Institute of Public Health in Ireland (IPH) response to Department of Finance Sugar-Sweetened Drinks Tax Public Consultation

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The Institute of Public Health in Ireland

The remit of the Institute of Public Health in Ireland (IPH) is to promote cooperation for public health between Northern Ireland and the Republic of Ireland in the areas of research and information, capacity building and policy advice. Our approach is to support Departments of Health and their agencies in both jurisdictions, and maximise the benefits of all-island cooperation to achieve practical benefits for people in Northern Ireland and the Republic of Ireland.

IPH welcomes the opportunity to submit to this sugar-sweetened drinks (SSDs) tax consultation. Poor quality diet and overweight/obesity are significant threats to public health across Ireland and the United Kingdom. One in four children in the Republic of Ireland is either overweight or obese (Heinen et al, 2014). In Northern Ireland, 21.2 per cent of Primary 1 children and 27.8 per cent of Year 8 children measured in 2014/2015 were considered overweight or obese (Public Health Intelligence Unit, 2016). IPH is particularly concerned by the health inequities dimension to overweight/obesity and its associated burden of disease. It is adults and children in the lowest socio-economic groups who are impacted most by this disease burden (World Health Organization (WHO), 2013).

Since 2011, IPH has been undertaking research to inform policy on the potentiality of sugar sweetened drinks (SSDs) levies to contribute towards addressing overweight and obesity across the island of Ireland (IPH, 2013). Based on the evidence, IPH endorses this tax proposal as part of a suite of measures necessary to curb excess sugar consumption and address the problem of overweight and obesity.

Question 1

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

IPH does not endorse any exclusions from a SSD tax whereby sugar is added to a pre-packaged beverage. This not only defies the intention of the tax but also does not serve to address preferences for sweeter tastes that are currently prevalent. Overall there is a need to begin *unsweetening the world's diet* (Yang, 2010:106). A consistency of approach that does not facilitate loopholes is important for this levy to be effective. In addition, this levy is a public health measure and therefore all consumers should be able to benefit from the anticipated positive health outcomes expected from this policy.

There are certain drinks, and potential for new products, that could circumvent such taxation measures. Milk-based drinks should be subject to such taxation where the added sugar content is above 5 grams per 100 ml. Diluted drinks should also be carefully monitored as the dilution levels recommended by the manufacturer may not be the realistic dilution levels poured by the consumer, and therefore may not be subject to the tax.

While it is likely that industry will reformulate to avoid taxation in the UK and Ireland, there is potential for loopholes such as for milk-based drinks and new product formats which are as obesogenic as sugar-sweetened drinks subject to the tax. The legislation must be monitored to take account of new products and methods employed to avoid the tax which are not necessarily healthier.

Question 2

Naturally occurring sugar will not be included within 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?

The tax should be kept under review, or the legislation carefully phrased, to ensure that industry cannot circumvent the tax by using fruit juices or other sources of naturally occurring sugars to sweeten drinks in lieu of current practice. In addition, to ensure transparency, all data provided by producers leading to tax exemptions should be independently verified.

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?

The Institute of Public Health in Ireland is concerned to ensure that a SSDs tax works to both encourage industry to reformulate and shift their focus to the lower sugar content products in their product ranges, while also encouraging lower consumption of high sugar products among the general public. Therefore, it is necessary to ensure through this legislation that the tax is passed through to the consumer on the high sugar products and not spread across the product range. This tax should inspire behaviour change among consumers as well as industry.

Question 4

The tax will apply to pre-packaged drinks products only. This presents difficulties in relation to drinks which are intended to be consumed as a diluted level. Is there scope to declare the sugar contents of these particular products at their intended consumption levels, at the early point of import or production?

Most drinks that are diluted have recommended dilution levels. The legislation facilitating this SSDs tax should ensure that the recommended dilution levels, which are likely to dictate the level of taxation payable, are not unrealistically altered to circumvent taxation. This should be kept under review.

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?

IPH would consider any addition of sugar beyond which is occurring naturally in key ingredients to be 'added sugar'; therefore facilitating unsweetened pure fruit juices and milk based products to be exempt.

Question 6

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

It goes against the spirit of a SSDs tax to allow for concessions for small producers; the intent of a SSDs tax is to curb consumption of sugar. Producers of all sizes should be encouraged to reformulate. In addition, there is the potential for large producers to begin to diversify into smaller production units to ensure the tax is avoided.

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?

The United Kingdom's School Food Standards states that reduced fat milk, and other drinks available in the school environment *should not exceed five per cent added sugars/honey and should be available as individual portions not exceeding 300mls*[1] (2013:145). For consistency, IPH would recommend aligning with these standards as already stated in the IPH submission to the UK consultation.[2]

It may be prudent to consider the implications for toddler 'follow-on' milks of a minimum proportion exclusion. IPH does not endorse the use of these milks as they are unnecessary for children's health; however the wider implications of exclusions should be explored. The WHO states that *current formulations lead to higher protein intake and lower intake of essential fatty acids, iron, zinc and B vitamins than those recommended by WHO for adequate growth and development of infants and young children*.[3]

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 levy?

IPH endorses the alignment of SSDs levies across the UK and Ireland. However, should these levies not be identical it is unlikely to encourage large-scale cross border shopping. These

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[1] Available at: http://www.schoolfoodplan.com/wp-content/uploads/2013/07/School_Food_Plan_2013.pdf Accessed 10 October 2016.

[2] http://www.publichealth.ie/document/consultation-response/iph-response-hm-treasury-and-hm-revenue-and-customs-soft-drinks Accessed 15 December 2016.

[3] http://www.who.int/nutrition/topics/WHO_brief_fufandcode_post_17July.pdf Accessed 7 October 2016.

products will remain relatively inexpensive; the levies will principally target those particularly subject to price elasticities – younger people and high consumers. Neither of these groups is likely to cross a border to purchase SSDs in bulk. Unlike products such as tobacco and alcohol which have been vulnerable to cross-border shopping in the past, the taxation levels are not comparable with the proposed SSDs levels and have a different target market.

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?

The majority of producers are multinational and therefore large scale, and as they will be subject to a SSDs levy in the UK within a similar timeframe, the alignment of levies should not present difficulties.

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 the consumer have been subject to the tax?

All data directly derived from industry to facilitate taxation should be independently verified.

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?

IPH are pleased that the proposed SSDs tax includes pre-packed drinks with added sugar, including fruit juices. However, the exclusion of milk-based drinks at this time is potentially a missed opportunity and IPH would recommend reconsideration of this position. IPH would also recommend that industry response is carefully monitored to ensure that the levy is not circumvented through innovative new products which are as unhealthy as SSDs. The World

Health Organization has cited the necessity to alter Hungarian legislation five times in order to close loopholes created by industry responses to circumvent Hungarian taxation of unhealthy foods.[4] The Irish legislation should be mindful of this, in particular with regard to making substitutions that may fall outside of the legal definitions but have the same or worse health implications.

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 task would this be for producers?

As stated, IPH would suggest that information supplied by industry should be independently verified for transparency and confidence in the process. It is likely that industry would also support such an approach to eliminate or reduce unfair competition between producers.

Question 16

What "black-market" or other tax evasion activity do you consider might be directly caused by introducing a SSD tax?

It is unlikely that a SSD tax would spawn a black market; however should this be the case this is for consideration by other sections of the Revenue Commissioners (Customs and Excise) who are monitoring such trade in other product ranges. A potential black market should not become a rationale for not introducing a SSD tax.

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[4] Available at: http://www.euro.who.int/__data/assets/pdf_file/0004/287095/Good-practice-brief-public-health-product-tax-in-hungary.pdf?ua=1 Accessed 10 October 2016.

References:

Department of Finance. (2016). *Sugar Sweetened Drinks Tax – Public Consultation.* [Available at: http://www.budget.gov.ie/Budgets/2017/Documents/Sugar-Sweetened_Drinks_Tax_Public_Consultation_final.pdf Accessed 12 October 2016].

Heinen, MM. Murrin, C. Daly, L. O'Brien, J. Heavey, P. Kilroe, J. O'Brien, M. Scully, H. Mulhern, LM. Lynam, A. Hayes, C. O'Dwyer, U. Eldin, N. Kelleher, CC. (2014). *The Childhood Obesity Surveillance Initiative (COSI) in the Republic of Ireland: Findings from 2008, 2010 and 2012*. Dublin: Health Service Executive.

Institute of Public Health in Ireland (IPH). (2013). *Proposed Sugar Sweetened Drinks Tax: Health Impact Assessment (HIA).* [Available at: http://www.publichealth.ie/document/iph-report/proposed-sugar-sweetened-drinks-tax-health-impact-assessment-full-report Accessed 7 October 2016].

Public Health Intelligence Unit. (2016). *Children's Health in Northern Ireland*. Public Health Agency [Available at: http://www.publichealth.hscni.net/sites/default/files/RUAG%20report%202015-16%20-%20Childrens%20Health%20in%20NI%20-%20FINAL%20REPORT%20-%20May%202016.pdf Accessed 18 July 2016].

Tax Strategy Group. (2016). General Excises Paper – tobacco products tax, alcohol products tax and tax on sugar sweetened drinks. [Available at: http://www.finance.gov.ie/sites/default/files/160720%20TSG%2016-02%20General%20Excises%20TSG%202016.pdf Accessed 7 October 2016].

World Health Organization (WHO). (2013). *Marketing of foods high in fat, salt and sugar to children: update 2012-2013* [Available at: http://www.euro.who.int/__data/assets/pdf_file/0019/191125/e96859.pdf?ua=1 Accessed 6 July 2016].

Yang, Q. (2010). 'Gain weight by "going diet?" Artificial sweeteners and the neurobiology of sugar cravings'. *Yale Journal of Biology and Medicine* 83:101-8.

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