



The Association of Directors of Public Health

Soft Drinks Industry Levy: ADPH response

Q1 – Are you:

- a) A business?
- b) An organisation
- c) An individual

b) An organisation

The Association of Directors of Public Health (ADPH) is a Company Limited by guarantee with charity status registered in England and Wales and is the representative body for Directors of Public Health (DsPH) in the UK.

Q5a - Do respondents agree that a definition of 'added sugars' as set out in the consultation is sufficient to capture the types of sugar commonly added to soft drinks?

We would recommend that the definition used is consistent with the Scientific Advisory Committee on Nutrition (SACN) recommendation that the term 'free sugars' be adopted in the UK (SACN, 2015 page 196). This is in line with recommendations from the WHO.

Food labels only account for total sugar, not free sugar. This makes it difficult to distinguish between sugar naturally present in a food and those with added free sugars. Clearer food labels are needed so that consumers can understand which sugars they should be reducing in their diet.

No mention is made of energy drinks; it is unclear as to whether or not these would be subject to the levy.

There is no explicit mention of high fructose corn syrup in the document or annexes. If it is not covered by one of the other categories; why is it excluded? It is possible that it is already subject to restrictions but it is one of the major sources of added sugar.

References: SACN (2015), WHO (2015)

Q5b – If the above definition would be insufficient or could be improved, can respondents propose a suitable definition of sugar contained in UK regulations or guidance, or regulations/guidance from other jurisdictions, which would be suitable for the intentions of the soft drinks levy?

The wording of the sugar levy regulations should state what sugars can be included in drinks without penalty rather than listing in detail what is subject to the levy. Otherwise, the regulations will need to be constantly updated to include innovations that the industry produces that undermine the purpose of the levy. This will not only be an expensive process, at a time of austerity, but will introduce lengthy lags between new products being manufactured and the levy being imposed on them.

The definition for 'free sugars' is: all monosaccharides and disaccharides added to foods by the manufacturer, cook or consumer, plus sugars naturally present in honey, syrups and unsweetened fruit juices. Under this definition lactose when naturally present in milk and milk products is excluded.

References: SACN (2015)

Whatever the definition used, it must include a catch-all wording that enables government to act quickly in response to industry innovations with potential adverse effects on obesity control.

Q5.c – Do respondents agree that the Fruit Juices and Fruit Nectars (England) Regulations 2013 provide

a reasonable reference point for legislation which achieves the aim of keeping pure fruit products outside of the scope of the definition of added sugars?

68% of adults in Wales and 64% in Cardiff & the Vale, do not achieve '5-a-day' and therefore increased fruit and vegetable consumption should be encouraged. However, pure fruit juice only counts as a maximum of one of the '5-a-day' even if more than one portion (a 150ml glass) is consumed.

References: Welsh Health Survey – Lifestyle Trends (2015)

Fruit juice can be major providers of sugar for some people, therefore, where fruit nectars with added sugar and honey are used to sweeten beverages, if the total sugars in that product exceed 5g/100ml, it should be subject to the levy. Added fruit juice or fruit juice concentrate should not be excluded from the levy. To exclude them could encourage producers to reformulate their products only to the extent of replacing sucrose, glucose, high fructose corn syrup and other added sugars with fruit juice, without altering the caloric content at all.

Q7 – Respondents are invited to submit views on the treatment of liquid drinks flavourings as regards the soft drinks industry levy.

Liquid drinks flavourings and syrups should be included as part of the levy as these products could contribute significantly to an individual's sugar intake. Ideally, recommended dilution ratios should be given on these products against which liability to the levy could be assessed.

Coffee shops which use these types of liquid flavourings have been in the spotlight recently for the staggering amount of sugar contained within many of their beverages. For example, a medium caramel macchiato in a well-known coffee shop contains approximately 26g. The majority of this sugar will come from the vanilla syrup added for flavouring, so this drink would provide approximately 86% of the maximum recommended daily intake of free sugars. These drinks may not be a huge problem for young children, but the coffee shop culture appears to be growing amongst young people and can contribute to their sugar intake significantly.

Not including liquid flavourings in the levy will mean producers of these types of popular drinks will not need to reformulate their recipes. This not only hinders the change in culture around sugary drinks, but may also be misleading to the consumer, who could assume these drinks are not affected by the levy because they are not high in sugar. This could also lead to an increase in other sugary drinks being mixed and served at point of sale to the consumer, so that they are not liable for the levy. Leaving this area unlegislated seems to invite product innovation in a way that would side-step the levy and the potential benefits it can provide. Implementing this legislation will take a significant amount of time and effort, so it is important to gain the maximum public health benefit.

Suggestions for practical implementation of the levy on this product could involve the development of a recommended ratio as with cordials. Most beverages that contain these flavourings will likely have a ratio in their recipes, which could be used to develop a standard.

Alternatively, the drinks that contain these flavourings could be taxed themselves. Unless they are not considered harmful to health, for example fruit juice, all non-alcoholic drinks should be subject to the levy, regardless of whether a drink is freshly prepared or not. To implement the levy this way, the definition of "producers" would have to be explored. For example, organisations using the recipe and creating the drink itself could be seen as the "producers" (for example coffee shops), who would therefore be responsible for the levy. Although this type of approach may be difficult to implement, it would be

beneficial to ensure consistency of the levy.

This would also prevent abuse of the levy. For example, if syrups were not subject to the levy, pubs could buy in concentrated syrups and then dilute these themselves when serving e.g. cola.

Q8 – Do respondents agree that a minimum proportion of 75% milk is necessary to ensure that only nutrient-rich milk drinks are exempt from the levy? If not, what alternative test or treatment would you propose and why?

Plain milk should be the easy choice and encouraged as opposed to flavoured milks. We also agree that milk based drinks with a sugar content of 5g/100ml or more should be subject to the levy to encourage reformulation. Milk content of milk based drinks should be higher e.g. 90% to be exempt. Many drinks are already at this level so it doesn't seem a difficult thing to achieve.

A minimum proportion of 75% milk would result in products such as high sugar milkshakes not being subject to the levy. An example of a well-established brand of chocolate milkshake contains 91% of milk. When the approximate sugar content provided by the milk itself is subtracted from the total sugar content in this product, there is still 36.3g per bottle of what is very likely added sugar; this is more than the recommended daily maximum.

This demonstrates that even making the minimum percentage of milk required higher than 75% will not prevent milk drinks very high in added sugar escaping the sugary drinks levy. Again, this threatens the consistency of the levy, as well as the full potential impact it could have on the public.

An alternative would be to implement some of the same rules to milk drinks as all other drinks, i.e. if the drink contains added sugar, then the amount of sugar will be assessed to determine whether it will be taxed. It is possible to determine how much added sugar is in a milk drink by subtracting the amount contributed by milk.

However, this may be too complicated to implement, so there could be a slightly different route for milk drinks compared to other drinks. For example:

- Change the values used to determine the tax levels for milk products. Milk contains approximately 5g natural sugar per 100ml of liquid, which would complicate the use of the current 5g bracket. Therefore, for milk products only, another amount could be allocated. For example, just the 8g/100ml rate could be used, as anything over 5g per 100ml is likely added sugar. Although a high bracket, it would create a certain level of consistency with the other types of drinks and at least ensure that those milk drinks with very high levels of added sugar would be subject to the levy. This could also mean that individuals are not discouraged from consuming milk drinks that do not have unacceptably high levels of added sugar and will provide nutritional benefits.

The one challenge that may be voiced with this option is that the companies producing milk drinks will not be able to add as much sugar as the companies who do not base their drinks on milk i.e. they can only add up to 3g/100ml, rather than 5g/100ml before being taxed. Nevertheless, this does not seem an unfair route.

Q9 – Respondents are invited to submit evidence on the composition of lactosefree and dairy-free milk substitutes, and the practical effects of including water based drinks of this kind within the levy

We agree that plant milk drinks should be included within the scope of the levy to encourage reformulation which will benefit the health and wellbeing of those requiring lactose free and dairy free milk substitutes.

The levy should not be passed on to the consumer through increased prices.

Exemption might include prescribable products recommended by The Advisory Committee on Borderline Substances (ACBS) on the basis that they may be regarded as drugs for the treatment of specified conditions.

Q10 – Do respondents agree with the proposed treatment of candy sprays, ice lollies, and dissolvable powders?

We disagree strongly with excluding these for two reasons. First, there is a strong possibility of manufacturers and importers evading the levy through the sale of products as ‘for ice lollies’ or converting dilutable liquids to dissolvable powders. Secondly, as the aim of the legislation is to reduce children’s consumption of added sugar, there would be a perverse incentive for parents and children to switch their consumption to dissolvable powders.

Although dissolvable powders may not be popular, with the changes this legislation will bring about in sugary drinks, it is possible that they will become more popular. Therefore, it would be beneficial to include dissolvable powders in the legislation now and avoid adding these products later if they do become a problem. There are currently dissolvable powders that could be considered popular currently, including milkshake powder and hot chocolate powder, which is predominantly marketed at children and do not always need to be mixed with milk. The levy could be applied to these products in the same way that cordials will be.

Q11 – We seek evidence and views from respondents on the types of added-sugar low alcohol products that may be captured by the levy, and the appropriate approach to these products in the levy legislation.

Although the public health benefits must be considered in this decision, it would not seem fair for these drinks not to be subject to the levy, particularly as they can be considerably high in sugar. In addition, this may encourage sugary drinks producers to add small amounts of alcohol to non-alcoholic products in order to avoid the sugary drinks levy.

This levy would hopefully encourage producers of low alcohol drinks to reformulate and reduce the sugar in their products. This would mean that individuals do not have to choose to drink high sugar drinks with low amounts of alcohol content, in replacement of high alcohol drinks. When individuals are trying not to drink alcohol, there are a relatively small amount of low sugar alternatives, including low alcohol drinks. The emergence of new products in this area would be welcomed.

Q12 – We welcome views of health professionals and organisations in identifying whether there are any other criteria for deciding whether a particular soft drink should be out of scope of the levy for medical reasons.

The proposals to consider exclusion for products licensed for medicinal use seem reasonable.

Dieticians recommend Lucozade original as a hypo treatment for Type 1 Diabetes patients which is convenient and readily available – it is useful to have a treatment available in drink form and if only low sugar drinks were available it would make life more difficult for these young people. Possibly this should be considered as exempt.

Exemption might also include prescribable products recommended by The Advisory Committee on Borderline Substances (ACBS) on the basis that they may be regarded as drugs for the treatment of specified conditions.

Another area that could be disputed is the use of high sugar drinks for the treatment of hypoglycaemia. However, there are many other products available that can be used to treat hypoglycaemia without using high added sugar drinks, including fruit juice and glucose gel.

As it states that the licensed medicinal products will be considered and not automatically excluded, this will avoid abuse of the levy.

Nevertheless, there is good evidence of the detrimental effect on children's teeth of regular consumption of sugar-sweetened medicines. With regards to dental health and frequency of consumption being the biggest issue, this levy will do little to impact on the numbers of children with tooth decay as the sugar still present in the products will be just as harmful.

Manufacturers need to be encouraged using all available means to reduce substantially the sugar content in children's (and indeed, in adults') medicines. Some sugar-free medicines have been available for many years; it is time that all such products were made safer and healthier for children.

Q13 - Respondents are invited to submit any evidence that the final levy design could have potentially adverse impacts on groups with protected characteristics.

The cautious response is the right one to take at this point- "It is not anticipated", "we will continue to assess"" indicates that no final judgement has been made.

The levy provides a strong incentive for soft drinks manufacturers to reformulate products to reduce sugar content. The availability of affordable lower sugar alternatives will minimise adverse impacts on groups with protected characteristics.

A potential issue to consider is the socio economic and health inequality. Evidence shows that socio demographic variables such as disability and ethnicity are associated with inequalities in health, due in part to the social and economic factors that combine to have an impact on those groups. For example, minority ethnic groups may have higher levels of unemployment, have lower incomes than non-minority groups in the UK and likely live in deprived urban areas. Disabled people are far less likely to be employed than people without a disability, and are around twice as likely to have no qualifications. Both these issues could lead to these groups buying cheap high sugar drinks without fully understanding the consequences.

Q20 – Do respondents agree products which are given away free of charge should still be liable to the levy? If not, please provide examples of where relief may be appropriate and why

Yes, products given away free of charge should be liable for the levy.

Q25 – Should added sugar soft drinks imported into the UK for consumption while travelling internationally be exempted from the levy, provided evidence is provided that the drinks have left the UK? If not, why?

No.

The system would otherwise be open to abuse; as cheaper products could be sold on the black market.

This may also reduce the incentive for manufacturers to make changes and the sugar content remains as harmful no matter where the drink is consumed.

Additionally, it is likely that a high percentage of people consuming these drinks whilst travelling are from the UK. The negative effects of sugary drinks are not instant and therefore will not be realised whilst on the particular international journey, but afterwards. Therefore, regardless of whether the drinks are

consumed in the UK or not, they will still contribute to the consequences of sugary drinks which are so costly to the health care system and the quality of life of individuals e.g. obesity, tooth decay.

Consequently, all sugary drinks (as defined by the legislation) that are in the power of the UK government should be subject to the tax to ensure the maximum benefits are realised and the reformulation of sugary drinks is encouraged.

Q43 – Do respondents have any other concerns or suggestions around potential compliance risks?

- If compliance is achieved and less money is raised from the levy, where will the money come from to continue to support the initiatives e.g. breakfast clubs that have been set up/funded through it; has this been identified? And if it does not have the desired positive effect on net economic outcomes will these projects be protected from the fall in income?
- There are concerns that this levy will increase the amount of chemical sweeteners being used in products and lead to an increased consumption of these particularly in young children. This does not appear to have been considered.

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