

## Colm Lambert (DECC)

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**From:** [REDACTED]  
**Sent:** Thursday 6 May 2021 17:21  
**To:** wastecomments  
**Cc:** [REDACTED]  
**Subject:** Input to the Consultation on legislative framework and scope of the DRS for Ireland - Ball Beverage Packaging EMEA  
**Attachments:** DRS Consultation Response\_Ball Beverage Packaging EMEA\_May 2021.pdf

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Dear Madam, Dear Sir,

Please find attached our input to the ongoing consultation on the legislative framework and scope of the Deposit Return Scheme (DRS) for Ireland.

Should you have any questions and, or comments for clarification, please feel free to contact me.

All the best,

[REDACTED]

[REDACTED]



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# Consultation on legislative framework and scope of the Deposit Return Scheme (DRS) for Ireland

## Input from Ball Beverage Packaging EMEA

Date: 6 May 2021

Contact: [REDACTED]

Contact E-mail: [REDACTED]

### About Ball

Founded in 1880, Ball Corporation is a multinational leading producer of aluminium packaging including beverage cans, aerosol cans and an aerospace programme in the USA, totalling over 18,000 staff and U\$11.5B net sales. In EMEA we operate 24 beverage production plants, 1 ends manufacturing plant located in Ireland (Waterford) and 3 plants in the UK (two beverage can manufacturing plants and one plant for aerosol production). The European Head of Operations of the beverage division (Ball Beverage Packaging EMEA) is located in the UK (Luton, Bedfordshire).

Ball has extensive experience operating in countries with a DRS and the consequences that an inadequately designed scheme can cause to the industry. For example, in Germany, following the introduction of a DRS in 2003, the market for beverage cans collapsed from circa 8 billion cans/year to a few hundred millions. Furthermore, we work closely with our customers (brands and retailers) all over the world to learn from their local experiences and best practices regarding the design, implementation and running of well-designed effective schemes. This knowledge and experience have directly assisted the development of views put forward in our consultation response.

### Key Points

Ball is supportive of a well-designed DRS system in Ireland and is committed to ensuring that any system which includes aluminium beverage containers maximises recycling rates whilst being fair and equitable to all competing materials.

Having reviewed the draft framework and scope from the consultation document, we have identified a number of important aspects which we believe are necessary to ensure a well-designed and effective DRS system in Ireland.

1. We welcome the decision that the **deposit will be varied by container volume**. This will ensure that any potential distortion of the market is limited, while also ensuring that there is no incentive for consumers to switch from smaller, portion-controlled formats to larger volumes. Crucially, as demonstrated in the successful Nordic schemes, the variable rate can ensure high return rates for all packaging formats in scope.

2. **The need for an ‘all-in’ DRS.** All container volumes should be included in the scheme without restrictions in sizes, to minimise the opportunities for producers to attempt designing new containers that circumvent the current proposed scope of up to 3 litres with a e.g. “3.1 litres” bottle; the same principle should be considered in relation to minimum sizes. For instance, the DRS in Denmark incorporates all sizes up to 20 litres<sup>1</sup>. Provision should also be made in legislation for other existing and any new materials and packaging formats developed in the future, such as beverage cartons and paper bottles, to be included in the DRS if they don’t meet minimum collection rate targets.
3. **We are concerned with the current decision by the Government to exclude glass bottles** in the proposed scheme, which currently have lower collection rates than aluminium cans in Ireland. In fact, according to data from Repak those rates are actually decreasing (86% in 2018<sup>2</sup> down to 78% in 2019<sup>3</sup>). We are firmly of the view that all materials (PET and glass bottles and cans) should be included in the scheme from the beginning to avoid market distortion, ensure a consistent message to consumers and guarantee adequate infrastructure is present from inception. This would also ensure an interoperability between the scheme operating in Ireland with the scheme in Northern Ireland, since the UK government has already made a decision to include glass bottles. Furthermore, according to the consumer poll from Voice Ireland, 88%<sup>4</sup> of the consumers were in favour of an “all-in” DRS, including glass and PET bottles and cans.

Any material and, or format not included in the DRS should be subject to the same high collection and recycling targets as the in-scope materials. Ultimately this should be to achieve a +90% collection and recycling rate.

4. Different materials have different costs to recycle and different market values, and each material must pay its way. **To prevent cross-subsidisation within the DRS, each included material should have an independent profit and loss statement to ensure complete transparency.** Aluminium cans are infinitely recyclable, and so are highly valuable. The net cost of collection and the recyclability of the container must be fully accounted for in the product fee, which is paid by the producer for each container they manufacture. A good example of how this works most effectively is Infinitem in Norway, whereas in Sweden, to ensure there is no cross subsidy, the Deposit Management Organisation (Returpak) has set-up separate operating companies for PET and metal cans to ensure full transparency of costs and revenues.
5. To achieve transparent financial flows, oversight of the Scheme Operator is crucial, with the government setting targets and objectives, as well as auditing and publicly reporting on the operator’s performance against objectives on an annual basis. Within this:
  - **Audited Accounts:** The Scheme Operator should be obligated to produce annual audited accounts and other supporting materials together with a performance

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<sup>1</sup> <https://danskretursystem.dk/en/about-deposits/deposit-marks-and-amounts/>

<sup>2</sup> <https://repak.ie/news-room/repak-annual-report-2018-ireland-surpasses-all-eu-recycling-targets>

<sup>3</sup> <https://repak.ie/news-room/ireland-surpasses-all-eu-recycling-and-recovery-targets-for-2019/>

<sup>4</sup> <https://www.belfasttelegraph.co.uk/news/republic-of-ireland/majority-support-all-drinks-containers-in-deposit-return-scheme-39644654.html>

summary as to how it is progressing in achieving or exceeding the targets and objectives.

- **Third party assessment:** Given the public interest and not for profit nature of the Scheme Operator, sufficient financial and operational material should be placed within the public domain for appropriate 3rd party assessment to be conducted.
  - **FOI:** The operator should be subject to Freedom of Information regulations
6. The consultation proposes that the Minister amend the deposit if it appears that the revenues returned to the Scheme are exceeding or are insufficient to cover operational costs. We would advise that this is inappropriate, as **the Scheme Operator should be responsible for setting and adjusting the deposit value** and it should be amended if it is to help incentivise the consumer to return containers. If the value of unredeemed deposits combined with the sales of collected containers is insufficient to cover operational costs, the Scheme Operator should raise the product fee payable by drinks producers as opposed to raising the deposit value.
  7. Given the nature of retail today and the increasing number of online sales, we believe that **online retailers should also have a takeback obligation**. The exact details of how this can be achieved requires further investigation at this point, however. In addition, online retailers should be required to pay into the DRS on the same terms as other producers where applicable.
  8. **Hospitality Requirements:** those who sell beverages within the scope of the DRS from the hospitality sector, be they pubs, hotels, cafés, etc., should also have a takeback obligation. In many locations, however, where the packaging is not issued to the customer and does not leave the premises, the operator would not need to charge the deposit, simply arranging with the Scheme Operator to collect the used packaging and be refunded for the deposit they paid when buying the product. Such premises would carry no obligation to run a return obligation for the public returning packaging from other places.
  9. **Return Points:** as well as retail outlets, event spaces, leisure centres, transport hubs, etc. could potentially host return points. Convenience and accessibility should govern the provision of the return infrastructure, for without these two key elements the scheme will not be used sufficiently well. It would be for the Scheme Operator to define appropriate and relevant sites to achieve the targets and objectives set it by the Government oversight body.
  10. Fraud susceptibility must be considered given the threat in deposit and return schemes. To the greatest extent possible, **the scheme should be interoperable with the planned scheme being proposed for Northern Ireland**. This would avoid a scenario which would incentivise the transportation of products and used packaging between Ireland and Northern Ireland to take advantage of a discrepancy between the deposit systems in the two jurisdictions, which would undermine legitimate businesses, create potential consumer confusion, lower consumer trust in the system and limit the effectiveness of the scheme(s). We acknowledge that officials from Northern Ireland have sat in on recent DRS Working Group meetings within the Department, which we welcome, but would caution that greater harmonisation is needed given the differing scopes of materials to be included in the DRS in both countries.

Experience suggests the greatest risk of fraud is around “Multiple Returns” outside of a Reverse Vending Machine that imposes a discipline on users. This could prove to be third party collectors inappropriately managed: Waste Management Companies, Scrap Dealers etc. collecting seemingly on behalf of others. In the Nordic systems, only loose cans and bottles can have the deposits redeemed by delivering to counting centres where they are checked by an automated counting machine to prevent fraud. For this reason, deposits shouldn’t be paid out on baled material, which is difficult to check.

11. In a similar vein, **labelling is fundamental to consumer understanding** of which products are in the system; the system will only be successful with good clear on-pack labels. Typically, the scheme should be prepared to apply two different “Identifiers” on each single container:
  - Scheme inclusion identifier notification of the container within the DRS. However, the actual value of the deposit should not be stated on the label as to avoid the risk of design changing to all in-scope packaging every time the deposit value changes.
  - EAN Bar code – this verifies registration in the scheme by the producer and informs on number of each product collected.
12. It is crucial that there is a **separate collection target for all containers in-scope** (PET and glass bottles and aluminium cans) as without it, the ambitions for each material in the DRS are somewhat baseless.

The EU Waste Framework Directive includes a common EU target for recycling at least 55% of municipal waste by 2025, rising to 60% by 2030 and 65% by 2035. Also envisaged is a common EU target for recycling 65% of packaging waste by 2025, and 70% by 2030. While there is a separate collection target of 77% (2025) and 90% (2030) for plastic bottles included in the Single Use Plastics Directive, there are no specific collection and / or recycling targets for recycling aluminium cans in the existing EU legislation, only an overall minimum target of 50% (2025) and 60% (2030) for all aluminium packaging. However, the national legislator is free to add specific targets for additional drink containers covered by a DRS (and also for containers outside DRS).

When designing the targets, it is essential that the most up to date container recycling rates are used. We note the rates quoted in the Eunomia report are based on 2016. The most recent (2019) aluminium can recycling and recovery rate published by Repak was 89%, compared to the 69% rate quoted by Eunomia. For comparison, also according to Repak, the recycling rates for glass, currently out of the scope of the DRS, was 78% (2019), down from 86% (2018).

We would also request annual third-party validation of both the targets themselves, once set, to ensure they are realistic and achievable, and also third-party validation of the reported progress made towards these targets by the Scheme Operator.

13. **Transition Period:** Conscious of the Government’s intentions to have a DRS rolled out in Ireland by Q3 2022, it is imperative that there is respect for the EU Guidance on a transition period given the steep learning curve for the Scheme Operator to meet these ambitious

deadlines. According to the European Commission,<sup>5</sup> a transitional period of at least one year to adapt to the system is necessary.

Furthermore, we would note that the success of a DRS depends on the existence of an adequate infrastructure at the outset, as the key principles of convenience and accessibility will be critical in securing consumer buy-in.

14. **Deposit Level:** We note from the consultation document that Government may include the deposit level within the eventual regulations. **We would advise against this and would instead recommend that any deposit level be set by the Scheme Operator** in consultation with the Scheme Advisory/Supervisory Board. Whilst deposit level isn't the only factor driving return rates it is one of the key levers for the scheme operator to achieve the agreed targets. If the DMO is to be tasked with achieving high collection targets it should be in control of the key design factors of the scheme, including the deposit value.

### Summary Response to the Proposed DRS Framework and Scope for Ireland (as laid out in the consultation)

DRS Component	Option chosen for Ireland	Response
<b>Governance</b>	Centralised; privately owned and operated; targets set by Government.	<p><b>SUPPORT</b></p> <p>All competing materials should have the same challenging targets and penalties, even if they are not included in the DRS, which is the case in the Norwegian DRS and the proposed Dutch DRS.</p> <p>There must be a robust legislative framework that empowers the single Scheme Administrator to implement the scheme effectively.</p>
<b>Scope – Containers</b>	<p>PET plastic beverage bottles (up to 3L)</p> <p>Aluminium beverage cans</p>	<p><b>DO NOT SUPPORT</b></p> <p><b>The proposed DRS should include all beverage containers: PET and glass bottles and aluminium cans.</b></p> <p>This is aligned with best in class DRS across Europe – out of 10 existing DRS schemes, 7 include glass. Around the world there are 38 DRS schemes, 35 of them include glass.</p> <p>The desire for the inclusion of glass was also expressed by public polls stating that 88% of the respondents wanted to have glass in the</p>

<sup>5</sup> European Commission (2009): Communication from the Commission - Beverage packaging, deposit systems and free movement of goods. COM (2009/C 107/01).

		<p>DRS in Ireland, according to Voice Ireland (see initial comment for reference).</p> <p>Since the proposed DRS in Scotland and in the UK already confirmed the introduction of glass, it is essential to ensure the interoperability between the schemes.</p> <p>The scheme should not limit the maximum volume in scope to minimise the opportunities for producers to design new containers that circumvent the scope (e.g. plastic bottles of 3.1 litres). The Danish DRS incorporates all bottles up to 20 litres, to avoid such problem.</p> <p>Additionally, those materials which fall outside the scope of the DRS should be subject to the same high collection and recycling targets as those materials which are included. Ultimately this should be to achieve a 90% collection and recycling rate. This is already the case in Norway and is proposed in the new Northern Ireland and Dutch DRS.</p>
<b>Producer Responsibilities</b>	<p>Additional obligations re: targets, penalties for failure to meet obligations, and market testing for other container types that could enable the achievement of higher performance in terms of application of the waste hierarchy.</p>	<p><b>NEED ADDITIONAL CLARIFICATION</b></p> <p>Re: penalties, it should be the responsibility of the Scheme Operator to determine how, and how often to check producers for compliance with the system, if obligated. We envisage the Scheme Operator would have its own team of compliance officers to ensure ongoing implementation of the rules of the DRS by producers and retailers.</p> <p>Re: Market Testing, clarity is required as to the intention of this, i.e., is the intention to look at incorporating reusable containers in the future, or is the intention to push packaging design into reuse? It is important for producers to have this clarity at the outset, and crucially, to have a representative voice on discussions around this on the Board of the Scheme Operator.</p>
<b>Targets</b>	<p>Centralised schemes are generally underpinned by legislation which provides for a means of Government authorisation of a scheme that is then mandated to</p>	<p><b>SUPPORT</b></p> <p>The Scheme Operator should design and run the DRS scheme to achieve targets agreed with Government. We propose that the DMO is mandated to achieve one target - the overall</p>

	achieve specific performance targets in terms of separate collection and recycling of plastic bottles and aluminium cans.	<p>return/collection rate by material of packaging in scope.</p> <p>The Scheme Operator should be tasked to reach a certain return rate target for the drink container in scope, calculated as a % of the packaging materials put onto the market and registered to the DRS by producers which is then returned through the DRS.</p> <p><b>Note: in-scope materials should be PET and glass bottles and aluminium cans</b></p>
<b>DRS System Operator</b>	The DRS System Operator must set out a clear plan on a range of issues, including: a) How the scheme will operate on a financially sound, not-for-profit basis; b) How it will achieve collection and recycling targets; c) How it will work with retailers; d) How they will work with waste collectors and processors to ensure DRS material is kept separate; e) How they will promote the scheme; f) An undertaking to examine the incorporation of further materials; g) and Making proposals on collection locations.	<p><b>SUPPORT</b></p> <p>a) Yes - Day-to-day operation of the system should be completed by the Scheme Operator. The DRS should have strict governance rules and procedures owing to the level of finance which is likely to be flowing through the system at any one time.</p> <p>b) Yes – As explained in previous answers.</p> <p>c) Yes</p> <p>d) Yes</p> <p>e) Yes</p> <p>f) Yes – in discussion with the Scheme Operator Board and Government</p> <p>g) Yes - It would be for the Scheme Operator to define appropriate and relevant sites to achieve the targets and objectives set it by the Government oversight body. Typically, this is done through reverse vending machines (RVMs), but also considering emerging technologies such as “smart DRS” systems, which utilise unique digital coding, smartphone apps and blockchain technology, could supplement the RVMs.</p>
<b>Retailer Obligations</b>	Retailers obliged to a) accept all materials covered by the scheme; b) Refund the deposit to the consumer on	<p><b>SUPPORT</b></p> <p>a) Yes - all retailers who sell drinks in scope should be obliged to host a</p>



	<p>the return of waste materials; and c) Report in a prescribed manner to the scheme.</p>	<p>return point and accept all materials covered by the scheme. As for online retailers, they should also have takeback obligations; the exact details of how requires further investigations.</p> <p>b) Yes - We believe that a scheme based on a return to retail obligation with no exemptions will provide the best possible coverage of return points across the country in order to facilitate a high return rate. Return points will be readily accessible by all those able to purchase a product, and consumer awareness of return points is likely to be higher in this instance.</p> <p>c) Yes – we believe that the Scheme Operator Board should be composed of representatives of trade associations which represent drinks producers and retailers, in order to provide reporting opportunities.</p>
<b>Citizen / Consumer</b>	<p>Consumers will pay a deposit on all beverage containers that come within the scope of the scheme at the point of purchase. Subject to a small number of exceptions, they will be able to return their used containers to any retailer.</p>	<p><b>SUPPORT</b></p> <p>We believe that a scheme based on a return to retail obligation with no exemptions will provide the best possible coverage of return points across the country in order to facilitate a high return rate.</p> <p>Return points will be readily accessible by all those able to purchase a product, and consumer awareness of return points is likely to be high. A ‘no exemptions’ approach will ensure that even the most remote communities will be able to participate in the scheme.</p> <p><b>Consideration should also be given to emerging technologies, like Smart DRS, to ensure convenience to consumers, with redemption points closer to the point of consumption and on the go.</b></p>
<b>Deposit Level</b>	Variable	<p><b>SUPPORT</b></p> <p><b>We welcome the decision that the deposit will be varied by container volume, as may be</b></p>

		<p>recommended to the Minister by the Scheme Operator.</p> <p>The variable deposit will limit distortion of the market caused by the introduction of a DRS and ensure that there is no incentive for consumers to purchase greater quantities of less recyclable materials.</p> <p><b>We would advise against including the deposit level within the Regulations, like was done in Scotland, as this should be set by the Scheme Operator.</b></p> <p>The Deposit amount should start low and move higher, if required. It may become complex and cumbersome for the consumer if the rates fall or fluctuate beyond what is vital.</p> <p>Whatever the initial deposit level, it should not attract VAT. The deposit level should be reviewed periodically by the DMO. Different deposit levels between Northern Ireland and the Republic of Ireland may also lead to abuse of the system, and so coordination and interoperability is advised.</p>
<p><b>Waste Collectors</b></p>	<p>Waste collectors will be eligible to claim the deposit for containers that end up in recycling bins</p>	<p><b>NEED ADDITIONAL CLARIFICATION</b></p> <p>Experience in other countries has shown that there is a real risk that deposit bearing containers placed in kerbside boxes are “stolen” prior to collection and so in reality the waste collector does not benefit from the level of unredeemed deposits that might be expected.</p> <p>This has been the case in New South Wales where as a result of “bin mining” there has also been a problem with kerbside bins being turned upside down so deposit bearing containers can be quickly removed and the remaining contents being left on the street as litter.</p> <p>If an in-scope packaging is to be collected outside the DRS infrastructure, the <b>waste management should only be able to claim the value of the material but not the deposit</b> as it is impractical to have an accurate counting</p>

		<p>system and impossible for the Scheme Administrator to verify the claim. In countries that allow this, the local authority provide a discounted council tax to residents, but miscounting / fraud in the counting process is also likely.</p> <p>If waste management companies are allowed to have a role, it is imperative that there is a transparent and agreed method with the Scheme Administrator as to how this will be accomplished whilst minimising the potential for fraud. In all well-designed DRS', the Scheme Administrator owns the material and the unredeemed deposit.</p>
<b>Labelling</b>	<b>Not specified in the consultation.</b>	<p>Labelling is a vitally important element of the design of a successful DRS both in terms of security (fraud), particularly considering the scheme may be introduced separate to Northern Ireland's scheme, and consumer understanding/participation.</p> <p><b>The value of the deposit should not be stated on the packaging to limit disruption if the price has to be adjusted.</b> However, it should be properly communicated in the retail environment, till receipts, etc.</p> <p>To ensure a robust and practical labelling scheme is developed packaging manufacturers must be involved in the planning and design of the DRS.</p>
<b>Funding of the Scheme Operator</b>	<p>Material Revenues.</p> <p>Unredeemed deposits.</p> <p>Producer fee for every container placed on the market.</p>	<p><b>SUPPORT</b></p> <p>The consultation (page 10) notes that the System Operator's role will involve 'setting the level of any such subscription or charges which it may review from time to time.' Once unredeemed deposits and material revenues are accounted for, producer fees are the only element which should be considered to fill any potential income gap, so as not to pass the cost on to the consumer.</p> <p><b>Producer fees should be eco-modulated, as per overarching Extended Producer Responsibility principles,</b> with easier to recycle and valuable materials paying less – in Norway aluminium cans incur a negative fee.</p>

		<p>Additionally, as every material in a DRS should pay its own way, each material should have a separate P&amp;L to prevent cross-subsidy in the Scheme.</p> <p>We also note that this is a requirement of the Waste Framework Directive and the Packaging and Packaging Waste Directive.</p> <p>The unredeemed deposits must remain with the scheme administrator and reinvested to clean and maintain the RVM's and further develop the DRS (e.g. communication campaign, replace obsolete RVM's, improve infrastructure, etc.).</p>
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