

Colm Lambert (DECC)

From: [Redacted]
Sent: Friday 7 May 2021 16:26
To: wastecomments
Subject: Suntory Beverage & Food Ireland submission to the Public Consultation on a Legislative Framework for a Deposit Return Scheme
Attachments: Final - Suntory Beverage & Food Ireland's Submission to DECC DRS Public Consultation 070521.docx

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Colleague in DECC,
On behalf of [Redacted], Suntory Beverage & Food Ireland, I attach our submission to the Public Consultation on a Legislative Framework for a Deposit Return Scheme

Very best regards,
[Redacted]

SUNTORY
BEVERAGE & FOOD IRELAND

[Redacted]
A: 7th Floor The Chase Building, Carmanhall Road,
Sandyford, D18P662, Ireland
www.irsuntory.com

The information transmitted is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon, this information by persons or entities other than the intended recipient is prohibited. If you received this in error, please contact the sender and delete the material from any computer.

Suntory Beverage & Food Ireland is the trading name of Lucozade Ribena Suntory Ireland Limited. Registered Office: 7th Floor Chase Building, Carmanhall Road, Sandyford, Dublin 18. Registered in Ireland under number 534426.

Suntory Beverage & Food Europe is a regional division of Suntory Beverage & Food.

SUNTORY

BEVERAGE & FOOD IRELAND

Suntory Beverage & Food Ireland fully supports the IRISH BEVERAGE COUNCIL / DRINKS IRELAND Submission to the Public Consultation on a Legislative Framework for a Deposit Return Scheme Department of the Environment, Climate and Communications

7 May 2021

Via e-mail to wastecomments@decc.gov.ie

Dear Colleague,

In further demonstrating its commitment to the introduction of a well-designed Deposit Return Scheme (DRS) for PET plastic beverage bottles and drinks cans, Ireland's beverage industry welcomes this additional opportunity to consult on the draft legislative framework enabling the implementation of such a scheme.

The Department of the Environment, Climate and Communications will be aware that the combined beverage industry – encompassing brand owners, producers, importers and distributors of both non-alcoholic and alcoholic consumer beverage products and representing the significant majority of the Irish marketplace – has been brought together under the Ibec DRS Project Consortium, led by Ibec's Irish Beverage Council and supported by Ibec's Drinks Ireland. Our project group was established in January 2020 and continues to meet regularly to prepare for the transformative introduction of DRS and to best support the Government's ambitions and objectives in this regard. Further, the Department will be aware that this group has proven to be a valued partner in the policy-making consultation process to date, harnessing our research and experience of operating DRS in other markets, in seeking to deliver a well-designed system and one which is tailored to the market realities in Ireland. Through our ongoing, regular engagement with the Department, both bilaterally and via the DRS Industry Working Group, we have proudly delivered on our pledge to provide solutions at every step of the process, and we look forward to continuing to do so through our collaborative and fruitful relationships with a wide community of stakeholders.

Earlier this year, the Department tasked beverage producers with designing and formalising the operational blueprint of Ireland's DRS. Our resulting paper – ***Ireland's beverage industry: Fundamental principles and high-level parameters of a DRS for Ireland (5 March 2021)***, marked a significant milestone, comprehensively explaining for the first time how the scheme will be structured, how it will operate and how it will deliver on its objectives for decades to come. Our vision has been endorsed by retailers, waste collectors, environmental groups and other members of the DECC DRS Industry Working Group and has facilitated the preparation of this draft legislation and the launch of this public consultation. It is important that the entirety of our blueprint is reflected in the final regulations and as such, we take this opportunity to reiterate some of the fundamental principles underscoring a successful and high-quality DRS:

The fundamentals

DRS is the right thing to do

- Under the EU SUPD, Ireland must ensure the ‘separate collection’ for recycling of 77% of single-use plastic beverage bottles by the end of 2025, rising to 90% by the end of 2029 – A well-designed, industry-led DRS is a proven and necessary vehicle to achieve these targets.
- Legislative targets and reporting obligations for DRS must reflect the fact that HDPE milk containers are also likely to form part of the same ‘separate collection’ targets, but not through DRS.
- A well-designed DRS provides an efficient and accessible source of high-quality, food-grade recycled material, facilitating circularity in bottle-to-bottle and can-to-can recycling.
- DRS is not just an opportunity to enhance collection – as a sophisticated separate collection system, DRS delivers the opportunity to capture high quality material and drive circularity in beverage packaging, allowing producers the best opportunity to comply with forthcoming legal obligations on recycled content. As such, the design process must be framed by a dual focus on both collection and ease of achieving circularity.

Optimal structure

As equitable and cost-effective as possible for industry and as easy as possible for consumers

- One single, mandatory, national scheme, employing a conventional ‘return to retail’ model, with mandatory participation from both producers and retailers/return point operators.
- The system will likely adopt a ‘centralised’ model, with some bespoke construction still under active consideration by the beverage industry.
- As an advanced EPR scheme, DRS must be owned, governed and operated by the obliged industry in an independent, not-for-profit structure with a wholly separate P&L.
- The system – and its participants – will at all times collaborate and operate in a spirit of fairness, openness and transparency, provided that no commercially sensitive or strategic information is shared or in such a manner that would breach applicable data protection or competition laws.
- As a not-for-profit organisation, no assets or profits will be distributed to beverage producers, retailers or other return point operators for the lifetime of its operation.

Mandatory participation principle

Every actor must play its role!

- A DRS can only function with a regulated, mandatory obligation on all producers or importers placing applicable product on the market, irrespective of company size and product type – there must be no exemptions.
- Likewise, all retail and food service/hospitality operators stocking applicable products must be subject to regulated, mandatory participation to collect the deposit on behalf of the system and accept returns – subject to certain exemptions as outlined below.
- In addition to retailer return points, local authorities will be consulted by the Scheme and encouraged to include appropriate collection infrastructure at civic amenity sites/local recycling centres and on-street in the community where possible.
- Once established, the Scheme will also consider alternative return mechanisms, including, where appropriate, charitable initiatives and community actions. For example, consumers may choose to donate their empty container and thereby their deposit to be returned to the system by youth groups, sports clubs, and/or schools, etc.
- The Scheme will also be available to consult with event planners to ensure that temporary collection infrastructure is in place for festivals and other large events, etc.

Possible exemptions from the obligation to accept returns

While it is a fundamental principle that all operators stocking applicable material must be obligated to levy the deposit at the point of purchase by the consumer, the Scheme will be empowered to

consider some exemptions to the linked obligation to accept returns, where doing so would be unfeasible or impractical.

- Although obligated to collect the deposit, smaller, specialised, mobile or temporary operators, such as food trucks, market stalls, and/or ice-cream vans, etc. may not be obligated to accept returns.
- Similarly, hospitality and food service operators engaged in takeaway/carry-out and/or delivery services must be obligated to levy the deposit, but they may not be expected to act as a return point.
- Likewise, while the obligation to levy the deposit exists where a retail purchase for collection or delivery is made remotely – via online or telephone order – the retailer may only accept a return appropriate to what was collected or delivered. As with all other exemptions to the obligation to accept returns, the Scheme will be empowered to devise the most appropriate solution.

Special considerations for on-premise consumption

- There will be no obligation to levy the deposit on consumers for on-premise consumption in the hospitality and food service sectors and these operators will not be expected to act as a return point.
- However, such operators will still be obligated to pay the wholesale deposit for in-scope packaging which will be reimbursed by the Scheme when such packaging is retained on the premises and collected via a closed-loop system or other such collection mechanism to be devised and approved by the Scheme.

ROLE OF THE APPROVED BODY – ‘THE SCHEME’

Ireland’s DRS will be operated by an independent entity appointed, owned, governed, and directed by a Board comprised of a majority share of beverage producers and an appropriate representation of retailers. The respective shareholding and voting weight on the Board will be reflective of the legislative targets and economic liabilities placed on the obliged industry – beverage producers (including retailers as own-brand/private label producers).

On behalf of the Board and subject to its strategic decision making, close oversight and approval, the Scheme will assume all responsibility for delivering the daily operational functions of DRS, managing its finances, and achieving its targets.

RESPONSIBILITIES OF THE SCHEME

- The Scheme will be authorised to manage all operational, logistical and financial aspects of the system and the relationship between system participants.
- The Scheme will manage all aspects of deposit clearing, oversee the collection and sorting of applicable material – via contracted parties – and will be responsible for meeting and reporting on applicable targets.
- The Scheme will have responsibility for monitoring all system economics and calculating the producer input fee and the retailer handling compensation, based on net cost principles.
- The Scheme will own all returned materials.
- Likewise, all unredeemed deposits must stay within the system, be exempt from VAT and be managed by the Scheme as a central element of the system economics.
- While the Minister will be legally empowered to fix the deposit and make changes when and where necessary, any decision to do so must come only after close consultation with – and on recommendation from – the Scheme.
- Once established, the Scheme will be responsible for considering and deciding on all labelling and/or barcoding criteria necessary to protect the system from fraud and cross-border exposures that may impact system economics. In so doing, it will adopt a flexible and

pragmatic approach including the assessment of emerging trends in digital labelling and the monitoring of future, relevant technological advancements.

- Likewise, the Scheme will be responsible for considering and approving any requirement for deposit-bearing containers to carry a DRS symbol or logo identifier.
- The Scheme will be charged with devising and delivering effective public awareness and consumer education campaigns and monitoring their appropriateness and success over time.
- The Scheme will comply with all necessary and appropriate corporate governance protocols and reporting obligations stipulated by the Department and/or the Minister.
- The Scheme will monitor relevant technological developments and emerging digital products and solutions. In so doing, it may decide to harness these in the future to further compliment the overall system.

Ownership of the collected material

- A well-functioning DRS is funded by three sources – the material-specific producer input fee, all unredeemed deposits and revenue from the sale of collected material. It is critical for the Scheme to be empowered to independently own and manage these revenue sources to ensure sound system economics and to meet the not-for-profit principle.
- As well as managing the system economics, the Scheme must facilitate and support the industry's commitment to circular packaging by affording producers access to their proportionate share of the returned material. Non-ownership of the returned material by the Scheme impacts the opportunity to deliver on these commitments.

Role in calculating and setting reasonable, fair and transparent fees

- A fundamental principle of DRS is that the return element of the system must be cost neutral for retailers and all other operators selling applicable products. All return point operators will receive reasonable and appropriate handling compensation from the Scheme to offset the net cost incurred pursuant to their mandatory participation in the Scheme.
- Once established, the Scheme will be empowered to calculate and approve the retailer handling compensation – with input from the retailers themselves as part of the Board. In so doing, the retailer compensation will be determined by the type of return point and the level of infrastructure hosted by that return point operator. For instance, the handling fee for hospitality/food service operators is likely to be significantly different to that of large format grocery retailer who may choose to host a Reverse Vending Machine (RVM) on their premises.
- An essential principle will be ensuring that the metrics are based on the simplest and most efficient return points in each category. The handling fee must be standardised and calculated as a national average, rather than weighted by geographic location or other variable considerations.
- The exact formula will be considered, decided and reviewed regularly by the Scheme with the entire process to be overseen and verified by an independent third party.

PRODUCER OBLIGATIONS

Obligations on producers/brand owners/importers

Applicable to the first producer/importer to place the product on the market

- The first party to place the product on the Irish market must be obligated to register with the Scheme.
- The producer must report the number and type of deposit-bearing units placed on the market and pay the appropriate deposit and producer fee for each to the Scheme, within a time period set by the Scheme.

- Producers must only be responsible for exactly what they place on the market. As such, the producer fee must be material-specific and calculated to be as low as possible with reference to the overall system economics. There must be no cross-subsidisation of the different material types.
- The producer will be expected to pay the agreed producer fee, which will be calculated and set by the Scheme on a regular basis with reference to the system economics prevailing at that time and based on net cost principles with no material cross-subsidisation.

RETAILER OBLIGATIONS

Obligations on retailers and other return point operators

Maximising the visibility and access to return points is critical

- All outlets offering in-scope product for sale must be obligated to register with the Scheme.
- The return point operator must report the number of deposit-bearing containers returned and the sum of the applicable deposits paid out.
- As the ‘public face’ of the system, retailers and other beverage sales outlets are a key partner for producers in operating a successful DRS and the importance of their role should be recognised.
- Likewise, all retail and food service/hospitality operators stocking applicable products must be subject to regulated, mandatory participation to collect the deposit on behalf of the system and accept returns – subject to the limited exemptions outlined above.
- A fundamental principle of DRS is that the return element of the system must be cost neutral for retailers and all other operators selling applicable products. All return point operators will receive reasonable and appropriate handling compensation from the Scheme to offset the net cost incurred pursuant to their mandatory participation in the Scheme.
- Likewise, return point operators will receive full reimbursement from the Scheme of the deposit refunded to consumers.
- Return points must be visible and easily accessible to consumers.
- In-store infrastructure must be available during normal trading hours.
- All return point operators must be obligated to accept all returns and reimburse the appropriate deposit amount regardless of the original point of purchase – subject to the exemptions outlined above.
- Although there is no obligation to do so, should a retailer decide to procure and host an RVM, the handling compensation afforded to them will be reflective of that decision. In so doing, the Scheme will set appropriate return volume thresholds in calculating the most efficient cost base for RVM operation.

We now move to address the issues raised by both the consultation paper and the accompanying draft regulatory framework.

Definitions

Firstly, with respect to definitions, it is critical that the definition of ‘beverage producer’ is taken to mean the first party to place in-scope material on the market in Ireland. This will include not only manufacturers and brand owners, but also importers, distributors, wholesalers and potentially other entities.

The definition of ‘beverage producer’ must also encompass retail companies who offer own-brand or private-label beverage products for purchase. Such retailers are legally considered to be beverage producers in their own right.

Equally important will be the definition attributed to ‘retailer’ – there should be a clear distinction afforded to the role played within the system by *retailers as producers* and *retailers as return point hosts*.

Attention to detail and consistency of language

For DRS to be the success that we all want it to be, it is vital that the enabling regulations avoid confusion through irregularities in language. Rather, the legislation must ensure clarity through the use of accurate, consistent and legally-sound terms – including that of ‘beverage producer’, as per the previous point.

Some other examples:

- The use of the term ‘plastic’ should be avoided. There are numerous types of ‘plastic’. For the purposes of DRS, only ‘PET’ should be referenced.
- The entity which will ultimately be tasked with operating DRS should only be referred to as ‘the Scheme’. Currently the consultation paper uses an array of different terms which is confusing.
- All references to ‘products’ should be replaced with ‘in-scope material’. Such terms are not interchangeable. For example, our products are not subject to a DRS, rather our packaging is.

Under ‘producer responsibilities’, the consultation paper states that – *“beverage producers who place PET plastic bottles and aluminium drinks cans on the market [are obliged to], be a member of, and fund, through membership fees, a scheme approved by the Minister to operate a DRS in Ireland”*

- This is incorrect. There may be no obligation to be a formal member of the Scheme, rather producers will be obliged to register and pay an agreed material-specific producer fee into the Scheme.

Further, under the section entitled ‘the deposit’, the consultation paper states – *“It [the deposit] will be refundable at all participating locations and all unredeemed receipts will fund the operation of the scheme”*

- This is also inaccurate and open to interpretation as not all ‘participating locations’ will be expected to act as return points.
- Further, unredeemed deposits serve as only one of three funding sources for the Scheme, together with the revenue generated from the sale of the returned material and the producers’ input fee. **Whenever there is a reference to funding in the final regulations, it is important that all three categories are properly and accurately listed together.**

As the obliged industry and experts in DRS, beverage producers look forward to working closely with the Department to ensure that the final enabling legislation is free of inconsistencies and inaccuracies which may be detrimental to the success of the system.

Targets

The final regulations will legislate for the collection targets to be achieved by a DRS.

Under the EU Single Use Plastics Directive, Ireland must ensure the ‘separate collection’ for recycling of 77% of total single-use plastic beverage bottles on the market by the end of 2025, with that target rising to 90% by the end of 2029.

While a well-designed, industry-led DRS is a proven and necessary vehicle to support Ireland in reaching these targets, it is important to reiterate that these targets are not exclusive to the materials intended to be collected via a DRS. Therefore, the Scheme itself cannot be held legally accountable as the singular method to achieve those targets. Single-use plastic beverage bottles will continue to be disposed of and collected via other non-DRS channels and the Department has already confirmed that HDPE containers used in the packaging of liquid milk will also be subject to ‘separate collection’, but will not be within the scope of a DRS. **As such, DRS-specific targets must only be referenced in the regulations, with an appropriate adjustment to reflect the reality that DRS alone may not achieve the combined EU separate collection target.** As the obliged industry in a DRS, beverage producers cannot be held responsible for collecting materials outside of our DRS and therefore cannot be subject to the entire ‘separate collection’ reporting obligations.

Equally, regulated targets will need to be reflective of the reality of cross-border consumer trade and the potential impact of fraud or leakage between Ireland and Northern Ireland.

In-scope materials

The consultation paper confirms that the Government and the Department intend to legislate for a DRS *“for plastic bottles of up to three litres in volume and aluminium cans”*.

Whilst we fully agree that glass should not be included, we contend that the current scope, as defined by the consultation paper, is incomplete and open to interpretation. The scope must be properly defined and always referred to, as follows:

- All **PET** consumer beverage bottles from 150mls up to 3 litres capacity.
- All consumer aluminium **and steel** drinks cans and beverage containers up to 3 litres capacity.
- All consumer beverage categories – **except** milk and others comprised exclusively of dairy products.

Expanding the scope to include single use beverage containers made of steel (in addition to PET and aluminium) will elevate collection rates, avoid consumer confusion and negate the potential for unintended consequences, including the possibility of some producers switching their use of packaging to materials which are outside the scope of a DRS and therefore which do not carry a deposit.

While encompassing single use beverage containers made of steel, it is important that food cans made of steel are not included. Ireland’s DRS should be designed to capture collection and recycling of single use beverage packaging only, there must be no opportunity for food packaging – including dairy products – to be included.

Entire component parts of in-scope materials

It is vital that all component parts of an in-scope beverage container (for instance – the cap, label sleeve and neck tie on a bottle and the ring pull on a can) **are classified within the regulations as being within the scope of DRS and that such packaging elements are not subject to additional or conflicting collection and recycling obligations in other legislation.** As such, both the container itself and the associated component parts of that container must be excluded from the scope of existing EPR regulations and associated recycling targets must be adjusted accordingly.

That said, it will not be necessary for all components parts to be attached to the container in order for a return to be accepted and a deposit refunded. **To avoid any unintended consequences, it is important that the regulations also make this point very clearly.**

Scheme operator

The consultation paper states –

“The DRS in Ireland will be owned, led, funded and operated by beverage producers placing their products on the Irish market in beverage containers within the scope of the scheme. Producers are obliged to either establish a scheme operator or seek to partner with an approved scheme under an existing Extended Producer Responsibility scheme”

And...

“the Regulations will enable a corporate entity, consisting of relevant producers, or a corporate body acting on their behalf, to apply to the Minister to operate the DRS in Ireland”.

As the obliged industry in a DRS, it is appropriate that beverage producers determine the entity which will operate DRS on our behalf. In so doing, our group is now actively exploring the option to partner with an existing EPR scheme – to create a separately governed structure under the auspices of that existing scheme – or to design and establish a wholly new entity.

The journey to understanding the merits of each option and making a final decision is a complex one with many significant implications which need to be properly scrutinised and modelled. As with other elements of the DRS decision-making process, we are committed to performing due diligence to ensure the optimal approach is ultimately adopted, specifically one which safeguards the financial and reputational wellbeing of the future system, and our role in it.

A critical element of producers’ decision-making will be the degree to which the legal construct of the Scheme guarantees the financial independence, viability and integrity of the system and ensures that there is no possibility of cross-subsidisation of costs between DRS and non-DRS materials, or other collection methods, organisation or entity. **It is important that the enabling regulations make reference to this point so that the integrity of the scheme is protected in legislation as well as in its operation.**

Waste collectors / existing collection methods

The consultation paper states –

“Waste collectors or operators of municipal recycling facility operators will also be eligible to claim the deposit in respect of containers that are not returned to retailers but which are placed in recycling bins and thereafter directed to MRFs for sorting”

Maximising collection of in-scope materials must be the central focus of DRS. As such, beverage producers accept that a mechanism will be required to allow waste collectors and/or MRF operators to return in-scope packaging which continues to be discarded in household green bins and other existing waste collection channels.

That said, existing collection channels do not facilitate ‘separate collection’ and consequently, the recycled quality of in-scope materials returned to the Scheme in such a manner cannot be guaranteed as food-grade value. Therefore, a more robust quality verification process and/or a lower deposit value reimbursement will be considered by the Scheme as part of a mechanism to allow waste collectors and/or MRFs to return in-scope materials. **It is important that the final**

regulations award responsibility for considering and designing all aspects of such a mechanism to the Scheme itself.

The final regulations must also clarify that legal ownership of materials collected by existing channels and returned to the DRS Scheme rests with the Scheme itself in the same way as material returned through the conventional return-to-retail model, which will always remain the preferred collection channel for the Scheme and should be protected and promoted as such. The mechanism to allow waste collectors and MRF operators to return in-scope materials to the Scheme should never be at the expense of the optimal approach – that is to say, consumers being adequately incentivised to return materials to a separate collection channel at a dedicated return point.

Supporting circularity

The Scheme must facilitate and support the beverage industry's commitment to circular packaging by affording producers access to their proportionate share of the returned material. Non-ownership of the returned material by the Scheme impacts the opportunity to deliver on these commitments.

As such, beverage producers welcome the Department's acknowledgement, and the references in the consultation paper, that all materials collected through DRS will be legally owned by the Scheme on behalf of beverage producers, thereby facilitating our linked obligations to source recycled content for use in future packaging and supporting our commitment to achieve full closed-loop recycling.

The importance of facilitating producers' access to the returned material should be referenced in the regulations with the final details of the mechanism to be devised by the Scheme itself.

Deposit

The consultation paper states –

“The first public consultation asked whether the deposit should be a flat rate or varied on the basis of the size of the packaging. Opinions on this issue were divided. However, on balance, the preferred option is to have variable deposits based on volume of the product and this will be provided for in the Regulations. This is for a number of reasons, including the need to ensure that a flat rate deposit does not incentivise overconsumption or the purchase of greater quantities resulting in less recyclable materials”

How the deposit is calculated, set and applied is the single most important element in getting DRS right. Beverage producers' commitment to DRS has always been two-fold – enhancing collection and driving circularity. The final deposit structure should be decided in such a way as to best deliver on that commitment.

In considering the appropriate deposit level(s), it is essential to balance the need to adequately incentivise return behaviour, while ensuring that the deposit is proportionate to the product price and does not have the effect of encouraging fraud. Further, it is important that focus always remains on simplicity, avoiding unintended consequences and ensuring that the deposit is never interpreted as an added tax or Government-imposed price increase.

The deposit is a core element of the overall system economics and it is unwise to detach the decision making as to its final structure from the other financial considerations under the remit of the Scheme. As the guardian and custodian of DRS, the Scheme is best equipped to manage the overall economic viability and integrity of the system and considering the importance of the deposit as a lever to support that viability, **all and every aspect of decision-making relating to the deposit must also be reserved for the Scheme itself.**

Once established and having properly researched and modelled the impact of various scenarios, it must be for the Scheme to independently determine whether the deposit is to be variable or fixed. The Scheme will then advise the Minister accordingly. It is unwise to formalise the future deposit structure in legislation and doing so in advance of the establishment of the Scheme and before any of the financial elements are known and understood, is premature and must be avoided.

The legislation must not dictate the future deposit structure in advance. Similarly, the Department's references to a variable deposit being the 'preferred option' should be avoided. **Instead, the regulations must acknowledge that the final solution will be determined by the Scheme itself.**

Beverage producers are keen to bring our experience to these important considerations and we are committed to working with our Scheme partners to construct the most appropriate deposit structure. We are experts in our products and the wider market; we are close to our consumers, their preferences and trends. We are the obliged industry and we are economically exposed should unwise, regulated decisions produce an unviable scheme.

Whatever the final structure, the regulations must include appropriate stipulations to ensure that the deposit amount to be charged – and its refundable nature – are clear and distinct from the retail cost to point-of-purchase consumers. This will require appropriate shelf-edge tickets and in-store signage, etc. Likewise, it must be a mandatory requirement that the deposit amount be clearly indicated in a standalone manner on invoices and other documentation in the B2B chain, such as at the point of import and wholesale, etc. – mirroring the same format used for VAT for instance.

Acknowledging that the regulations will ultimately empower the Minister to set the deposit – and make any future changes when and if necessary, we welcome assurances that any decision to do so will only come after close consultation with the Scheme, which itself will be responsible for monitoring the appropriateness of the deposit level(s) over time with reference to the overall system economics. **It is vital that this consultation mechanism – and the Minister's duty to engage with it – be enshrined in the regulations.**

While it is inappropriate to set the deposit level(s) in legislation, **it is critical that the regulations stipulate that the deposit (and all unredeemed deposits) will always be VAT exempt.**

Ireland/Northern Ireland interoperability

The final regulations must make reference to the reality of the shared marketplace between Ireland and Northern Ireland and the significant potential for cross-border fraud and other damaging economic exposures should there be no relationship between the schemes in both jurisdictions.

Acknowledging that the establishment of one single all-island scheme to reflect the nature of our integrated supply chains and shared consumer marketplace is uncertain, should two separate schemes ultimately be established, they must be constructed in such a way as to facilitate a very high degree of compatibility and interoperability. Such compatibility must be ensured regardless of any operational differences between each system. **The final regulations must include a commitment to this crucial point.**

Labelling/barcoding

The consultation paper states –

“Producers will be responsible for ensuring the relevant branding/barcoding is applied to their packaging”.

Beverage producers accept that the Scheme may introduce certain barcoding and/or labelling requirements, **but it is essential that these are not regulated**. Once established, the Scheme itself will be responsible for considering and deciding on all labelling and/or barcoding criteria necessary to protect the system from fraud and cross-border exposures that may impact system economics. In so doing, the Scheme will adopt a flexible, pragmatic and innovative approach including the constant assessment of emerging trends in digital labelling and the monitoring of wider technological advancements which may offer a ‘future-proofed’ solution.

The Department will be aware that mandatory labelling requirements may require scrutiny at EU level because of the potential of these being interpreted as a barrier to trade within the EU single market, or indeed between Ireland and Northern Ireland.

In considering any requirement for deposit-bearing containers to carry a DRS symbol or logo identifier, the Scheme will seek to avoid any unintended consequences of its decisions. In so doing, the Scheme will be mindful of the reality of the consumer beverage market and its highly integrated supply chains across multiple territories, as well as the economic impact on smaller producers. Further, any requirement to include an identifying symbol or logo must not include a reference to the deposit value itself.

A viable solution may be found in a standardised logo or shared emblem across multiple markets.

Beverage producers look forward to playing our role in these important discussions when the Scheme is established.

Timelines

Ireland’s beverage industry reiterates its commitment to the timely implementation of a well-designed DRS. We share the Department’s ambition of establishing a truly world-class system with all actors fully prepared to play their role from launch day. That said, the journey towards operationalising DRS is highly complicated and policymakers must be cognisant of the complexities ahead and the consequences of rushed implementation.

Best practice and our learnings from other markets indicate that a lead-in period of up to thirty months may be necessary from the time the final regulations are enacted and the licence to operate is granted. To maximise success, indicative timelines should be considered in light of the significance of the decisions ahead and the transformative nature of the preparations to be made by actors across industry. The process of adopting a DRS should be singularly focussed on what it is ultimately designed to achieve and should not be subject to a defined timeline. For instance, a successful and high-quality system will require sufficient time to:

- Devise and deliver an effective consumer education and awareness campaign.
- Train and equip return point operators.
- Procure, trial and launch specialist infrastructure and software.
- Allow larger retailers to make significant in-store changes.
- Facilitate beverage producers in making necessary labelling changes.
- Allow beverage producers to establish the systems and processes required to track the in-scope materials entering the market, in meeting their reporting obligations to the Scheme.

Further, an appropriate transition period will be required to clear applicable stock already in the supply chain and on shelves at the time of implementation.

Beverage producers and our partners in the retail industry continue to be significantly impacted by the ongoing Covid-19 crisis and the suppression of economic activity as a result of necessary public health restrictions. Post-Brexit supply chain complexities and the forthcoming introduction of minimum unit pricing on our alcohol products also combine as significant challenges. In this climate, the Department will understand that our capacity for investment is significantly reduced.

We are also very concerned about the misalignment with expected DRS implementation in Northern Ireland – now estimated at late 2024 or early 2025. With a high degree of cooperation and interoperability between both systems being absolutely necessary, policymakers must remain cognisant that the wider the gap between both systems, the bigger the circularity challenges we face.

Once again, we thank the Department of the Environment, Climate and Communications for extending this important opportunity to consult on the draft legislation to empower the Minister to introduce a DRS in Ireland. Once more we stress our commitment to a collaborative and constructive relationship with the Department – and all our other stakeholders – as the formal legislative drafting process begins. In so doing, many more challenges are likely to be identified, which we look forward to addressing with the same commitment as we have previously demonstrated.

Sincerely,

[Redacted]

[Redacted]

Suntory Beverage & Food Ireland
7th Floor,
The Chase Building,
Carmanhall Road,
Sandymount,
Dublin 18P862