Response to the Government's consultation on the Sugar-Sweetened Drinks Tax

This paper represents a response to the Government's consultation on the proposed Sugar Sweetened Drinks Tax by the SUBWAY® brand.

The SUBWAY® brand has the highest number of Quick Service Restaurants (QSR) in the Republic of Ireland, and indeed across the world. The brand has led the QSR sector in its commitment to the Government's call for voluntary calorie postings and through its voluntary reformulation of SUBWAY® products. This has included the removal of all trans-fats, a 48% average reduction in salt, as well as reductions in saturated fat and sugar across our product range.

General obesity, especially childhood obesity, is one of the biggest public health policy challenges faced by government and society. The SUBWAY® brand welcomes the publication of the Irish Government's public health policy: *A Healthy Weight for Ireland: Obesity Policy and Action Plan*. We believe the policy to be ambitious, measured and realistic.

By avoiding mandated nutrient reductions, the Irish Government has recognised the efforts that many in the food and drink industry have taken to reformulate products. This reflects the ongoing investment that responsible companies are making to further improve the nutritional profile of products and the time it takes to achieve this and successfully shift consumer taste and choice behaviours.

A key component of the new policy is the Sugar-Sweetened Drinks Tax. The new tax is expected to impact the more than 260 franchisee owned and operated SUBWAY® stores that employ more than 1,800 people in Ireland. As such, we feel it is pertinent to the successful operation of these franchises and to the SUBWAY brand's® continued contribution to the QSR sector that we contribute to the Government's consultation process.

In reviewing the consultation, many of the questions are not directly applicable to the SUBWAY® brand. To that end, please find below answers to questions that are most pertinent to our brand.

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?

Although the SUBWAY® brand is not a producer of sugar-sweetened drinks, the brand has a serious concern that soft drinks producers will simply pass the cost of the levy onto retailers. The SUBWAY® brand would urge Government in the first instance to take measures when implementing the Sugar-Sweetened Drinks Tax to ensure that the levy costs are absorbed by sugar-sweetened drinks producers, as is the intention of the policy, and not passed on.

If the costs incurred as a result of the Sugar-Sweetened Drinks Tax are passed from producers to retailers, this would surely violate the stated policy objectives in the consultation clause 2.3 where it is stated that, "the tax will be collected from a limited number of traders who are manufacturers and importers of sugar-sweetened drinks."

All SUBWAY® stores are franchisee owned and operated, and as such are all small businesses. The Sugar-Sweetened Drinks Tax provisions in clause 2.2 acknowledge the damaging effect that the levy may cause to small soft drinks producers. The policy should, by extension of this principle, ensure that small business retailers are similarly not adversely affected and that costs resulting from the levy are not passed on by producers to retailers.

Given the competitive market within which SUBWAY® franchisees operate and the price sensitivity of SUBWAY® customers, it is not possible to pass these costs on in turn to customers without risking the loss of market share. If producers do pass on costs to SUBWAY® franchisees, it will mean that these extra costs, due to the Sugar-Sweetened Drinks Tax, will typically have to be absorbed, thus eroding profits. For example, if the tax is passed onto the retailer, and a customer chooses a standard full sugar soft drink on the most popular value offering, such as a SUBWAY® €4 lunch, already extremely tight profit margins will be squeezed even further.

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?

SUBWAY® franchisees may have franchises located in both Northern Ireland and the Republic of Ireland; as a result the SUBWAY® brand would be concerned about cross-border operations if the Irish Sugar-Sweetened Drinks Tax did not closely align with the UK Soft Drinks Industry Levy. Specifically, this would raise concern if the cost of the tax were passed from producer to retailer and if the franchisee were in turn forced to absorb the cost of the tax in ROI in a way not occurring in the UK. This could impact daily operation for these franchisees and reduce profits in ROI franchises in comparison to UK franchises.

Should the proposed taxes go ahead in both jurisdictions, the SUBWAY® brand strongly suggests closely aligning the Irish SSD tax with the UK SDI tax in order to encourage continued operation for cross-border franchisees.

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 on businesses? (e.g. traceability records)

The SUBWAY® brand wishes to underline that producers of sugar sweetened drinks should be liable to pay this proposed tax and it should not be passed onto the retailer. It is important that Government should consider a mechanism to ensure that the tax remains with producers, as is its intent.

Question 16

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

In addition to our answer to Consultation Question 3, the SUBWAY® brand urges Government to consider measures that would ensure that the cost of the Sugar-Sweetened Drinks Tax is absorbed solely by sugar-sweetened drinks producers, as is the intention of the tax stated in clause 2.3, and cannot be passed onto retailers. This is especially important to small business retailers like SUBWAY® franchisees who operate in competitive markets, where the costs in turn cannot be passed onto customers (which would mean that there is no secondary benefit of the policy by incentivising customers to avoid higher-costed full sugar products).