratories. Indeed, using the reducing sugar method, the concentration of sugar is usually 0-3g/L higher than that measured by the 'glucose + fructose' method. Unfortunately, because of the variable nature of interferents such as phenolic compounds, it is not possible to directly convert results between the two methods. International efforts continue to reduce/remove the required analytical testing for imports and align testing methods and performance based on sound science.

## REGULATORY RISKS OF SOCIAL MEDIA

In addition to compliance with labelling regulations, wine and wine products must also comply with the advertising and packaging regulations of the Alcoholic Beverages Advertising Code (ABAC) Scheme (<http://www.abac.org.au/>). Under the Code, any marketing communication about a wine must be moderately and responsibly portrayed. For example, it must not show or encourage the excessive or rapid consumption of wine, or the abuse and misuse of wine. It must also be responsible regarding minors with no specific or strong appeal to them, or depict a person who is or appears to be a minor unless they are shown in an incidental role in a natural situation, for example, a family socialising responsibly, and where there is no implication they will consume or serve wine. It must also not suggest that the consumption or presence of wine may create or contribute to a significant change in mood or environment, as well as not show the consumption of wine before or during any activity that, for safety reasons, requires a high degree of alertness or physical co-ordination, such as swimming or the control of a motor vehicle, boat or machinery.

Relatively recently, the Code has extended to all digital marketing through social media, apps, blogs, brand websites, instant messaging, live casting, mobile messaging, online/banner ads, online gaming, photo sharing, Pinterest,

podcasts, proximity marketing, QR Codes, relationship marketing, search engine optimisation, social networking, social news, user-generated content, video sharing and wikis. As of July 2016, 18 promotions had been subject to ABAC adjudication. Of these, 11 promotions had a digital component and four were upheld as non-compliant to the Code, and were asked to be modified or withdrawn within five working days.

The ABAC Best Practice for the Responsible Marketing of Alcohol Beverages in Digital Marketing can be found at <http://www.abac.org.au/wp-content/uploads/2014/07/Best-Practice-in-Digital-Marketing-6-6-14.pdf>.

### USE OF GEOGRAPHICAL INDICATIONS AND TRADITIONAL EXPRESSIONS ON WINE LABELS

Wine Australia maintains the Register of Geographical Indications and Other Terms and ensures compliance with labelling regulations. A key part of the regulations relates to the use of geographical indications (GIs) and traditional expressions (TEs).

A GI identifies wine as coming from a particular region or locality. Examples include Mount Lofty Ranges, Mudgee or High Eden. A TE in relation to wine originating in a foreign country means a traditionally used name referring, in particular, to the method of production or to the quality, colour or type of the wine. Examples include terms like Auslese or Vin de Pays.

Under the Australian Grape and Wine Authority Act 2013 and Regulations (<https://www.legislation.gov.au/Details/F2014C00910>), it is an offence to sell, import or export a wine with a false description and presentation, or with a misleading description and presentation (sections 40C and 40E, respectively). With some small carve outs, under section 40D of the Act, the description and presentation of a wine is false if it includes a registered GI, and the wine did not originate in that GI. Even if a carve out can be applied, the use can be held to be misleading if, in any event, it is likely to mislead as to the origin. Carve outs include pre-existing trademark rights, terms used as part of an individual's name or winery address, inclusion of a business name (TE only), and common English words. For example, use of a registered GI or TE is not considered to be misleading if: the term is a common English word; the use does not indicate that the wine originated from somewhere that it did not; the description and presentation indicates the true origin of the wine; and the word or term is used in good faith. The same does not necessarily apply to more specific regions. A 'test' would be:

- Does the label include a GI or country from which the wine does not originate?
- Does the label include a term that so resembles a GI that it is likely to mislead?
- Is there a common English word carve out? Are there any other carve outs?
- If so, in any event, is the use of the GI (or term so resembling the GI) misleading?

The restrictions apply to all descriptions and presentations of wine including advertising by retailers. The rules also apply even when a GI is accompanied by expressions such as 'kind', 'type', 'style', 'imitation', 'method', or any such similar expression.

For information on GIs and TEs included on wine labels, please consult <http://www.wineaustralia.com/en/Production%20and%20Exporting/Labelling.aspx>

### FREE TRADE AGREEMENTS

Free Trade Agreements (FTAs) are already established between Australia and ASEAN-New Zealand, Chile, China, Japan, Korea, Malaysia, New Zealand, Singapore and Thailand, which has realised considerable growth of Australian wine exports since their establishment, ranging from 4-64 per cent. FTAs are also under negotiation with the Gulf Cooperation Council, India, Indonesia and the Regional Comprehensive Economic Partnership. Australia also participates in the APEC economies Wine Regulatory Forum. This forum includes five working groups that have designed a certificate for use across the APEC region, with the objective of avoiding chemical analysis, and produced a database containing all food safety and wine labelling requirements of each APEC economy. Laboratories across the APEC region also have participated in a ring test to compare test results of key wine components such as alcohol, sulfur dioxide and sugar. The possibility of APEC economies accepting external test reports from ISO 17025 accredited laboratories will be explored. A priority list of agricultural chemicals for which maximum residue limits should be established through Codex Alimentarius is under development, as is a model wine standard.

For more information on wine regulation contact Wine Australia.

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