

Joint Standing Committee on Treaties
PO Box 6021
Parliament House
Canberra ACT 2600

8 May 2017

To the Joint Standing Committee on Treaties,

We wish to make a confidential submission to your inquiry into the amendments to the Singapore-Australia Free Trade Agreement.

We have undertaken research on the Trans Pacific Partnership Agreement's (TPP) annex on wine and distilled spirits (Annex 8-A) and its implications for health information on alcohol containers. We have recently discovered that this part of the TPP text has been included in its entirety in the Amended Singapore-Australia Free Trade Agreement in Chapter 5 (Technical Regulations and Sanitary and Phytosanitary Measures) as Annex 5-C (Sectoral Annex on Wine and Distilled Spirits).

With the editors' permission, we have attached a copy of our paper analysing the TPP wine and distilled spirits annex, which has been accepted for publication in the *Melbourne University Law Review* in the first edition for 2017. Since the article is currently in press, we ask that the Committee treat the paper as a confidential submission, at least until such time as the paper is published. We are happy for this covering letter to be treated as a public submission.

The TPP wine and distilled spirits annex (and its counterpart in the amendments to the Singapore-Australia FTA) contains a novel set of provisions for wine and spirits that require parties to allow suppliers to place country-specific labelling information on a supplementary label. These provisions potentially create challenges for countries wishing to introduce effective health warning schemes.

The global burden of alcohol-related harm is considerable and there is a strong rationale for better health information on alcohol containers as an important element of a comprehensive strategy to reduce it. In Australia, as in many other countries, alcoholic beverages have historically been exempted from many labeling requirements for other comestibles - e.g., listing of ingredients, disclosure of kilojoule content. There are also no mandated explicit warnings about risks of injury and to health from consumption, such as exist in the U.S. As scientific knowledge improves and public sentiment changes about these risks, it is likely that a future Australian government will want to move on these matters. But it may find this policy more difficult to pursue and blocked by treaty provisions reserving to producers and bottlers control over the 'real estate' of the label. In this context, it is important that a state's right is preserved to introduce evidence-based alcohol health information to educate, change drinking behaviour and send the message that alcohol is no ordinary commodity.

We argue that it would be preferable, from a public health perspective, that new regional trade agreements do not include these supplementary labelling provisions. Two further options would be to include the supplementary labelling rules in the regional trade agreement but (1) to explicitly exclude health information from the supplementary labelling rules (so that items like lot numbers and the name of the importer could be included on a supplementary label, but health information

had to be on the principal label); or (2) at the very least, to affirm that a state may prescribe the presentation and placement features for information it requires to be included on labels on wine and spirits containers.

Our analysis of the identical provisions in TPP Annex 8-A suggests that as it is currently drafted, the proposed Annex 5-C for the Singapore-Australia Free Trade Agreement lacks these explicit public health safeguards and creates an unnecessary impediment to the future introduction of an effective alcohol health warning scheme.

Yours sincerely,

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