

Ah sugar, sugar ... and you've got me wanting you!

David Clifton, director of Clifton Davies Consultancy Limited, provides an update on the forthcoming Soft Drinks Industry Levy

As more mature readers may recall, 'Sugar, Sugar' by the Archies was Billboard magazine's number one single of the year in 1969, famously containing the line "I'm gonna make your life so sweet". Now, nearly 50 years later, sugar is hitting the headlines for a host of other reasons, most recently with publication last month of HMRC's Soft Drinks Industry Levy policy paper.

The Queen's Speech last May announced that "legislation will be introduced to establish a soft drinks industry levy to help tackle childhood obesity", targeted at UK producers and importers of soft drinks that contain added sugar.

Following the announcement, a consultation on the design and implementation of the levy was launched last August, and the recently published policy paper sets out the government response to that.

It confirms that the new law will be introduced in March's Finance Bill, with a view to the levy taking effect from April 2018.

The policy paper also provides more detail on what we can expect, enabling a better assessment of how the levy will affect not only those to whom it will directly apply, but also retailers of soft drinks and their customers. Key aspects of the levy are as follows:

- It will not apply to any drink where no sugar is added
- A lower rate will apply to added sugar drinks with a total sugar content of 5g or less per 100ml
- A higher rate will apply to such drinks with 8g or more per 100ml
- Alcoholic drinks with an alcohol by volume of up to 1.2% are included in the levy, but the government will make provision to exempt certain drinks that fall within this category

Clauses 51 to 78 of a draft Finance Bill published on the gov.uk website at the beginning of December do not give any more detail about anticipated exemptions other than to indicate that (a) milk-based drinks and milk substitute drinks will not be subject to the levy and (b) the smallest businesses with low volumes of production or importing from the smallest producers will be exempt from the levy.

As expected, the policy paper summarises the expected economic and health impacts of the levy. However, it also sets out what financial impact is expected on individuals and households, saying that this "will depend on how many producers and importers are able to reformulate and avoid the charge and whether or not those who are unable to do so pass on the charge to the consumer".

This is of course the nub of the issue for your industry. The ALMR was quite clear in its response to the consultation, stating that "the soft drinks industry levy will impose significant costs on retailers and consumers as well as the wider economy through its upwards pressure on inflation, with no evidence that it will lead to even modest countervailing benefits through reduced consumption of sugar-sweetened beverages let alone actual reductions in obesity".

Those with sweet-toothed family members might possibly consider the policy paper's assessment that "the levy is not expected to directly impact on family formation, stability or breakdown" to be an equally contentious issue!



Questions & Answers



Q: Is Paul Newby going to be removed from office as the Pubs Code Adjudicator (PCA)?

A: Each time I have written about the Pubs Code, some major change has occurred by the time publication takes place so, subject to that note of caution, I will stick out my neck and say that I don't think so. The business secretary Greg Clark is standing by his appointment despite the chairman of the House of Commons Business, Innovation and Skills Select Committee calling last month for his removal on perceived conflict of interest grounds because of outstanding loans due to him from, and a residual shareholding in, his former employers, the surveying company Fleurets. Newby's position is that he will gain no direct benefit from any future instructions that Fleurets receives or the outcome of any particular case involving that company, such that there is no incentive for him to act in any particular manner otherwise than in his independent capacity as the PCA.

Q: What is the remaining timeline for the House of Lords Licensing Act 2003 Committee?

A: Oral evidence before the committee has concluded. The parliament.uk website confirms that the committee's report is now in the course of preparation and, according to recent media indications, it may be ready for publication by the beginning of April.

Q: Are permitted development rights for pubs going to be abolished?

A: This was a proposal in the Neighbourhood Planning Bill tabled by the Save The Pub Group that was designed to ensure that proposals to demolish pubs or to change their use should go through the planning process. However, it was defeated by a House of Commons vote last month during the passage of the Bill through parliament so, for the time being at least, the community right-to-bid within the ACV process (about which I wrote in issue 112 of Pub & Bar) remains the statutory safeguard. Bear in mind though that CAMRA is pushing for greater protection of pubs, so there may be further developments yet.

Clifton Davies Consultancy Ltd



Clifton Davies Consultancy Limited is a consultancy business (not a law firm) which specialises in all licensing, gambling and regulatory issues affecting the pub and bar industry. David Clifton and Suzanne Davies are also consultants to Joelson JD LLP. The views expressed are given without any assumption of responsibility on their part. If you have any questions, do get in touch and they will be pleased to provide answers, either via this page or direct.

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