



All cost, No Benefit

Pre Budget Submission

September 2017

Minister of State for Health Promotion

Marcella Corcoran Kennedy TD

“The soft drinks sector is an early mover in added sugars reduction with its journey beginning in the 1970s, when the first no sugar and no calorie soft drinks were introduced. In soft drinks, reduction in added sugars leads directly to reduced calories. The industry reduced sugar in still and carbonated soft drinks by 12% from 2000-2015, so I’m pleased to see that the new commitment triples this pace by adding another 10% reduction over the next five years.”

Revenue Commissioners statement to the Oireachtas Committee on Budgetary Oversight

“There would be a big concern that if there was a significant difference in price levels between here and the North, there would be diversion. I am not talking about consumers going up to buy soft drinks but a grey market could develop with illicit supplies in bulk going into the retail sector.”

Institute of Public Health in Ireland “Proposed Sugar Sweetened Drinks Tax: Health Impact Assessment”

“The evidence linking sugar sweetened drink consumption with weight gain is suggestive but not conclusive. The literature is contradictory and study quality tends to be described as low to medium”.

Executive Summary

The Irish Beverage Council (IBC) represents soft drinks companies throughout the island of Ireland. We accept the Government's sincerity in addressing the growing societal challenge of obesity and we are fully committed to playing our part. However, the lack of an evidence-based health rationale, the uncertainty as to how the tax will work, possible infringement of EU law and the total lack of clarity about our post-Brexit trading relationship with the UK, mean it is impossible to design a fair or equitable sugar-sweetened drinks tax. A deferral of the proposed tax is only logical in the circumstances.

We have been reducing sugar content for 30 years. Through investment in reformulation and the introduction of innovative new low or no sugar products, we are taking action. Soft drinks companies took 10 billion calories out of the Irish diet each year between 2005 and 2012, through voluntary sugar reduction by reformulation. 10 percent of all sugar contributed to the Irish diet by soft drinks was also reduced in these seven years. Industry reformulation is the best way to reduce sugar content. Taxation is not.

We simply cannot ignore the facts:

- As childhood obesity rates increase, daily consumption of sugar-sweetened soft drinks amongst 11, 13 and 15 year olds fell 70% according to the WHO.
- With less sugar in soft drinks and fewer children drinking sugar-sweetened drinks daily, the singling out of a segment of the sugar-sweetened drinks category is unjustified.
- Only 3% of Ireland's calories come from soft drinks. The tax ignores 97% of calories.
- Wherever a similar tax has been introduced it has failed to tackle obesity.
- Higher consumer costs and a falling pound increases the attractiveness of cross-border shopping, despite a similar UK measure, hurting our economy.
- The challenges of Brexit means we need to support, rather than tax, industry.

Our industry is uniquely exposed to the unprecedented fracture of the Single Market because of Brexit. Irish beverage companies work on an all-island and east west basis; this is a significant aspect of the beverage industry in Ireland. Without clarity of the UK's trading position following Brexit, it is impossible to design a fair or equitable sugar-sweetened drinks (SSD) tax.

The Irish Beverage Council calls on the Minister to defer the proposal given the lack of certainty concerning our future trading relationship with the UK. Obesity is a societal issue. We recommend a voluntary approach to work together with Government for the Healthy Weight for Ireland action plan.

Irish Beverage Council, September 2017

Introduction

Economic activity and employment

Statistics from Bord Bia show the beverage industry to be a large contributor to the economy with a value of €1.5 billion.¹ The beverage industry employs over 3,500 people directly and indirectly supports over 3,000 additional jobs.²

Consumers spend €600 million per year on industry products in stores. Industry payroll is about €107 million, and we spend approximately the same amount on Irish-sourced materials and services.³ The industry also exports over €133 million in goods each year.⁴

Industry action to tackle obesity

The Minister of State for Health Promotion has acknowledged industry's role in reducing the sugar and calorie intake of the population.

Minister of State for Health Promotion, Marcella Corcoran Kennedy TD:

“The soft drinks sector is an early mover in added sugars reduction with its journey beginning in the 1970s, when the first no sugar and no calorie soft drinks were introduced. In soft drinks, reduction in added sugars leads directly to reduced calories. The industry reduced sugar in still and carbonated soft drinks by 12% from 2000-2015, so I’m pleased to see that the new commitment triples this pace by adding another 10% reduction over the next five years.”

In 2016, the Irish food and drink industry became the first in the world to publish exact details about the efforts of industry reformulation. The FDII/Creme Global Reformulation Report was launched by then Minister for Health, Leo Varadkar, TD, and proved conclusively the positive impact industry efforts have had on consumption. IBC members took 10 billion calories out of the Irish diet each year between 2005 and 2012. 10 percent of all sugar contributed to the Irish diet by soft drinks was also reduced in these seven years.⁵ This was achieved through voluntary action years ahead of the Department of Health's call to work with industry on a roadmap for reformulation targets.⁶

The beverage industry has dynamically reduced sugar content through voluntary innovation alone.

No evidence of a SSD tax impact on consumer behaviour

International evidence shows that additional taxation on sugar-sweetened drinks does not achieve public health objectives of reducing incidence of obesity, overweight and related illnesses.⁷ Shemilt et al (2013) reviewed 880 studies and concluded that “the public health case for using economic instruments to promote dietary and physical activity behaviour change may be less compelling than some proponents have claimed.”⁸ .

The international experience

The Department of Health working paper “Introducing a Tax on Sugar Sweetened Drinks Health Rationale, Options and Recommendations” admits that, because of the limitations of assessing other market factors to price fluctuation, no inferences can be made on the impact Finland’s, France’s, and Hungary’s sugar taxes have had on overall population consumption.⁹

No sustained reduction in consumption of soft drinks has ever been correlated to imposition of a punitive tax. Following a dip in consumption the first year past implementing an SSD tax, Mexico reported increasing soft drink sales in the year following.¹⁰ Mexico’s National Institute of Public Health provided evidence that soft drinks manufacturers’ sales actually increased in the two years following their sugar tax by about 7.0 percent compared to average recent non-tax years.¹¹ France likewise experienced a drop in consumption, but in 2015 consumption was 4.2% higher than in 2011, the year before the tax.¹² Other countries with SSD taxes have seen no decreases in sales or reductions that fell in line with pre-existing trends.¹³

There have been documented international failures in taxing sugar as well. The European Commission found the Finnish tax on sweets, ice cream and soft drinks to constitute illegal state aid.¹⁴ Denmark announced plans scrap its sugar tax after it cost the state an estimated €38.9 million in VAT from cross-border smuggling, with no measureable difference in public health.

Brexit

Brexit involves an unprecedented fracture of the Single Market, with Ireland and the Irish food and drinks sector particularly exposed. Beverage companies produce, market and / or sell product on an all-island and east west basis. This is a significant aspect of the beverage industry in Ireland.

Without clarity of the UK's trading position following Brexit it is impossible to design a fair or equitable sugar-sweetened drinks tax.

The challenge of Brexit, including the longer term trading relationship with the UK, faced by the food and drink sector point to the need to support, rather than tax, Ireland's most important indigenous sector.

The Irish Beverage Council is calling on the Minister to defer the proposed sugar-sweetened drinks tax given the lack of certainty concerning our future trading relationship with the UK.

Cross-Border nature of the Irish Soft Drinks Industry

The soft drinks supply chain is highly integrated across Ireland, GB and Northern Ireland. The majority of soft drinks consumed in Ireland are imported. Some members supply the island of Ireland from bottling-plants in Northern Ireland and Great Britain, there are also members who produce product in this jurisdiction for local consumption, export and intra company volume.

The cross-jurisdictional nature of soft drinks production includes other parts of the value chain. Some retailers and wholesalers operate on an island of Ireland nature, as do many foodservice operators.

There are a number of issues that are raised in the cross-jurisdictional nature of production, most notably currency fluctuations.

“Alignment” with the UK Proposal

We note the Minister of Finance's intention to complement/align Ireland's SSD tax with the UK tax.¹⁵ It must also be noted that aligning tax release dates does not guarantee an alignment of market impact, it is impossible to compare potential costs of the Irish proposal with the UK proposal.

As stated in the Department of Finance's "*Getting Ireland Ready for Brexit*" the exact arrangements that will apply post-Brexit to transactions between Ireland and the UK are not yet known. Therefore it is impossible to predict the impact of Brexit on any SSD tax regime that may be introduced, or to assess the degree to which the UK and Irish SSD tax systems will be aligned in the post-Brexit environment. It is simply untrue to state that a new SSD tax system will align or complement a similar UK measure in the future. Given the integrated nature of the production systems for soft drinks across borders on our island and the cross-jurisdictional nature of the beverage industry, Brexit poses a significant challenge to any SSD tax regime.

Impact for countries outside the Customs Union

Where products are imported into Ireland from non-EU countries, including the UK post-Brexit, an additional cost will arise for importers where additional administration costs and customs duty are incurred in addition to the SSD tax.

As the GB and Northern Ireland stated intention is to leave the Customs Union, additional costs will apply on cross-border trade. The north-south dimension of the beverage industry in Ireland means that the industry is particularly sensitive to a UK outside the Customs Union. To impose a new tax without knowing the UK's future is to risk the all-island dimension of our beverage industry.

Regulatory divergence due to Brexit

With the UK set to leave the EU and the jurisdiction of the ECJ, there is a significant chance for divergence in terms of standards underpinning both the industry and a SSD tax between Ireland and the UK and Northern Ireland. While legislation on standards, labelling and testing may not change there is no way to predict any future actions and/or rulings that may emanate from either the Royal Courts of Justice or the ECJ.

It is possible that packaging and labelling requirements for products in Ireland and UK will diverge over time, following the UK departure from the EU. This may create practical difficulties in applying the Irish SSD tax on products being imported from / exported to the UK and an additional administrative burden for businesses with manufacturing and distributing operations both in Ireland and the UK.

For example, if sugar sweetened drinks are imported into Ireland from the UK can the person liable to pay SSD tax rely on the information contained on the packaging of the UK products in order to

determine if they fall within the scope of an Irish sugar tax regime and also determine the amount payable?

The growing prospect of a “hard” Brexit is also a cause for concern in that the implementation of a sugar tax will likely add a further layer of complication regarding the customs and excise treatment of SSDs brought in from and exported to the UK and is likely to result in additional paperwork and red tape with associated costs, which may have a considerable impact on businesses.

Compliance problems and grey market development

Without the details of the UK’s future trading relationship with Ireland and the EU generally in the context of Brexit, it is virtually impossible to envisage all the issues that will exist. The imposition of an extra layer of administration which will include registering for export credit to avoid double SSD taxation, as well as registering and reporting for a SSD tax itself poses a significant threat to cross-border trade.

There is also a significant economic threat to cross-border trade. With 231 entry points between the Ireland and Northern Ireland and no customs controls at these points, any imports of soft drinks by wholesalers would have to be subject to voluntary declaration and self-assessment. This presents a real risk of cross-border smuggling and a risk of non-controlled products entering the market.

The proposals have the potential to open up a grey and black market for soft drinks through imports, without a clear, adequate system of checks and balances. These serious concerns about compliance, loss of tax revenue and trade are not IBC’s alone but are shared by state operators including the Revenue Commissioners. These were outlined in statements to the Oireachtas Committee on Budgetary Oversight on the 20th of September, 2016, saying:

“Our working assumption is that if one were to introduce a tax on sugar sweetened drinks, it would need to be at a material level to have an impact. If it is at a material level, one is looking at potentially significant discrepancies between here and the North of Ireland. That would give rise to obvious compliance problems, which would be extremely difficult to deal with in the context of the Single Market. Both countries are still in the Single Market and one cannot have border controls or checks on movement in it.

Essentially it would in all probability be a self-assessed tax where returns are made on the first supply in the State of the products that are liable to the tax.

There would be a big concern that if there was a significant difference in price levels between here and the North, there would be diversion. I am not talking about consumers going up to buy soft drinks but a grey market could develop with illicit supplies in bulk going into the retail sector. That would be a very difficult challenge. There are several compliance risks and practical considerations in the design of the tax”

Given the uncertainty and the variables still to be decided due to Brexit, it is impossible to design a tax that is fair and equitable at this time.

The Irish Beverage Council is calling on the Minister to defer the proposed sugar-sweetened drinks tax given the lack of certainty concerning our future trading relationship with the UK.

Economic Analysis

Department of Finance figures on the sugar-sweetened drinks tax show the projected yield fell 70% from when it was first considered in 2014, and by 53% since April this year.

Tax Yield

The rapidly changing figures show that there is uncertainty as how the tax will work. In 4 months the Department's projected yield fell an astonishing 44m euro or 53 percent. Speaking in April 2017 - 6 months after he announced the tax last October - then Minister Noonan projected the yield to be 84m euro. Now Minister Donohoe is projecting 40m euro. When first mooted in 2014 the tax was expected to yield 134.2m euro, it has fallen by 94m euro, or 70%, in 34 months.

Department of Finance projection of SSD Tax Yield @10c on 330ml can (Incl. VAT)

Month-Year	Projected Yield (Million Euro)	Decrease (Million Euro)	Decrease (Percent)
Sep-14	134.2		
May-15	121.7	13	9
Jul-16	101.3	20	17
Apr-17	84.4	17	17
Jul-17	40	44	53
<i>Total decrease in projected yield in 34 months</i>		94	
<i>Total % decrease in projected yield in 34 months</i>		70 percent	

Source: Department of Finance's Tax Strategy Group Papers and Parliamentary Answers

We must acknowledge the uncertainty of the tax design and the challenges Brexit poses and give active consideration to a deferral.

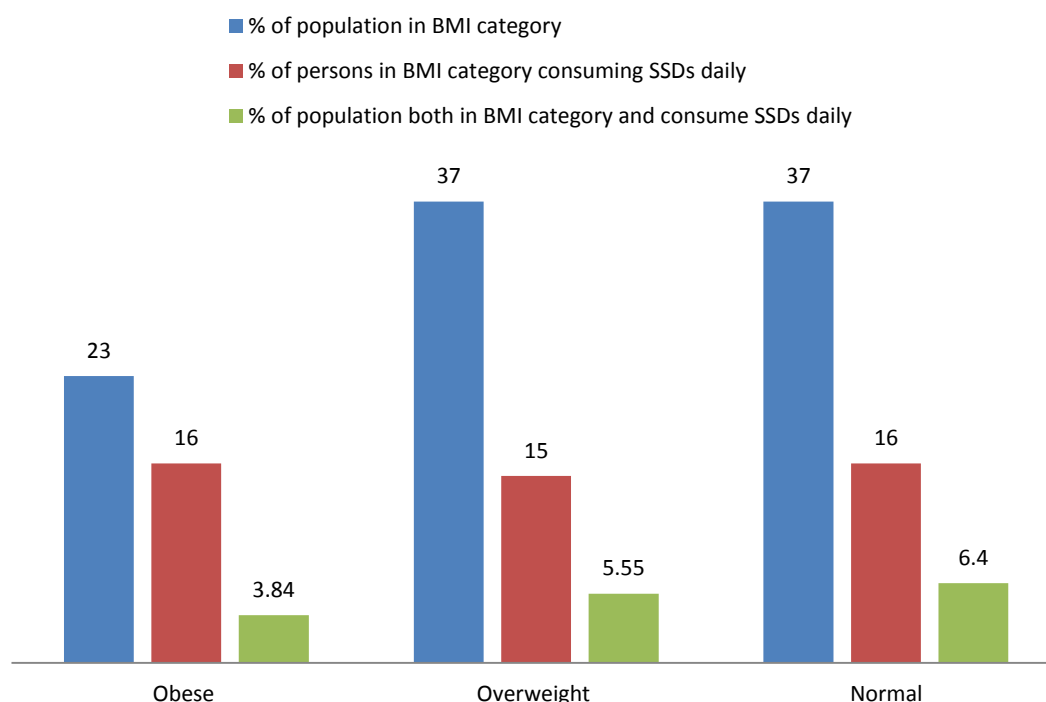
Use of excise to shape consumer behaviour

The proposed SSD tax is likely to be poorly targeted, inefficient and inequitable. The Healthy Ireland survey showed no difference in terms of daily consumption of sugar-sweetened drinks between those of a normal weight and those who are overweight or obese.

16% of those of a normal weight drink sugar sweetened drinks on daily basis compared with 15% of those who are overweight and 16% of those who are obese. Of those that consume SSDs daily only 24.3% have a BMI above 30. Only 3.8% of the overall Irish population fall into this category. Almost 40% of those that consume SSDs daily on the other hand are of a normal weight. For that

40% of the effected population the tax represents the imposition of little more than a cash-grab. At a population level the figures from the Healthy Ireland survey suggest that there are upwards of 100,000 more people who consume SSDs daily and are of normal weight than who consume SSDs daily and have a BMI over 30.

Figure 1: BMI and SSD consumption



Source: Healthy Ireland survey

This tax inefficiency may in practice hit a broader part of the population. Only 3.8% of the population are obese and consume SSDs on a daily basis. 67% of people on the other hand purchase snack foods and confectionary on a daily basis. The Institute for Fiscal Studies have noted that it is likely that consumers with a strong taste for sugar would substitute towards these products in response to the introduction of a tax on SSDs. Not only that but many retailers (particularly those using value based pricing models) would logically respond to the displaced demand by increasing the price of substitute products in line with the increase in SSDs. There is some evidence of this in the case of Denmark's fat tax where retailers increased prices on lower-end butter products over and above the level of the tax in response to demand displaced from higher end butter products¹⁶. This in effect would mean price increases for over 70% of the population in order to target obesity amongst 4% of the population.

Cross-Border Trade

The total current market for soft drinks and fruit juices in Ireland is in the region of €513 million per annum with the average household spending €278 per annum on sugar-sweetened drinks (HBS, 2015, Census, 2016). Previous studies have shown the sensitivity of Irish cross-border consumption to price differentials across a number of goods. This has been outlined by the Danish government in a 2010 submission to the OECD and witnessed in their experience with the ‘fat tax’. –

“Taxes on health related goods have to be balanced with respect to cross-border shopping. Too high levels of taxes will not reduce the total consumption of unhealthy goods, but only lead to increased cross-border shopping”.

According to the CSO Household Budget survey, €201m is spent on sugar sweetened drinks in 2015. Irish soft drink companies could lose sales worth in excess of €30 million per year (or 11% of the market) through cross-border shopping were a tax equating to 10c per can to be levied. This would come through two main avenues:

1. Firstly, the imposition of a sugar tax would increase the attractiveness of cross border shopping by maintaining an already high soft drink price differential between the Republic and Northern Ireland.
2. Secondly, the non-bonded nature of the product in addition to an SSD excise on producers based in the Republic would enhance the attractiveness of the grey market and encourage arbitrage for wholesalers and retailers

Consumers are unlikely to travel just to purchase SSDs alone. SSDs are, however, an important part of the overall basket which drives consumers toward shopping cross border. The products are a direct compliment to the alcoholic and food products which commonly make up a large proportion of the total consumed by cross-border shoppers.

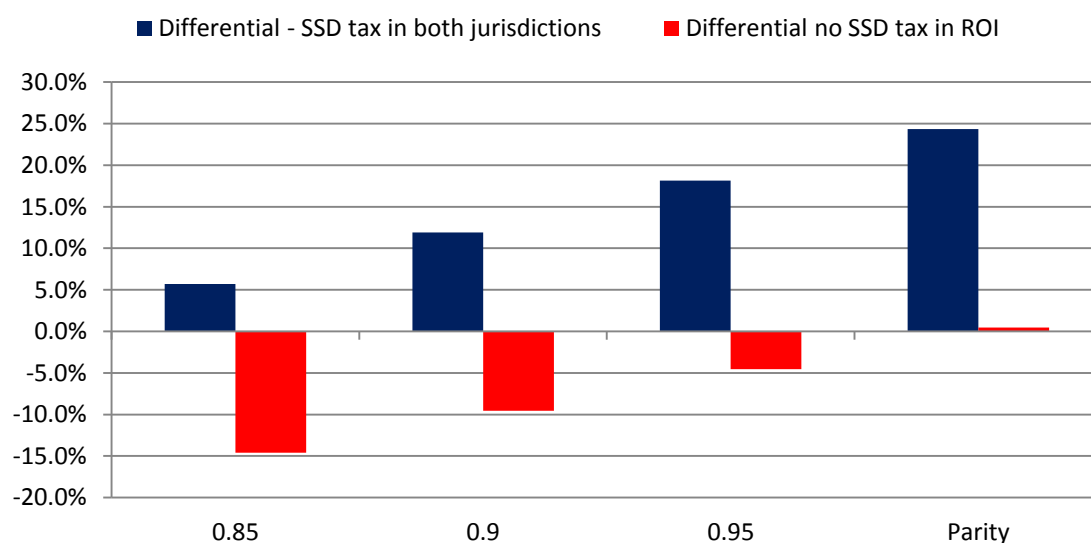
In a number of analyses it has been suggested that the delay of the SSD tax until 2018 when a similar measure is intended to be introduced in the North will negate the potential impact of the tax on cross-border shopping. This misses the point almost completely. Consumers do not look at just the tax element of the price; they look at the whole price. Insofar as the introduction of an SSD tax contributes to the maintenance of a large existing overall price differential it will drive cross border shopping.

A basket of three major soft drink brands in major retailers in the Newry versus Dublin shows on average a price of €2.09 for a 2 litre bottle in Dublin versus a £1.68 in Newry. This represents a

5.7% difference in prices between Dublin and the North at an 85c euro/sterling exchange rate. At 95c that difference rises to 18.1% or just over 32c per bottle. It is worth noting that about ½ of this differential at 95c is driven by the existing gap in VAT rates applied between the jurisdictions.

Non-implementation of the SSD tax in the Republic plus implementation of a sugar tax (increasing average consumer price by 20p per litre) in the UK would reverse the existing differential leaving prices in the Republic 14.6% lower than in the UK at 85p exchange rate and 4.5% below the UK at a 95 p exchange rate. This would entirely reduce the incentive from cross-border shopping for SSDs even at parity. In effect, however, the introduction of a sugar tax in the ROI would see 21.5 percentage point deterioration in the cross-border price differential (at 90c Euro/Sterling) versus a counterfactual scenario where it is not-implemented.

Figure 5: ROI v NI price differential across three SSD brands at a major retailer (with and without average SSD tax pass through of 20c/pl) (%)



Cross-border and the grey market

At present there are no border controls to enable a check on importing soft drinks which could be subject to a SSD tax. The imposition of any such mechanism would be illegal within the single market. IBC is concerned that this will lead to an increased risk of cross-border smuggling, along with a risk of the sale of non-controlled products in the State.

There are 231 entry points between the Northern Ireland and the Republic of Ireland. This has in-part lead to the development of mature grey and black markets in areas like tobacco and fuel. This activity need not even be illicit. Revenue data, for example, shows that 7% of cigarettes consumed

in the Republic are bought legally from the North¹⁷ with a loss of almost €75 million in tax to the exchequer. This despite limited or negative (Republic being cheaper) price differentials¹⁸

These serious concerns about compliance, loss of tax revenue and trade are shared by the Revenue Commissioners. These were outlined in statements to the Oireachtas Committee on Budgetary Oversight on the 20th of September, 2016, saying:

“Our working assumption is that if one were to introduce a tax on sugar sweetened drinks, it would need to be at a material level to have an impact. If it is at a material level, one is looking at potentially significant discrepancies between here and the North of Ireland. That would give rise to obvious compliance problems, which would be extremely difficult to deal with in the context of the Single Market. Both countries are still in the Single Market and one cannot have border controls or checks on movement in it.

Essentially it would in all probability be a self-assessed tax where returns are made on the first supply in the State of the products that are liable to the tax. There would be a big concern that if there was a significant difference in price levels between here and the North, there would be diversion. I am not talking about consumers going up to buy soft drinks but a grey market could develop with illicit supplies in bulk going into the retail sector. That would be a very difficult challenge. There are several compliance risks and practical considerations in the design of the tax”

Rate of Tax

Whilst “aligning” with the U.K. there should be some shock absorption for currency fluctuation and Brexit. We also need some understanding as to what exchange rate the rate will be aligning to, given recent currency fluctuations between GBP and euro and the fact the rate will be announced in October 2017 for implementation in April 2018. A lot can change in 6 months.

While the U.K. has known their rate 16 months in advance of the tax’s introduction, we’ll only be told 6 months in advance. This poses a significant burden on business and is actively damaging sales. Without certainty on the rate it is impossible to agree future sales models while purchasing managers have certainty from UK suppliers but not from Irish suppliers / producers.

Lack of Public Health Rationale

No conclusive evidence

It is difficult to see how a tax can be proposed given the independent analysis and evidence. The Institute of Public Health's "Proposed Sugar Sweetened Drinks Tax: Health Impact Assessment", found:

"The evidence linking sugar sweetened drink consumption with weight gain is suggestive but not conclusive. The literature is contradictory and study quality tends to be described as low to medium".

Independent research

Conducting research on behalf of the Department of Health, the Institute of Public Health concluded that:

"The review concludes that, much as with research in other fields, there are limitations in the current literature and conclusive answers are not available...Although there may be a growing body of evidence implicating SSDs in excess weight gain, currently research in this area provides imperfect knowledge, which is further hampered by a lack of available information on consumer behaviour in response to an SSD tax."¹⁹

Reviews of research find the effectiveness of SSD taxes in reducing obesity inconclusive. Shemilt et al (2013) reviewed 880 studies and concluded that "the public health case for using economic instruments to promote dietary and physical activity behaviour change may be less compelling than some proponents have claimed."²⁰ Committing funding to a tax that has a sole objective to reduce the rate of childhood and adult obesity is making a promise to the public that government can not keep.²¹

A University of Oxford report - commissioned for the Department of Health - found that a tax would reduce obesity in Ireland by only 0.3%. This clearly shows that pursuing a SSD tax on public health grounds is a way of looking tough on obesity without actually tackling obesity. The rationale of introducing a measure that doesn't work 99 per cent of the time must seriously be questioned. New WHO data for Ireland shows 70 per cent less 11-15 year olds drank sugar sweetened soft drinks daily in 2014 than in 2002. We are seeing the impact of industry innovation with an increase of new *no sugar* and *low sugar* products, and growth in volume sales for this sub-category in recent

years. While obesity rates continue to increase, daily consumption of sugar-sweetened soft drinks amongst 11, 13 and 15 year olds is falling dramatically.

Daily soft drink consumption in Ireland (%)

	Girls and boys			
	2002	2006	2010	2014
11-15 year olds	37.3	23.4	19.8	11.1
11 year olds	29.7	17.7	15.1	7.6
13 year olds	37.5	24.7	20.4	12.1
15 year olds	44.9	27.8	24	13.8

[Source: WHO \(HBSC\)](#)

The same survey of Irish 11, 13 and 15 year olds found that from 2002 to 2014:

- computer use of two hours or more on a weekday increased 203 per cent, currently at 63.8 per cent
- TV viewing two hours or more on a weekday decreased 24 per cent, currently at 50.4 per cent
- daily fruit consumption increased 26 per cent, currently at 41 per cent
- daily vegetable consumption increased 12.5 per cent, currently at 44.1 per cent
- daily sweets consumption decreased 49 per cent, currently at 24.8 per cent
- moderate-to-vigorous-intensity physical activity of 60 minutes or more a day decreased 4 per cent, currently at 26.9 per cent
- vigorous-intensity physical activity four or more times a week decreased 4 per cent, currently at 54.8 per cent

The results prove that a holistic approach is needed to tackling childhood obesity. The singling out of the soft drinks industry by way of the proposed sugar-sweetened drink tax is unjustified.

The scientific community agrees that there is no compelling evidence that taxation has any effect on obesity rates. Fletcher et al (2013) suggests caution in taxing sugar-sweetened beverages with a core purpose of obesity reduction, based on the existing concrete evidence.²² Thow et al (2014) conduct a literature review on food taxes and conclude that the evidence base for SSD taxes affecting consumption is far from conclusive and reliant on modelling studies and extrapolated data than observed outcomes.²³ IPH confirmed that there is no conclusive research that taxation affects behavioural change. It remains unclear why government is pursuing a health-oriented fiscal measure in lieu of concrete evidence of effectiveness.²⁴

State Aid Implications

We share the concerns of the Tax Strategy Group (July, 2016) that attention should be given to state aid issues. The institution of an SSD tax would impact the industry's competitive environment in a way that infringes European Union state aid regulation.

Substitutability

There is a risk in infringing state aid rules as the proposal does not include all beverages with added sugar. All sugary beverages share shelf space and market value. As not all SSD products are included in the scope of the SSD tax, we have concerns that the distinction contradicts supporting one sector through the tax system. For more details, refer to pages 31 and 32 in the Department of Finance's Tax Strategy Group (TSG) paper on General Excises in July 2016.²⁵

It is necessary to consider whether not taxing all sugar sweetened drinks would breach EU rules on fair and equitable treatment (e.g. where the regime is targeted at specific products rather than covering a range of products containing sugar or be in violation of EU State Aid rules).

Product	Sugar / 100ml	SSDT + VAT
Branded chocolate and peanut flavoured milk drink (62% UHT) 350ml	9.2g	0%
Branded chocolate, caramel and peanut flavoured milk drink (80% UHT) 350ml	10.2g	0%
Vanilla milkshake 500ml	15.2g	0%
Branded premium cola 500ml	10.6g	37%

Source: Front of pack label, nutritional information & TSG14/02

The above products share space in the market place, yet only the cola would fall within the scope of the proposed tax and VAT. While a small number of EU countries have instituted a similar tax on certain sugar-sweetened drinks, it must be remembered that they have very different VAT regimes.

VAT on soft drinks in Ireland (23%) is the 3rd highest in the EU 28, with the average VAT on lemonade being 16.4%. The combination of leveraging a high VAT rate on top of SSD tax on some

sugar-sweetened drinks, coupled with *no VAT* and no SSD tax on other sugar-sweetened drinks would be unique in Europe and would infringe state aid rules.

Intra EU movement controls and state aid

A SSD tax must not impede the freedom to supply goods from other member states under competition guidelines. If a SSD tax regime in Ireland required, say, a retailer to register and pay the tax for liable sugar-sweetened drinks bought outside the jurisdiction, but not when purchasing inside the jurisdiction, this would create a *prima facie* case of infringement of intra EU movement of goods.

Difficulties may arise in respect of administering and levying a tax on products coming into Ireland. The lack of intra-EU border controls could lead to a risk of non-compliance when goods are being brought into Ireland.

Recommendations

Future review and sun setting

If it is the case that the sole reason for introducing an SSD is to reach stated health targets, and not simply to raise revenue, it is logical to review the tax and its impact, if any.

The IBC are firmly of the view that any legislative proposal should include a review and sunset clause to insure its removal should the aims be met or the proposal proves ineffectual.

Brexit

Given the uncertainty and the variables still to be decided due to Brexit, it is impossible to design a tax that is fair and equitable at this time.

The Irish Beverage Council is calling on the Minister to defer the proposed sugar-sweetened drinks tax given the lack of certainty concerning our future trading relationship with the UK.

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Irish Beverage Council

Irish Beverage Council is the Ibec group that represents companies that produce, distribute and market soft drinks, fruit juices, bottled water and sports and energy drinks throughout the island of Ireland.

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