BDA Response to NHS England Consultation on Action to reduce sales of sugar-sweetened drinks on NHS premises

18th January 2017
1. About the BDA

The British Dietetic Association (BDA) is the professional body that represents dietitians in the United Kingdom. The organisation represents the professional, educational, public and workplace interests of its members and protects their working rights. Founded in 1936, it is one of the oldest and most experienced dietetic organisations in the world.

Membership is open to qualified dietitians working in dietetics and/or nutrition and related areas. The BDA represents the whole of the dietetic workforce including clinical practitioners, researchers, public health advisors, industry employees, educators, support workers and students.

The BDA currently has over 8,000 members.

2. NHS England’s wider work

The BDA is strongly supportive of the wider work that the NHS has chosen to undertake to encourage the provision of healthier food in NHS premises.

As noted within the consultation document the BDA agrees that removing or reducing sugar sweetened beverages (SSBs) from the diet is unlikely on its own to reduce the total amount of sugar consumed. The BDA supports Public Health England’s (PHE) effort to work with industry to reduce sugar in a much wider range of products and urges NHS England to increase pressure to reduce the availability of unhealthy food and drink. Incentives such as the national CQUIN scheme are recognized as one way in which objectives to reduce sugar consumption in line with national recommendations can be met. Encouragement to replace high sugar foods with alternative sources of carbohydrate (e.g. wholegrain foods and controlled portions of beverages with no added sugar) is also recommended.

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3. Scope of the consultation

Q01- Do you agree that any new arrangements should apply solely to premises run by NHS organisations (NHS Trusts and Foundation Trusts) rather than to those run by providers from other sectors?

The BDA would like to see any new arrangements applied as widely as possible, to maximise the impact that the NHS can have on this important public health issue. However, we recognise that the vast majority of sales are within the NHS Trust and Foundation Trust settings and that enforcing any restriction or ban in independent providers would be harder to achieve. Therefore we would support the restriction of the compulsory arrangements to just NHS organisations in order to ensure they can be put in place as quickly as possible.

However, we would encourage NHS England to make clear that it expects all providers of NHS services, including GP’s practices and third sector providers, to voluntarily introduce the new arrangements. Campaigning organisations could then hold to account those providers or premises that do not implement the arrangements.

Within the NHS trust setting we would expect the ban or charge to be applied broadly to all providers, including retail outlets, hospital caterers and voluntary trolley services.

Q02- Do you agree that the inclusion of new requirements in the NHS Standard Contract would be an appropriate and effective approach? If not, what would be a more appropriate vehicle?

We believe that the NHS Standard Contract would be an appropriate approach, as a voluntary scheme would lack the necessary teeth to make the arrangements effective. Although the CQC fundamental standards regulations might be able to achieve the same outcome, it relies on external inspection, and it is preferable that any arrangements are enforced by the NHS itself.

4. Option One - The introduction of a fee on vendors of SSBs

Q03- Which of these approaches would be most suitable if a fee on SSB vendors were to be introduced?

“Sin Taxes”, where they are most effective, succeed by raising the cost of the product for consumers, which leads to reduced sales. Therefore option 1.), placing a flat charge per unit of any SSB sold by the vendor would appear to be the most direct and effective way of increasing the cost of the products.

However, we would argue that all four options lack sufficient subtlety to take account of the differing amounts of sugar in SSBs. Fizzy cola drinks typically have twice the added sugar flavoured waters for example. Therefore a flat charge will be regressive and may discourage consumers from making healthier swaps. Even the government’s own Soft Drinks Industry Levy, with its two levels at 5g and 8g, is regressive, because very high sugar products are actually taxed less per gram than those with only moderate amounts of added sugar.

Q04: What do you think the likely approach from vendors would be?

Signs from the industry’s response Soft Drinks Industry Levy indicate that where reformulation is not possible retailers/industry intend to recoup the cost by raising the prices on sugar sweetened drinks, which is the desired outcome. However, the vendor may choose
to absorb some of the costs if they feel it will protect sales. We think it unlikely that the products would be withdrawn from sale.

The NHS should stipulate to as great a degree as is possible that the additional cost of the levy be passed on to the consumer. This is important as the higher prices on added-sugar drinks will be a clear indication that the drink is a higher sugar product and act to encourage consumers to choose a different product.

Q05: Were an SSB fee introduced, what would be the right level at which to set it in order to achieve the policy aim?

Evidence from the World Health Organisation\(^1\) indicates that a rate of around 20% is necessary for a levy to be effective. PHE’s own recommendation is 10-20%\(^2\) and the BDA supports this.

Q06- Do you agree with the proposed reporting arrangements?

We would agree that the proposed reporting arrangements are appropriate to achieve the effective enforcement of a charge.

Q07- What will be the one-off and on-going administrative costs associated with each of the proposed policies?

The BDA is not in a position to comment on the likely costs of administering such a scheme, but we would argue that any such costs are unlikely to be so high as to prevent these arrangements from achieving their aims. That assumes that the primary purpose of such a move is to reduce the sale of these products.

Q08- In your view should NHS organisations be required to reinvest the money generated into the health and wellbeing of their staff?

Yes, but the investment needs to be clearly ring-fenced for health and wellbeing initiatives and clear parameters and measurable outcomes will need to be set.

The BDA believes the purpose of any charge/levy should be the reduction in sales of sugar sweetened beverages, and not as a means of generating revenue. However, programmes and activities to support the health and well-being of NHS staff are important and should be supported and funded. This funding should not be conditional on income from the charge placed on sugar sweetened beverages.

The NHS might consider using any funds raised by the levy to reduce the cost of healthy/low sugar alternatives to further incentivise both patients and staff to make better choices.

The BDA welcomes the commitment to NHS staff health and wellbeing reflected in the national CQUIN scheme.

5. Option Two: Banning the sale of SSBs on NHS premises

Q09- Which of the two policy options proposed (the fee or ban) would best meet our decision-making criteria?

\(^1\) http://apps.who.int/iris/bitstream/10665/250303/1/WHO-NMH-PND-16.5-eng.pdf?ua=1
Given the stated aim to reduce the consumption of sugared sweetened beverages by both staff and patients within NHS premises, a complete ban would be the most direct means of achieving this aim. However, the NHS needs to consider issues of patient choice, and the risk that a ban focuses too much attention on only one source of dietary sugar and additional calories, when a more holistic approach to improving the diet is required.

We would also highlight the impact a ban or levy may have on certain patient groups where high-energy drinks (and foods) are required. Patients with disease related malnutrition, taste changes, dysphagia and other barriers to obtaining sufficient nutrients and energy may be unfairly impacted as a result of any complete ban or charge, either as an inpatient or outpatient. We would hope that NHS England would seek to evaluate any impact that a ban or levy might have on these groups as the policy progresses.

Regardless of the option introduced, it is important that it is applied across suppliers, and that exceptions are not made for any suppliers to ensure a fair and level playing field, and to prevent people from simply sourcing SSBs elsewhere in the same environment.

Q10- Are there any alternative policies that NHS England could introduce that would meet the decision-making criteria equally well, or better, than those proposed?

As discussed above, there are additional changes or policies that could be implemented alongside either of these two options to further meet the decision-making criteria. In particular education and information (e.g labelling of foods in restaurants/cafes on hospital premises), for both staff and patients. Information on what constitutes a healthy diet, even within a hospital setting, remains unclear for some patients and staff, so simple, evidenced based advice is vital. Customers are more likely to make positive choices for their health if they are making informed choices.

It is also worth considering the other sources of dietary sugar (and salt and saturated fat) that are available within NHS premises. While 25% of daily added sugar comes from drinks, 27% comes from preserves and confectionary⁴. Although policies with regard to food are more complex, as the distinction between what contributes towards a healthy diet becomes less exact, there are certainly some products which could be discouraged or limited in favour of healthier alternatives. The NHS needs a holistic approach to healthy diet on its premises and hopefully the CQUIN work being run by most trusts should contribute toward this.

The BDA have always stated that sugar taxes or charges should only ever be regarded as a part of a range of interventions required to tackle the issue of obesity. More information is available in our policy statement on reducing the consumption of energy from sugary drinks in children⁵.

6. Definitions of sugar-sweetened beverages

Q11- Do you think that 5g/100ml is the right level for the total added sugar content in a sugar-sweetened beverage?

This limit is understandable given that it is the level used within the government’s proposed Soft Drinks Industry Levy⁶ to determine what constitutes “low sugar”. However, it is worth

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² [https://www.bda.uk.com/improvinghealth/healthprofessionals/policystatementSugaryDrinksConsumption](https://www.bda.uk.com/improvinghealth/healthprofessionals/policystatementSugaryDrinksConsumption)
noting that both the Department of Health’s Front of Pack Nutrition Labelling guidelines\(^6\) and the European Commission Nutrition Claim criteria\(^7\) describe “Low” sugar as under 2.5g per 100ml.

Q12- Do you think we should exclude drinks for treating medical conditions?

Some milk and juice based products are used for treatment of medical conditions and should be exempted from the ban or charge, as they are vital tools for dietitians and other health professionals. We would want to ensure that all ACBS products and those OTC products that are used in ill health are exempt. We would therefore agree that those licensed for specific medicinal use in the UK should be exempt.

Q13- Do you think we should exclude the five allowable ingredients to ensure pure fruit products are kept outside the scope of the policy?

We would agree that fruit juice can form a part of a healthy diet and believe the five allowable ingredients provide a reasonable basis for exclusion.

However, current advice contained within the Eatwell Guide\(^8\) is that the public should limit its consumption of fruit juices and smoothies to a total 150ml per day. Many fruit juices and smoothies are typically packaged and marketed in quantities in excess of this and clearly intended for consumption by one person in one sitting (e.g.\(^9\),\(^10\),\(^11\)). Therefore we would ask the NHS to consider whether products which are marketed in single portions in excess of 150ml might be subject to the charge/ban or some other form of restriction. It is important for the effectiveness of the levy that the public do not simply substitute sugar-sweetened beverages for other similarly sugary products.

Q14- Do you think we should include pre-packaged milk based drinks in the scope of the policy?

Although milk can form an important part of a healthy diet, we agree that pre-packaged milk drinks with significant added sugar should be included within the scope of the charge/ban. It is important for the effectiveness of the levy that the public do not simply substitute sugar-sweetened beverages for other similarly sugary products.

Q15- Which approach offers the best way of classifying pre-packaged milk based drinks?

We would argue that the second proposal would be the most appropriate, as it takes account of naturally occurring milk sugars while still ensuring that those drinks with high amounts of added sugar are included.

If the first proposal is to be pursued, we believe that a limit of 75% milk is too low and that this would need to be increased substantially to include the wide range of milkshake and smoothie drinks which have high levels of added sugar but are over 75% milk. In our response to the consultation on the introduction of a soft drinks industry levy\(^12\) we recommended a limit of 95%.


\(^7\) [http://ec.europa.eu/food/safety/labelling_nutrition/claims/nutrition_claims_en](http://ec.europa.eu/food/safety/labelling_nutrition/claims/nutrition_claims_en)


\(^9\) [https://www.nakedjuice.co.uk/the-range/green-machine/](https://www.nakedjuice.co.uk/the-range/green-machine/)

\(^10\) [https://www.innocentdrinks.co.uk/things-we-make/our-smoothies/smoothies/blackberries-strawberries-boyzenberries](https://www.innocentdrinks.co.uk/things-we-make/our-smoothies/smoothies/blackberries-strawberries-boyzenberries)

\(^11\) [https://www.copellafruitjuice.co.uk/our-juices/juices](https://www.copellafruitjuice.co.uk/our-juices/juices)

\(^12\) [https://www.bda.uk.com/improvinghealth/yourhealth/consultation_documents/hm_treasury_sugar_levy_consultation_response](https://www.bda.uk.com/improvinghealth/yourhealth/consultation_documents/hm_treasury_sugar_levy_consultation_response)
Q16- Do the definitions of sugar syrups outlined above cover all likely sugar syrups used with hot drinks?

We would hope the proposed definition extends to cold coffee or tea drinks that also use these syrups. We would also urge the NHS to include any syrups that might be provided for customers to add to drinks themselves, and not just those used as a part of a predetermined recipe.

Q17- Do you think that any hot drink with added sugar syrup should be included in the policy?

The BDA agrees that these products should be included.

In our response to the soft drinks industry levy consultation\textsuperscript{10} we argued that drinks sold by major coffee shop brands that contain these drink flavourings have very clear nutritional information against which a levy could be judged, and many of these products have well in excess of the 5g/100ml limit. Many retailers already market low or no added sugar variants of these products, and it should not be difficult to use smaller amounts of these syrups when making up drinks.

7. Implementation

Q18- Do you think that NHS England should set out a timescale over which NHS organisations must achieve full implementation of the policy?

NHS organisations should be given sufficient time to implement the new policy, but it is equally important that there is some pressure to implement the policy quickly. It might be reasonable to follow the lead of Public Health England, who have set a date of 2020 to implement their reformulation programme.

Q19- What should be the contractual consequences for trusts if they fail to achieve full compliance within the agreed timescale?

We do not believe that NHS Trusts, which are already under a great deal of financial pressure, should be punished financially. A mechanism of “highlighting and supporting” those trusts that fail to deliver might be more appropriate. Only if a trust refuses to implement the policy outright should more stringent steps be taken.