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Public consultation on tax on sugar-sweetened drinks
Tax Policy Division
Department of Finance
Government Buildings
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To whom it may concern

Danone Company Response to the Sugar Sweetened Drinks (SSD) Tax Consultation

Introduction

Dedicated to bringing health through food to as many people as possible, Danone is a leading global food company built on four business lines: Fresh Dairy Products, Early Life Nutrition, Waters and Medical Nutrition. Through its mission and dual commitment to business success and social progress, the company aims to build a healthier future, thanks to better health, better lives and a better world, for all its stakeholders—its 100,000 employees, consumers, customers, suppliers, shareholders and all the communities with which it engages.

In the UK and Ireland Danone employees more than 1700 people, and serves an estimated 17 million consumers with leading brands including evian, Activia, Aptamil and Cow and Gate.

Danone recognises that obesity, and in particular, childhood obesity is a major challenge for our society, and we welcome the opportunity to contribute to this consultation. Our company mission is to bring health through food and drink to as many people as possible, and we are committed to making a difference to the health of the nation. However, we believe that any interventions put in place to do so must be considered, fair and evidenced. When looking at the potential effectiveness of the proposed levy in delivering its intended outcome of

addressing childhood obesity, we have a number of concerns which we believe require consideration.

These are as follows:

- There needs to a clear and transparent definition as to what portion size would be considered to fulfil this intent. It is our view that a bottle of less than 125ml for example is clearly not intended, nor purchased, for the purpose of slaking thirst and so should be excluded from the levy.
- We agree with the proposal that fruit and dairy drinks should be excluded from the proposed sugar levy on the basis of their contribution to the national diet. The current proposal is consistent with, and supports, the overall dietary messaging of the public health authorities for example in the Food Guide Pyramid, and the National Obesity Strategy. Any contradiction would create a confused and inconsistent operating and consumer environment, and threaten the role of a valuable source of essential nutrients in the national diet.
- The implications of a 'hard' Brexit are a cause of concern as it will likely add a further layer of complication regarding a number of issues relating to SSD. The customs and excise treatment of SSD could be affected and different packaging and labelling requirements in two jurisdictions may create practical difficulties in applying the Irish SSD tax on products being imported from the UK. Finally the imposition of sugar tax could increase the attractiveness of cross border shopping by maintaining an already high soft drink price differential between the Republic and Northern Ireland.

These are concerns which we believe must be addressed before any final decisions on application of the levy are made. In summary, we believe that there must be clarity of definition, consistency of guidance and applicability, and above all a considered approach to ensure an appropriate and fair trading environment for businesses now, and in the future. Only then will this enable them to effectively play their part in improving the health of the nation.

Reponses to questions

Question 1

The tax will apply to water based and juice based drinks with an added sugar content of above 5 grams per 100ml. It will not apply to milk-based drinks. Are there drinks on the market which do not fit neatly into these categories, which may be of concern for producers from a compliance point of view?

We agree that the tax should not apply to milk based drinks as excluding these products does take account of the total offering of the product. We believe that the sugar content of milk based drinks should be treated differently and included in a reformulation programme. For any other drinks to be considered, we believe an evaluation needs to be conducted on the overall nutritional contribution of the drink.

Question 2

Naturally occurring sugars will not be included in the scope of the tax. Do producers have the mechanism for identifying and declaring the added sugar content as opposed to the naturally occurring sugar content of their drinks?

Under the current EU labelling rules (REGULATION (EU) No 1169/2011) the sugar content of all foods must be determined and labelled. However, currently food business operators are not required to distinguish between different sugars. Providing evidence for what is and what is not added sugar in each of our products would bring extra complexity and costs over and above those already incurred.

Question 3

It is intended that the tax will be collected at first point of import or production. What compliance issues does this present for producers?

It seems the most practical method of payment, but there will be added administrative burdens for business.

Question 4

The tax will apply to pre-packaged drinks products only. This presents difficulties in relation to drinks that are intended to consumed as a diluted level. Is there scope to declare the

sugar contents of these particular products at their intended consumption levels, at their intended consumption levels, at the early point of import or production?

No comment

Question 5

What do respondents consider to be an 'added sugar'? What would they define as necessary to include in this definition in order to cover the types of sugars typically added to soft drinks?

We would consider 'added sugar' as defined by the European Food Safety Authority to be sucrose, fructose, glucose, starch hydrolysates (glucose syrup, high fructose syrup) and other isolated sugar preparations used as such or added during food preparation or manufacturing.

Question 6

If you are a very small producer of SSDs, what concerns do you have regarding being included in the SSD tax?

No comment.

Question 7

In relation to milk-based drinks, should there be a minimum milk content in order for a drink to be defined as milk-based?

We believe that the definition for milk-based should not be confined to a minimum milk content, insofar as it does not take account of the total offering of the product. For that to be considered, we believe an evaluation needs to be conducted on the overall nutritional contribution of the drink - the mere proportion of milk contained is not sufficient to ensure that only nutrient-rich milk drinks are exempt from the levy. We know from our market knowledge, that there are milk based drinks with high levels of both milk and sugar content, which may be excluded from the levy, and conversely, milk based drinks with around 50% milk content, limited sugar and valuable amounts of essential minerals and vitamins which may be included. Without this being taken into account, it again can only lead to confusion and inconsistency.

Question 8

Are there particular cross border issues that you envisage will exist if the Irish SSD tax does not closely align with the UK soft drinks industry?

If the tax was not consistent on the island of Ireland, the biggest potential issue will be wholesalers who operate on both sides of the border buying in one jurisdiction and selling it in the other. This could lead to a bypassing of the appointed distributor for the region and the group head office.

Question 9

How integrated are the production systems for soft drinks across borders in the UK and Ireland? Does the cross-jurisdictional nature of production of soft drinks present particular difficulties to producers?

It is not an issue for us as all Danone Waters products are produced in the Eurozone - France.

Question 10

Is there a system whereby producers can track their individual products, for example in the case of a product recall being necessary? Would it be possible to integrate this system with the SSD tax, to allow the Revenue Commissioners to audit whether products for sale to consumer have been subject to tax?

A batch code printed is on each single bottle produced that allows us to perform full traceability of the product. However we are currently unable to answer if this system could be integrated with SSD tax.

Question 11

More broadly, do you have any concerns from a health perspective about which products are included and excluded by the scope of the tax?

We believe that the definition works satisfactorily – assuming that there will be clarity on portion size.

Question 12

Producers may be required to provide regular documentation to verify the added sugar contents of their produce to the Revenue Commissioners. We anticipate that this information

will already form part of industry production methods. How costly a tax would this be for producers?

We would expect to record the products imported into Ireland, make approved adjustments for damages, wastage and marketing activities, then send the Department of Finance a file. This will need be audited by DoF and if approved, a financial transfer made. Currently it is not possible to estimate these costs.

Question 13

Those who are liable to pay the tax will be required to register and submit returns. Are respondents aware of any data sources that can be relied upon to support compliance and/or reduce administration burden to businesses? (e.g. traceability records)

Not aware.

Question 14

Are there circumstances where soft drinks may become spoiled or unfit for use after the bottling process and if so, can producers advise the extent that this occurs and the quantities involved?

Product can be damaged during the logistics flow or may be withdrawn and destroyed due to quality issues. Given that stocks of product have to be held to meet anticipated demand, there can be write-off of product due to inability to sell before the declared sell by date. Volumes will depend on events, but would be expected to be less than 1% of total volume on average.

Question 15

Are you involved in any export or re-export trade in soft drinks or SSD and if so, do you see any difficulties posed to those transactions?

Not applicable.

Question 16

What 'black market' or other tax evasions activity do you consider might be directly caused by introducing a SSD tax?

There is the increased potential for packaging and labelling misrepresentations on sugar products.

