

**Submission to the second consultation on introducing a Deposit Return Scheme in England, Wales and Northern Ireland**

**Department for Environment, Food & Rural Affairs**

**3 June 2021**

Via e-mail to [REDACTED]

Dear colleague,

In demonstrating its commitment to the introduction of a well-designed Deposit Return Scheme (DRS) in Northern Ireland, the combined beverage industry across the island of Ireland welcomes this valuable opportunity to consult with the Department for Environment, Food & Rural Affairs.

The beverage industry is part of the fabric of Northern Ireland's economy, proudly making a significant contribution throughout the community – from agriculture to manufacturing, to packing, through to transport and logistics, retail, hospitality and tourism. We are dedicated to accelerating collection and recycling rates across all our packaging types and we are actively exploring new programmes and infrastructure to help deliver a truly circular economy. Importantly, we are committed to the adoption of a well-designed DRS, truly reflective of – and bespoke to – the market realities in Northern Ireland.

Producers, brand owners, importers and distributors of both non-alcoholic and alcoholic consumer beverage products – representing the significant majority of the combined Irish and Northern Irish marketplace – have been brought together under the Ibec DRS Project Consortium. Led by the [Irish Beverage Council](#) and supported by [Drinks Ireland](#), the group was established in January 2020 and continues to meet regularly to prepare for the transformative introduction of DRS and to best support Northern Ireland's ambitions and objectives in this regard.

The Department of Agriculture, Environment and Rural Affairs in Northern Ireland will be aware that this group has proven to be a valued partner in the consultation process to date, harnessing our research and experience of operating DRS in other markets. Through our ongoing, regular engagement with the Department, 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.

DRS is a transformative and complicated measure, not without its challenges. However, a well-designed DRS, specifically tailored to address the uniqueness of the island of Ireland market and the cross-border dimension, presents many positives. Proven to enhance a culture of recycling, address littering and our consumer's legitimate environmental concerns, DRS also guarantees a cost-effective source of high-quality, food-grade recycled plastic, thereby affording an opportunity to

achieve true end-to-end, closed-loop circularity in beverage packaging. Put simply, DRS is an opportunity for all of us to do the right thing.

Independent research we commissioned from a leading international expert has illustrated the complexity of introducing a DRS in Northern Ireland and how a number of anomalies unique to the local market must be addressed in the design of the final system.

Of greatest importance will be recognising the highly-integrated nature of the consumer marketplace in beverage products across the island of Ireland. Quite simply, the industry operates a single marketplace encompassing the entire island of Ireland as one unit. Identical products with common barcodes supported by shared supply chains means that there is a significant potential for cross-border fraud and other damaging economic exposures should there be a fragmented and misaligned approach to DRS implementation in Northern Ireland and Ireland.

**Therefore, to safeguard the integrity and viability of Northern Ireland's DRS, the beverage industry calls for the establishment of an all-island scheme supporting the future circularity of what is already a single all-island marketplace. Should two systems ultimately be created, these must be constructed in such a way as to facilitate a very high degree of consistency, compatibility and interoperability. Such compatibility must be ensured regardless of any operational differences – in scope and otherwise – between each system. Just as DRS should be closely aligned and interoperable across the UK, the same is true of the systems on the island of Ireland.**

The beverage industry's journey towards the introduction of DRS has helped us identify several fundamental elements which will be central to delivering a successful, well-functioning and sustainable system for decades to come. This submission marks the culmination of a number of months of research and exploration of best-practice and explains how the system should be structured and operated in Northern Ireland.

## **The fundamentals**

### ***DRS is the right thing to do***

- 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.

## **An all-island market requires an all-island solution**

### ***One shared, single system or two fully compatible systems protecting the integrity and fundamentals of DRS***

- Of fundamental importance will be ensuring that if one single all-island scheme to reflect the nature of our integrated supply chains and shared consumer marketplace is not ultimately possible, the two systems must facilitate a very high degree of compatibility and interoperability to minimise the inevitable impact of cross-border activity – both legitimate trade and that of a fraudulent nature.
- Such compatibility must be ensured regardless of any operational differences between each system.
- In acknowledging the integrated nature of the all-island market in consumer beverages, the Government of Ireland and the authorities in Northern Ireland have previously acted sensibly in coordinating their policy actions on the introduction of a Sugar-Sweetened Drinks

Tax on non-alcoholic beverages and Minimum Unit Pricing for alcohol products. It is essential that the introduction of DRS adopts a similarly pragmatic framework of collaborative decision-making and shared timelines.

- In so doing, we call on policymakers to be cognisant of the impact of misaligned implementation timelines on both sides of the border and we encourage the Department of Agriculture, Environment and Rural Affairs to elevate its engagement with the Department of Environment, Climate and Communications in Ireland to ensure a coherent and coordinated approach to DRS decision-making across both jurisdictions.

#### Optimal structure

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

- One single, mandatory scheme, employing a conventional 'return to retail' model, with mandatory participation from both producers and retailers/return point operators.
- 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.

#### Materials scope

While glass should **not** be included, we contend that the scope should be 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.

In-scope packaging (PET bottles and aluminium cans) must be excluded from the scope of existing EPR regulations and associated recycling targets must be adjusted accordingly

While encompassing single use beverage containers made of steel, **it is important that food cans made of steel are not included**. 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 tamper seal 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 – and future – 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 legislation also makes this point very clearly.**

## **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 in-scope material 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 DMO – “THE SCHEME”**

*Northern 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 decision-making 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.
- The Scheme will be empowered to fix the deposit level(s) and make changes when and where necessary.
- 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 Government.
- The Scheme will be tasked with monitoring 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 for calculating the retailer handling compensation are based on the simplest and most efficient return points in each category. The handling fee must be standardised and calculated as a Northern Ireland-wide 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 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 efficient 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 units 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 must 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.

## THE DEPOSIT

***Focus on simplicity, avoiding unintended consequences and ensuring that the deposit is not interpreted as an added tax or Government-imposed price increase***

- A single uniform deposit for each in-scope unit is likely to be unsuitable.
- Variable or scaled deposit levels can be employed very effectively to stimulate return behaviour across different container sizes and/or packaging types.
- Multipacks represent a significant proportion of the beverage market in Northern Ireland and may require a differentiated approach – the cumulative impact of a fixed, per-unit deposit in a multipack purchase must be acknowledged.
- In considering the appropriate deposit, it is important to balance the need to adequately incentivise return behaviour, while ensuring that the deposit is proportionate to the product price.

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 a 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 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. 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. Instead, the legislation establishing a DRS in Northern Ireland must acknowledge that the final structure 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 devise 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 establishing legislation 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.

With reference to the overall system economics, the Scheme will be responsible for monitoring the appropriateness of the deposit level(s) over time and be empowered to introduce changes as and when required.

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

#### **Offering a role for waste collectors**

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, local authorities and/or other operators to return in-scope material which continues to be discarded in household bins and other existing recycling or waste collection channels.

That said, existing collection channels do not facilitate ‘separate collection’ and consequently, the recycled quality of in-scope material 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 local authorities to return in-scope material. **It is important that the final legislation awards responsibility for considering and designing all aspects of such a mechanism to the Scheme itself.**

**The legislation must also confirm that legal ownership of all material collected through existing channels and returned to the Scheme thereafter rests with the Scheme itself in the same way as material returned through the conventional DRS 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 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 material to a separate collection channel at a dedicated return point.

- In striving to achieve simplicity of design and cost efficiencies, it is imperative that the DRS utilises as much of the current collection and sorting infrastructure as appropriate and feasible.
- That said, the overarching principle must be to construct an entirely separate collection system to guarantee high quality recycle.
- Back hauling and reverse logistics also present an opportunity to maximise cost efficiencies and minimise wider environmental impacts, including carbon emissions.
- Waste collectors will have an opportunity to participate in a transparent tendering process (coordinated by the Scheme) to contract appropriate service providers to conduct the collection and sorting operations on behalf of the Scheme.



- Such a tendering process will employ a transparent scoring system to scrutinise such details as environmental credentials, appropriate infrastructure capabilities and price.

#### **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.

All materials collected through DRS must 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 establishing legislation with the final details of the mechanism to be devised by the Scheme itself.**

#### **Labelling/barcoding**

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.

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 Ireland and Northern Ireland and indeed multiple other territories, as well as the disproportionate 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 common emblem across multiple markets.

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

#### **Affording space and time to ensure success**

Northern Ireland's beverage industry reiterates its commitment to the timely implementation of a well-designed DRS. We share Government'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 decision-making and 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 legislation is enacted. 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 proposed introduction of minimum unit pricing on our alcohol products also combine as significant challenges. In this climate, policymakers will understand that our capacity for investment is significantly reduced.

**We remain very concerned about the impact of a fragmented and misaligned approach to DRS implementation across the island of Ireland and indeed the UK. With a high degree of cooperation and interoperability being absolutely essential, policymakers must work together in acknowledging that the wider the gap between both systems on the island of Ireland, the bigger the circularity challenges we face.**

Once again, we thank the Department for Environment, Food & Rural Affairs for extending this important opportunity to consult on the introduction of a DRS in Northern Ireland. Once more the beverage industry stresses its commitment to a collaborative and constructive relationship with all our partners and stakeholders in working towards a successful and sustainable solution on the island of Ireland.

Sincerely,

[REDACTED]

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