15 May 2018

VIA Electronic Submission (ncdcommission@who.int)

World Health Organization
CH-1211 Geneva 27
Switzerland

Re: Comments on the Draft First Report of the WHO Independent High-Level Commission on Non-Communicable Diseases

Dear Sir or Madam:

The International Council of Beverages Associations (ICBA)\(^1\) welcomes the opportunity to provide its perspective on the 1 May Draft Report of the WHO Independent High-Level Commission on NCDs (the “Draft Report”). As active stakeholders, we are committed to engaging productively with WHO, Member States and NGOs to do our part to combat the global obesity and malnutrition challenge. We fully support the goals of this Commission to accelerate progress by finding bold and innovative solutions against non-communicable diseases (NCDs) in line with the 2030 Agenda for Sustainable Development. Furthermore, we appreciate the very good work of this Commission in developing this Draft Report, and we are largely in agreement that the proposals outlined in this report are “transformative, actionable and innovative.” We also appreciate the Commission’s effort to align itself with evidence-based recommendations that have demonstrated public health benefits, rather than pursuing ideas that have not been proven to drive positive health outcomes, and instead carry unintended consequences.

Executive Summary:

We are fully supportive of the Commission’s Recommendation to “[i]ncrease engagement with the private sector.”\(^2\) We also agree that “effective public-private partnerships that are important

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\(^1\) ICBA is an international nongovernmental organization established in 1995 that represents the interests of the worldwide non-alcoholic beverage industry. The members of ICBA include national and regional beverage associations as well as international beverage companies that operate in more than 200 countries and territories and produce, distribute, and sell a variety of non-alcoholic sparkling and still beverages, including soft drinks, sports drinks, energy drinks, bottled waters, flavored and/or enhanced waters, ready-to-drink teas and coffees, 100 percent fruit or vegetable juices, nectars and juice drinks, and dairy-based beverages. ICBA has been a recognized and well-respected observer at Codex Alimentarius for 20 years.

to successful NCD response…” and appreciate that the Commission is encouraging countries “to enter into public-private partnerships to complement international collaboration.” We would, however, express concern with the statement in this Recommendation 2 that “[g]overnments should give priority to restricting the marketing of health-harming products to children.” To be clear, we are fully supportive of the notion that codes of conduct regarding marketing to children are a positive path forward – and in fact our industry has long had such a code in place. We propose that the term “health-harming” be deleted, as all foods can be part of a healthy diet, and the Recommendation refer to the marketing of products directly to children.

More generally, we are fully aligned with the Statement by Commissioner Eric Hargan, Deputy Secretary of the United States Department of Health and Human Services, which notes in part that “comprehensive, multisectoral approaches that draw from the expertise and ingenuity of all stakeholders” are essential to developing successful evidence-based policies. To that point and the point of the recommendations around private sector engagement made by the Commission, we would offer up some examples in our comments below of robust public-private partnerships that members of the global beverage industry have been proud to support (see Section I, below).

We note that this Draft Report references its partnerships with The Lancet Task Force on the Economics of NCDs, and the Bloomberg Philanthropies Task Force on Fiscal Policy for Health, and states that their “inputs could be considered by the Commissioners to inform the report during the time frame the report was being developed.” We have reviewed the materials published by The Lancet Task Force and note with concern the proposals by certain authors for taxation of sugar-sweetened beverages. We would also note for the record that we appreciate the transparency of this Commission, including the fact it has published a timeline and offered up this Draft Report for public consultation. We are unable to offer any perspective on the work of the Bloomberg Task Force because it is not operating with the same level of transparency – which is especially unfortunate given that WHO considers that Task Force to be part of their preparatory process for the UN High-Level Meeting on NCDs.

The Report also references the “best buys and other recommended interventions for the prevention and control of NCDs,” and while taxation of sugar-sweetened beverage is not a “best

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4 Id.

5 Draft Report, Recommendation 2(c), page 12 (emphasis added).


7 Statement of Commissioner Eric Hargan, Deputy Secretary of the Department of Health and Human Services, United States of America, available at http://www.who.int/ncds/governance/high-level-commission/statement-of-eric-hargan.pdf?ua=1

8 Draft Report, page 5, para. 9

We also note that both Italy and the United States did not endorse the updated set of best buys and other recommended interventions because, inter alia, the evidence underlying certain interventions was not yet sufficient to justify their inclusion.

We believe that public-private partnerships should be transparent, evidence-based and held to high standards of accountability, including independent verification and public monitoring. We are proud to offer the following examples of successful public-private partnerships in which our industry has led the way – and we appreciate that the Commission recognizes the full potential for bold and innovative leadership in this area.

1) **The U.S. Healthy Weight Commitment:** Founded in 2009, the Healthy Weight Commitment Foundation (HWCF) is a CEO-led organization, whose national, multi-year effort developed by 16 food and beverage manufacturers, including The Coca-Cola Company, General Mills, Kellogg, Mars, Mondelēz International, Nestlé, PepsiCo and Unilever, aimed at helping to reduce obesity, especially childhood obesity. The companies collectively pledged to remove 1.5 trillion calories from the marketplace by 2015. By 2012, independent monitoring by the Robert Wood Johnson Foundation verified that 6.4 trillion calories had been removed from the food supply - exceeding the 2015 pledge by more than 400 percent and three years early. The calorie-reduction goal was achieved by developing, introducing and selling more lower-calorie options; changing recipes to lower the calorie content of current products; or reducing portion sizes of existing single-serve products. The McKinsey Global Institute ranked HWCF’s public private partnership, as one of the two of the most effective programs in the global fight against obesity.12

2) **Sugar/Calorie Reduction Pledges:** Around the globe and in various countries, the beverage industry has made specific commitments to reduce sugar and therefore calories in beverages. For example:

a) In conjunction with Singapore’s Ministry of Health, seven major beverage companies, including The Coca-Cola Company and PepsiCo, signed an industry pledge to remove by 2020 drinks that contain more than 12% sugar from their portfolios of sugar-sweetened beverages. **We acknowledge and greatly appreciate the leadership of Commissioner Gan Kim Yong, Minister of Health, Singapore in developing and supporting this innovative public private partnership.**

b) In partnership with the Conference Board of Canada, the Canadian Beverage Association and its membership have committed to reducing the non-alcoholic beverage calories consumed per person by 20% by 2025. This initiative will leverage the marketing, innovation and distribution strengths to increase access to beverages with reduced calories and to promote calorie balance and moderation where consumers purchase products. A report prepared by The Conference Board of Canada shows that in the first two years of Balance Calories alone, calories have been reduced by an unprecedented 10.2 percent. That

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means that since 2004 there has been almost a 30% reduction in calories consumed from non-alcoholic beverages by Canadians.

c) In 2014, in partnership with the **Alliance for a Healthier Generation**, the American Beverage Association, The Coca-Cola Company, Dr Pepper Snapple Group and PepsiCo announced a landmark agreement to decrease beverage calories in the American diet. The beverage industry set a goal to reduce beverage calories consumed per person nationally by 20 percent by 2025. Working together, as well as individually as companies, the US beverage industry is increasing access to beverages with less sugar, as well as smaller portions, across the country. And the industry is placing more focused efforts in selected communities where obesity rates are above the national average, and there is less availability and demand for these beverages. From innovating new products to introducing smaller sizes, the US beverage industry is exploring all paths to bring consumers new choices. They are using their marketing expertise and distribution network to increase access to—and customer demand for—lower-calorie choices. They’ve added signs on coolers and vending machines to remind consumers to consider calories and balance before choosing a beverage. They’ve also put clear calorie information on the front of every product. In the first three years of implementation (2015-2017), introduction of no-, low and mid-calorie beverage innovations outpaced introductions of full-calorie beverages. **Together, about 60 percent of all new brands and flavors introduced were no-, low- and mid-calorie choice.**

d) Through the auspices of **UNESDA, the European soft drink association**, the leading beverage companies have committed to reducing the average added sugar content of their still and carbonated soft drinks by 10% between 2015 and 2020. This commitment was introduced at the EU Platform for Action on Diet, Physical Activity and Health, a multi-stakeholder convening chaired by the EU Commission, and will be rolled out across Europe and aims to deliver an average 10% sugar reduction, impacting over 500 million consumers. This commitment comes on top of the 12% sugar and calorie reduction already achieved from 2000 and 2015, and represents an effective tripling of the sugar reduction pace.

e) **ICBA Guidelines on Marketing to Children**: Recognizing and respecting that parents and caregivers are best placed to determine what is appropriate for their children to consume, the beverage industry has also long made robust commitments in the area of advertising and marketing to children. Specifically, ICBA members commit not to place any marketing communications in covered media where 35% or more of the audience consists of children under the age of 12 years. In addition, members agree not to engage in marketing communications to children in primary schools, which are defined as schools responsible for the education of children under the age of 12. Over the past years, Accenture has found that the compliance rates for television advertising have been over 94 percent in every market analyzed, and 100 percent for print and internet advertising.
f) **School Beverage Guidelines:** In conjunction with beverage associations around the world, including Canada, Australia, the European Union, Colombia, Brazil and the United States, among others, the leading global beverage companies including The Coca-Cola Company and PepsiCo have implemented responsible guidelines regarding the sale of products to schools, ensuring that full-calorie soft drinks are no longer provided to primary schools. The beverage associations in the United States and Canada have fully implemented voluntary pledges to stop the sale of full-calorie soft drinks all the way through high school, and the EU association made a similar pledge this fall 2017. In the US, for example, the beverage industry joined with the Alliance for a Healthier Generation (founded by the Clinton Foundation and the American Heart Association) and agreed to remove full-calorie sodas from all schools and replace them with more lower-calorie and smaller-portion choices. As a result of this ambitious effort, which was verified through public reporting by Keybridge Research, beverage calories in schools were reduced by more than **90 percent.** This voluntary step by the beverage industry later helped form the basis of the beverage component of United States Department of Agriculture’s regulations for foods and beverages sold in schools.

II. **Comment on Proposals from *The Lancet* Task Force Related to Taxation of Sugar-Sweetened Beverages**

We are fully aligned with the pledge of participating Member States in the Montevideo Roadmap to “prioritize the most cost-effective, affordable, equitable and evidence-based interventions that will bring the highest public health return on investment, in accordance with national context and priorities.”\(^\text{13}\) and we stand ready to engage as appropriate to help fulfil this priority. Keeping that goal in mind, we offer specific comment on taxation proposals by certain authors of The Lancet Task Force, who are offering their input to this Commission. These proposals do not meet the standards of that pledge and instead propose financing interventions through the non-evidence-based and non-cost-effective technique of taxing sugar-sweetened beverages. While we support WHO’s goal of increasing financing of national NCD responses in general, we disagree with the notion that the best path toward funding NCD responses is by taxing, *inter alia,* sugar-sweetened beverages for the following reasons:

**A) Taxation of Sugar-Sweetened Beverages is Not a “Cost-Effective” Intervention**

The Montevideo Roadmap contains a pledge to prioritize the “most cost-effective, affordable and evidence-based interventions,”\(^\text{14}\) Taxation of sugar-sweetened beverages, in contrast, is an intervention where WHO’s own work has demonstrated that it is not cost-effective enough to rise to the level of “Best Buy.” In the recent update to Appendix 3 (the menu of interventions to combat NCDs), WHO acknowledged that taxing sugar-sweetened beverages to reduce consumption is one of the weaker recommendations, as its own WHO’s internal CHOICE analysis demonstrated it did not meet the level of “cost-effectiveness” to constitute a “best buy” for countries to use.

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\(^{13}\) Paragraph 7 of the “Montevideo Roadmap 2018-2030 on NCDs as a Sustainable Development Priority.”

\(^{14}\) See *Id.*
WHO’s findings regarding the ineffectiveness of taxing sugar-sweetened beverages mirrors independent findings by the McKinsey Global Institute. McKinsey also noted the very poor science base to support such an intervention, its cost-ineffectiveness and the lack of DALYs resulting from adoption of such a policy.

**B) Unproven Advocacy Should Not Operate As Funding Mechanism for Evidence-Based Interventions.**

As is explained further below in section C, there is insufficient evidence to support the use of sugar-sweetened beverage taxation to promote a positive health outcome. There also is an inconvenient truth that there is no real-world evidence that a sugar-sweetened tax has reduced obesity. The Lancet authors – and in particular, the Comment provided by Lawrence Summers, does not provide sufficient evidence or science to support its rationale for selective taxation – tax to raise revenue, which can then in turn be used to fund more reliable interventions. Offering such policy advice in a field – economics and fiscal policy – far from WHO’s expertise is not in our opinion a prudent course of action. As per tax policy guidance from the International Monetary Fund, selective taxation should be limited to taxes on items that are inelastic, have few substitutes and lead to progressive tax outcomes. The argument for sugar-sweetened beverage taxation misses in each critical area. Such an approach oversimplifies the economic complexities of taxation and ignores significant pitfalls with this approach:

i. **Good Governance Means Examining a Budget as a Whole, Not Promoting Piece-meal “Solutions”**

Financing of national NCD responses is a significant matter which should occur as part of the national governing budgetary process, not as a one-off, selective taxation effort. Taxation policy is complex, and there are documented “side-effects” to taxing sugar-sweetened beverages, as documented by the experience in Philadelphia. In January 2017, the city of Philadelphia, PA adopted a 1.5 cent per ounce beverage tax to raise revenue for pre-K education. As a recent study from the Tax Foundation highlights, the result has been fewer jobs and lower revenues¹⁵:

- **Promises to direct revenue toward particular programs go awry:** In Philadelphia, only 49% of the revenue is going to pre-K, despite mayoral pledges. The rest is going toward general coffers. There is simply no guarantee that funds raised from a beverage tax will go where promised.

- **Revenue projections can fall short…. leaving budget shortfalls:** soda tax collections in the first six months were already $6.9 million below Philadelphia’s downwardly revised estimates. When the existence of a program is predicated on an uncertain tax, the foundation is at best shaky.

- **Jobs loss is real,** and in Philadelphia, families are feeling the impact, especially those who cannot afford to travel outside the city limits to avoid the punitive beverage tax. Major beverage companies have announced

layoffs of nearly 20% of their workforce in the city, and bodegas, supermarkets and gas stations are struggling.

- A review by Oxford Economics has found that Philadelphia will lose an estimated 1,190 jobs, $54 million labor income, and $80 million in annual GDP.16

ii. **The Economic Impact of Selective Taxation May Have Detrimental Effects on Health.**

We fully agree with the statement by the Commission in the Draft Report that “[p]overty contributes to the negative impact of NCDs.”17 The economic growth created by beverage and retail industries contributes positively toward health outcomes, particularly in low-income populations, by providing employment and livelihood to thousands of people around the world, and supporting access to foods. It has been clearly demonstrated that socio-economic status plays a key role in health status. In January 2017, *The Lancet* published a study on socioeconomic status as a risk factor for premature mortality.18 This study of 1.7 million people across seven high-income WHO member countries19 found that **socioeconomic status is a more important driver of health outcomes than alcohol, obesity and other risk factors considered in the WHO 25×25 initiative (which did not consider socioeconomic factors).** Participants with low socioeconomic status had greater mortality compared with those with high socioeconomic status.20 By singling out sugar-sweetened beverages for discriminatory tax treatment and thereby reducing the industry’s employment, governments (or tax advocates who advise them) are pursuing policies that have a disproportionate detrimental impact on the very populations they are supposed to help, and therefore may worsen health outcomes.

**C. Taxing Sugar-Sweetened Beverages Has Not Been Shown to Improve Public Health.**

It is imperative that we follow the evidence as we head toward the UN High-Level Meeting on NCDs: there is no demonstrated real-world example of taxation reducing obesity or improving public health. The global experience with taxation to date demonstrates a minimal initial, and then unsustained, calorie drop from taxation of beverages, which in turn does not reduce obesity. In Mexico, for example, there is no evidence that the 2014 tax on sugar-sweetened beverages has had any impact on obesity. In fact, data from Mexico’s 2016 national health and nutrition survey has shown that the obesity rates have edged upward among adults from 2012-2016, especially among adult women (a statistically significant rise from 73% of the adult female population to 75.6% of that population).

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16 Full report available at https://goo.gl/hb3C7K

17 Draft Report, page 6, para. 17


19 UK, France, Switzerland, Portugal, Italy, USA, and Australia

20 Low socioeconomic status was associated with a 2.1-year reduction in life expectancy between ages 40 and 85 years, the corresponding years-of-life-lost were 0.5 years for high alcohol intake, 0.7 years for obesity, 3.9 years for diabetes, 1.6 years for hypertension, 2.4 years for physical inactivity, and 4.8 years for current smoking.
Obesity in Mexico has increased, not declined, since the imposition of a beverage and snack taxes in country. The tax resulted in a decrease of only 4 calories per consumer per day in year one (2014) with government sales tax receipts demonstrating resumed levels of increasing consumption in years two and three.22

In Berkeley, California, a tax on SSBs has caused caloric intake to rise rather than decrease. For instance, a recent study of the SSB tax implemented in Berkeley, California, found that while caloric consumption of taxed beverages dropped by a statistically insignificant margin of an average of six calories per day — equivalent to a bite of an apple, caloric consumption of untaxed beverages rose by an average of 32 calories per day, resulting in a net increase of 26 calories per person per day resulting from the tax.23 In other words, consumers switched from soft drinks to milkshakes, smoothies and other similarly calorie-dense products — resulting in more calories consumed. Using the simplistic linear thinking of soft drink tax proponents, a narrow tax on sugar-sweetened soft drinks produced insignificant decrease in consumption of tax beverages, it also produced the unintended consequence of driving greater consumption of untaxed higher calorie beverages, and likely exacerbating the overweight and obesity issue. The Berkeley results are highlighted in the figure below:

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21. See Mexico’s 2016 National Health Survey (ENSANUT).

22. Notably, a recent article in the journal Health Affairs claimed incorrectly that the drop in consumption witnessed in 2014 was sustained in later years. Regrettably, the authors of this article are relying on theoretical models, which are estimations that do not align with actual tax receipts from the Mexican Secretariat for Finance and Public Credit (SHCP). This real-world data shows increases in sugar-sweetened beverage sales through 2016, as opposed to the projected decrease suggested by the authors. This government tax receipt data can be reviewed at http://finanzaspublicas.hacienda.gob.mx/es/Finanzas_Publicas/Estadisticas_Oportunas_de_Finanzas_Publicas

A number of other studies and reports further question the utility of sugar and/or soft drink taxes. For example:

- At the request of New Zealand’s Ministry of Health, the well-regarded New Zealand Institute of Economic Research conducted an analysis entitled “Sugar taxes: A review of the evidence,” in which the authors ultimately concluded that “[t]he evidence that sugar taxes improve health is weak.”24 In their review of the 47 peer-reviewed studies and working papers on the topic of sugar taxes, the authors found, among other things, that: (1) estimates of reduced intake are often overstated due to methodological flaws and incomplete measurements; (2) there is insufficient evidence to judge whether consumers are substituting other sources of sugar or calories in the face of taxes on sugar in drinks; (3) studies using sound methods report reductions in intake that are likely too small to generate health benefits and could easily be cancelled out by substitution of other sources of sugar or calories; and (4) no study based on actual experience with sugar taxes has identified an impact on health outcomes.25

- A June 2016 paper by the International Tax and Investment Center and Oxford Economics entitled “The Impact of Selective Food and Non-Alcoholic Beverage Taxes,”26 evaluated the different factors that influence the effectiveness of selective food and non-alcoholic beverage taxes (“SFBT”) on two policy objectives: improving public health and raising government revenues. It concluded that the evidence “suggests that the impact of introducing SFBT can be wide-ranging and highly uncertain. Very few studies provide a robust and complete account of the effects of such taxes, meaning that governments seeking to introduce them are doing so in a highly speculative context.”27

- Other unintended consequences occur—consumers show a tendency to substitute taxed soft drink purchases with alcohol purchases. A recent study demonstrated that “an increase in the

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25 Id. at i-ii.


27 Id. (emphasis added).
price of high-sugar drinks leads to an increase in the purchase of lager..., ... while an increase in the price of diet/low-sugar drinks increases purchases of beer, cider and wines.”

- Likewise, the very highly-regarded McKinsey Global Institute’s 2014 Report similarly found that taxing sugar is one of the least effective interventions in combating obesity. This study reveals that out of more than 40 modeled interventions, taxation was not even in the top ten interventions. And even at this level of ineffectiveness, the science supporting taxation as an effective policy intervention was deemed weak (1 on a scale of 1-5, with 5 being the best science). According to the McKinsey Global Institute, the most effective ways to combat obesity include reformulating drinks, offering smaller portion sizes and providing better education, all of which our industry is committed to supporting.

D. Taxing Sugar-Sweetened Beverages May Lead to Government Revenue Shortfalls and Exacerbate Funding for Needed Health Care Programs

Proponents of such taxation are ignoring unintended real world fiscal consequences of levying a sugar-sweetened soft drink tax. Take the United Kingdom’s experience with its recently implemented soft drink levy. The Government Office of Budget Responsibility (OBR) found that the increase in price of soft drinks due to the tax will raise inflation. This food inflation in turn will raise the cost of interest payments on index-linked payments by the Government by about £1 billion in 2018-19. Net-net, the new soft drink will cost the Government about twice as much as it raises in revenues, and do even less for the taxpayers having to foot this bill. If other countries take the advice of these tax proponents, the result would be doubly wrong. First, the levy hurts the poor and low-income consumers the worst as they spend more of their disposable income on food and beverage than do the affluent. Now, in addition to bearing the disproportionate brunt of paying soft drink tax, these same poor and low-income consumers will have their health care threatened as the sugar-sweetened soft drink tax reduces overall government resources by ratcheting up and inflation, meaning fewer resources to support existing programs, much less to provide resources to new programs to combat NCDs. Similar negative impacts on jobs, GDP and economic growth have been reported by government entities in Vietnam and the Philippines.


30 See http://www.taxpayersalliance.com/unintended_consequences_of_the_sugar_tax
Conclusion:

We greatly appreciate and support the work that the Commissioners on the WHO Independent High-Level Commission are doing in advance of the UN High Level Meeting on NCDs. Further, we join WHO and the Commission in our willingness to promote evidence-based and cost-effective interventions. We are supportive of this Draft Report, and appreciate that the Commission has 1) recognized the important role the private sector can play in combating the global NCD challenge; and 2) steered away from misguided notions around selective taxation of sugar-sweetened beverages. We look forward to continuing our substantial engagement in supporting the UN Sustainable Development Goals through our public-private partnerships. We appreciate the opportunity to provide our input on this document, and look forward to continuing productive engagement on this topic of global importance.

Best regards,

Katherine W. Loatman
Executive Director