To: The Standing Committee on Finance

INVITATION FOR WRITTEN SUBMISSIONS ON THE DRAFT RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS BILL (INCLUDING THE DRAFT HEALTH PROMOTION DUTY ON SUGAR SWEETENED BEVERAGES)

26 May 2017

COCA-COLA BEVERAGES SOUTH AFRICA

We respectfully request an opportunity to address the committee in person.

Language choice: English

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1. ABOUT COCA-COLA BEVERAGES SOUTH AFRICA (CCBSA)

Coca-Cola Beverages South Africa **("CCBSA")** a recently merged private entity (merged in July 2016), is a manufacturer, bottler and distributor of non-alcoholic beverages. CCBSA operates across South Africa and supplies its products to various customers ranging from large retailers to small traders such as informal convenience shops commonly known as "spaza" shops and hawkers. CCBSA is a franchised bottler, under The Coca-Cola Company.

2. Background

CCBSA appreciates and welcomes the invitation to make comments on the Draft Rates and Monetary Amounts and Amendment Bill tabled in Parliament by the former Minister of Finance, Mr Pravin Gordhan on 22 February 2017.

The Draft Bill represents the first indication of how National Treasury's proposed tax on sugary beverages may manifest in law. The call for comments on the Draft Bill also represents an opportunity for CCBSA to respond directly to the standing Committee on Finance, on the revised version of the tax proposal tabled with Minister Gordhan's 2017 Budget Speech in the National Assembly.

The proposed Health Promotion Levy on sugary beverages (as it is referred to by the National Treasury) has been the key focus of the engagement efforts of CCBSA with National Treasury and other stakeholders since its first mention in the 2016 Budget Speech by Minister Pravin Gordhan. Throughout this process, it has been our objective to demonstrate committed partnership through our participation in the consideration of the proposed levy as it moves through the various institutional processes to which it needs to be subjected, in order to bring it to its eventual conclusion. It is in continuation of that objective that we now offer our initial comments on the Draft Bill in question and may offer further such comments in future as they may result from further study of the Draft Bill and further iterations thereof.

3. DRAFT RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS BILL AND THE RATES AND MONETARY AMOUNTS AND AMENDMENT OF REVENUE LAWS (ADMINISTRATION) BILL

CCBSA has reviewed the Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill and the Rates and Monetary Amounts and Amendment of Revenue Laws (Administration) Bill particularly the imposition of the '*Health Promotion Levy on sugary beverages*' and wish to comment as follows:

3.1. General Position on the Revised Proposal on a Sugary Drinks Tax Tabled with the 2017 Budget

CCBSA recognises its role as a calorie contributor but is committed to the health of our consumers and the economic environment in which we operate. We welcome the willingness shown by the National Treasury in reconsidering its initial proposal for a sugary drinks tax, but our concern over the impact of the proposal in its revised form on jobs and growth remains. A tax on sugary beverages will not, as a first step or by itself achieve meaningful, sustainable results to reduce obesity and the incidence of non-communicable diseases (NCDs). CCBSA is already taking steps that are tantamount to a self-regulation as elaborated in paragraph (5) herein.

If South Africa is to make significant developments in combating obesity and NCDs, whatever measures we introduce to do so, should be preceded by a total dietary study (TDS) or research based on South Africa-specific data on the causes of obesity in South Africa. If we are to regulate, any such regulation should be preceded by a Socio Economic Impact Assessment and should be implemented through the correct legislative mechanism to allow for the necessary consultation and flexibility.

Finally, in addition to already significant efforts in this regard, we want to partner with government, labour and industry in a constructive exchange as a committed partner to address obesity comprehensively.

3.2. Procedural Matters

3.2.1. Consultation on the Proposed Sugary Drinks Tax

We have welcomed this opportunity to comment on the proposed sugar beverages tax and we look forward to further opportunities for such consultation. The CCBSA concurs with the appeals of the Chairperson of the Standing Committee on Finance, Hon Yunus Carrim MP, during the hearings held jointly by his Committee and the Portfolio Committee on Health in January and February that any proposals on the tax should be subject to thorough consultation.

It would be negligent not to reiterate our concern that the background work by Treasury informing both the first and revised proposal on a sugary drinks tax has not received the required scrutiny by key stakeholders. CCBSA commitments to joint processes for agreeing on the best data to inform further iterations of the tax proposal have not been leveraged on. Our credence is further that, much work still needs to be done for ordinary consumers, informal traders and the lowest income groups to be thoroughly consulted on the implications of the tax for them.

3.2.2. Legislative Mechanism

A tax levy may be imposed either by way of administration Bills or money bills that are introduced in Parliament under sections 75 and 76 of the Constitution, respectively. There is the second route provided in section 48 and section 58 of the Customs and Excise Act, 1964.

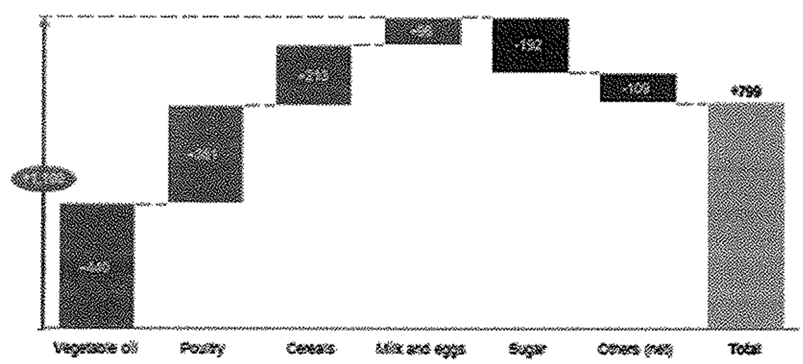
The Draft Rates and Monetary Amounts and Amendment of Revenue Laws Bill contains most of the proposed changes to the tax rates and monetary amounts proposed in the National Budget Annually. However, the proposed sugary drinks tax, is not merely a proposed change to a tax rate, but a newly proposed tax under a newly proposed Health Promotion Levy. Owing to its technical complexity, we would propose that the proposed Health Promotion Levy and the proposed sugary drinks tax be introduced in the Taxation Laws Amendment Bill (TLAB) instead. We propose this since the TLAB is more appropriate for legislative changes requiring more legal drafting and which introduces new tax administrative procedures and other technical and procedural changes to tax laws.

3.2.3. Discriminative nature of the proposed tax

There is no conclusive evidence from other markets that imposing a tax on soft drinks helps people to lose weight. Moreover, the tax is discriminatory, because it applies to a single product category, when there are many that contain Calories.

The largest contributors to the rise in energy intake are Calorie rich foods such as vegetable oils (up 440 kJ or 105 Calories per day), and cereals (up 213 kJ or 51 Calories per day).

Drivers of energy consumption change in South Africa, 1991-2011



3.2.4. Lack of Baseline Research, Impact Studies and Monitoring and Evaluation Preparations

While we are concerned that National Treasury is proposing a sugary beverage tax as a first step to and in isolation of an integrated strategy to address obesity and NCDs in South Africa, we are also concerned that there is insufficient baseline research, impact studies and monitoring and evaluation preparations in order to measure the effectiveness of any planned measure to address these health dangers. A total dietary study is absolutely necessary to clarify the key causes of obesity in South Africa and to establish a benchmark against which future improvements can be ascertained. A socio-economic impact study and regulatory impact studies of any measures proposed to address obesity, particularly if they are measures with fiscal implications, are absolutely necessary to ensure we limit any damage to the economy and to jobs, and that we do not impact the traction of other government regulations and incentive programmes perversely. We finally need to implement a monitoring and evaluation framework that will ensure we get immediate information on progress or adverse impacts as a result of any policy instruments we implement so that rollbacks and adjustments can be effected where the desired results are not achieved.

3.3. Impact on Industry and the Economy

CCBSA is of the view that the implementation of a Sugar tax will have a catastrophic impact on the economy and jobs in South Africa. This Sugar tax will have the most detrimental impact on the informal sector, as well as small and medium enterprises. The beverage industry currently employs close to 14,500 employees directly. CCBSA is the single biggest employer in NARTD beverages and employs around 7,500 people. The expected 33% volume decline as a result of the proposed Sugar tax is anticipated to reduce our business by close to one quarter, directly leading to an estimated reduction of approximately 2,000 jobs in CCBSA alone.

As the single largest employer, manufacturer and distributor of NARTD beverages, this drop in sales will furthermore affect our upstream suppliers (e.g. Bevcan, Boxmore, Mpact, Sugar growers) and downstream (e.g. spaza shops and small distribution partners in communities where we operate). Today, our beverages account for close to 15-20% of spaza shops' revenue and the anticipated 33% drop in volume, and subsequent reduction in sales will negatively affect their businesses. We anticipate close to 10,000 spaza shops will close down resulting in approximately 20,000 jobs lost. On average, spaza shops employ two people.

3.4. The impact on the merger conditions

As a result of the merger, CCBSA has agreed to the following merger conditions as set by the Competition Tribunal (not a closed list):

3.4.1. CCBSA to maintain the same employment levels as at approval date for three years and that no retrenchments of employees will occur;

3.4.2. CCBA to be headquartered in South Africa and both CCBA and CCBSA to be tax-resident in South Africa;

3.4.3. To establish a R400 million fund to develop previously disadvantaged farmers in our value chain and spend an additional R400m to develop downstream distributors and retailers and provide business skills training to 25,000 black retailers over five years.

As stated above, the implementation of the Sugar tax will have a detrimental effect on the committed merger conditions as volumes are anticipated to fall by 33% with a commensurate impact on revenues. The advisory board members have been appointed already from CCBSA and the Economic Development Department. We have started implementing some of the conditions already (access to cooler space for small and micro businesses) and setting up the Enterprise Development and Supplier Development Fund planned to be operational from March 2017, and we remain committed to delivering on our commitments. Should the proposed Sugar tax be effected, we will need to engage with the Competition Tribunal and Economic Development Department to request that the committed conditions be considered under the variations clause. The extent of the impact of the Sugar tax was unknown at the time the merger commitments were made.

3.5. Threshold and Time Frame for Reformulation

While Treasury has indicated that the 4 grams threshold was arrived as a result of stakeholder engagement, it presents a mammoth target for CCBSA to attain in a short space of time. CCBSA considered targeting an immediate 10-gram threshold, with a further lowering to a 5-gram threshold at a future date. CCBSA is committed to reducing the sugar content of its products and requests that we be given an appropriate amount of time to do so prior to introduction of the tax.

The planned reformulations for 2017 as per the Innovation Pipeline will results in 5.4% reduction in sugar used in CCBSA for the 2017. The reformulation will result in an annualised 11 Calorie per day reduction.

The 20% sugar reduction we already completed on Sparletta and Twist towards the end of 2015 – resulted in an annualised sugar usage saving of 13k tons

4. Industry Commitments and Corporate Citizenship

The beverages industry in South Africa already has numerous programmes in place to promote healthier lifestyles and better diets. The beverage industry is working with the Department of Health and the Consumer Goods Council of South Africa in a number of initiatives such as establishing a Healthy Food Options (HFO) Forum, to tackle the rise of NCDs and to achieve its goal of reducing obesity by 2020. The forum aims to promote healthy eating habits to reduce obesity.

Beverages South Africa has already made commitments to the Department of Health to implement a comprehensive action plan with measurable targets over the period 2016-2020. This plan includes:

4.1. An enforceable code on marketing communication to children that restricts advertising to children 12 years and under of food and non-alcoholic beverages that do not meet specified nutrition criteria and nutrition labelling. This co-operation is aimed at addressing health risks and food safety concerns.

4.2. As a founding member and the largest beverage producer in South Africa, we have committed, in partnership with the Department of Health through the Healthy Food Options Forum, to reduce average daily energy intake by 59-75kj (14-18 calories) per capita by end 2020 – double the reduction of calories proposed in the policy document. This we will achieve by:

4.3. Further reformulation to reduce the sugar content of our products, including core brands such as Fanta and Sprite

4.4. Increasing the share of low and no calorie drinks, including waters and diet drinks

4.5. Reducing pack sizes. The planned pack size downsizing as per the pipeline schedule will be a further 1.1% reduction in sugar usage (-3.5k Tons) for the 2017 calendar year. Please note that the CAN reductions of 440ml to 400ml & 330ml to 275ml will only happen in Q4 2018. The pack size reduction will result in a further 1 Calorie per day reduction (annualised per cap)

We will also continue to invest in health programmes to combat obesity (e.g., Big Walk programme, education and awareness programmes including contributing to the Department of Health's TV channel and accelerating the HFO actions in the next five years). We will also work with Government to find further ways to reduce obesity.

In addition to the abovementioned study, we would encourage the Department to undertake a caloric intake study, as this will provide a clear indication of the caloric content contributors and what appropriate, sustainable and high impact measures should be introduced jointly in order to address obesity in South Africa.

5. Conclusion

The implementation of a Sugar tax in South Africa needs to be carefully considered as there are likely to be unintended consequences that need to be understood before the tax is implemented. But the main reason such a tax is unlikely to succeed is evidence from multiple countries that has shown it does not reduce calorie intake. CCBSA's own efforts will have double the effect on calorie reduction compared to the reductions that the sugar tax imposition will bring about. The proposed tax is a discriminatory tax.

Sincerely,

Mr Walter Leonhardt
Financial Director
Coca Cola Beverages South Africa