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Our ref: EIR2023/25726
22 January 2024

Dear Redacted

REQUEST FOR INFORMATION: Deposit Return Scheme for single use drinks

Thank you for your request for information of 27 December 2023 about the Deposit Return Scheme (DRS) for drinks containers. We have handled your request under the Environmental Information Regulations 2004 (EIRs).

The EIRs apply to requests for environmental information, which is a broad category of information defined in regulation 2 of the EIRs. Public authorities are required to handle requests for environmental information under the EIRs. They give similar access rights to the Freedom of Information Act 2000 (FOIA).

Your information request and our response are set out below.

This is an EIRs request about the government consultation on the on the delivery of a deposit return scheme for single use drinks containers, which ran in 2021, and to which the government issued a response in January 2023.

Link:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1130296/DRS_Government_response_Jan_2023.pdf

1. Please provide full copies of submissions to the consultation that were made by:
 - a) Trade associations
 - b) Coca Cola
 - c) PepsiCo
 - d) Nestle

Consultations on DRS were held in 2019 and 2021, with the final consultation response published in January 2023. These consultations applied to England, Wales and NI. There was strong support, with 83% of consultation responses supporting the introduction of a DRS (from over 2,500 responses).

We enclose a copy of the information you have requested:

- Association of Convenience Stores (ACS) and Retail Northern Ireland - DRS consultation response 2021
- BPIF Cartons – DRS consultation response 2021



- Can Makers Committee – DRS consultation response 2021
- Cosmetic, Toiletry & Perfumery Association (CTPA) - DRS consultation response 2021
- Dairy UK – DRS consultation response 2021
- Federation of Independent Retailers (the Fed) - DRS consultation response 2021
- Federation of Small Businesses (FSB) - DRS consultation response 2021 FSB – DRS consultation response 2021
- Irish Business and Employers Confederation (IBEC) - DRS consultation response 2021
- Metal Packaging Manufacturers Association (MPMA) - DRS consultation response 2021
- National Association of Cider Makers (NACM)- DRS consultation response 2021
- National Independent Vending Operators (NIVO) - DRS consultation response 2021
- Natural Source Waters Association (NSWA) - DRS consultation response 2021
- Recycle Northern Ireland - DRS consultation response 2021
- Scotch Whisky Association - DRS consultation response 2021
- The Aluminium Packaging Recycling organisation (Alupro) – DRS consultation response 2021
- Scottish Wholesale Association - DRS consultation Response 2021
- The European Container Glass Federation (FEVE) - DRS consultation response 2021
- The Packaging Federation - DRS consultation response 2021
- The Society of Independent Brewers (SIBA) - DRS consultation response 2021
- UK Hospitality (UKH) - DRS consultation response 2021

The responses for Coca Cola, PepsiCo and Nestle can be found here:

<https://www.gov.uk/government/publications/deposit-return-scheme-consultation-eir202128203>

The responses for the Confederation of Paper Industries, Foodservice Packaging Association, British Glass, Automatic Vending Association, British Soft Drinks Association, Food and Drink Federation, British Retail Consortium, Environmental Services Association, Alliance for Beverage Cartons and the Environment and British Beer and Pub Association can be found here:

<https://www.gov.uk/government/publications/deposit-return-scheme-consultation-eir202305194>

We have applied a presumption in favour of disclosure, as required by regulation 12(2) of the EIRs. However, some of the responses you requested are being withheld as they fall under the exception in regulation 12(5)(d) of the EIRs, which provides for the exception from disclosure if disclosing information would adversely affect the confidentiality of a public authority's proceedings where the confidentiality arises from statute or common law. In applying this exception, we have had to balance the public interest in withholding the information against the public interest in disclosure.

We recognise there is a public interest in the disclosure of information relating the views of stakeholders on the delivery of a deposit return scheme for drinks containers. However, it is also important that Defra can carry out its formal policy making processes in confidence. Defra carries out consultations in order to have free and frank conversations with industry and other stakeholders as part of its policy making processes, and the preservation of confidentiality is necessary to allow these processes to continue. We consider that the

confidentiality arises from the common law expectation that this information is kept confidential. As this has created an expressed expectation of confidentiality, combined with the necessary quality of confidence of the information, it means that Defra has a duty of confidence in relation to these proceedings.

Therefore, we have concluded that in all the circumstances of this request, the information should be withheld.

We have also decided that some of the information should be withheld under regulations 12(3) and 13(1) and (2A) of the EIRs as the information constitutes personal data relating to persons other than you. These regulations exempt personal information from disclosure if that information relates to someone other than the applicant, and if disclosure of that information would breach any of the data protection principles in Article 5(1) of the UK General Data Protection Regulation (GDPR).

We consider that disclosure of this information is likely to breach the first data protection principle, which provides that personal data must be processed lawfully, fairly, and in a transparent manner. Disclosure would not constitute 'fair' processing of the personal data because the information relates to third parties who would not reasonably have expected their names to be made public.

Information disclosed in response to this EIRs request is releasable to the public. In keeping with the spirit and effect of the EIRs and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on [GOV.UK](https://www.gov.uk), together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

We attach Annex A, explaining the copyright that applies to the information being released to you, and Annex B giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter please contact me.

Yours sincerely

Redacted

Information Rights Team
InformationRequests@defra.gov.uk

Annex A

Copyright

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs or logos) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

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Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the [Intellectual Property Office's website](#).

Annex B

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 11 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Andrew Mobsby, Head of Information Rights via email at InformationRequests@defra.gov.uk and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our website.

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner's Office (ICO) for a decision. Please note that generally the ICO cannot make a decision unless you have first exhausted Defra's own complaints procedure.

The ICO can be contacted using the following link:

<https://ico.org.uk/make-a-complaint/official-information-concerns-report/official-information-concern/>