Commission on Taxation & Welfare
An Coimisiún um Chánachas agus Leas

Briefing Paper

Public Health – Obesity and Alcohol

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Key Points

- Rates of obesity and overweight in Ireland continue to rise
- Obesity contributes to high incidence of chronic diseases and conditions which place significant costs on healthcare and society
- The economic costs of high obesity rates are significant running into billions of euros a year at current levels. It is expected that obesity and overweight will reduce Ireland's GDP by 3.2% over the next thirty years.
- In an effort to tackle obesity rates a number of countries have implemented fiscal measures such as sugar taxes and public health taxes.
- Using VAT as a fiscal tool to influence the food environment could lead to competition issues and added complexity in the marketplace, fiscal neutrality issues for taxpayers, and administrative difficulties for business and Revenue.
- Reducing consumption of ultra-processed foods and increasing consumption of fruit and vegetables is regarded as key to reducing Ireland's obesity rates. Fiscal measures and subsidies can help in improving public health outcomes in this regard.

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1. Introduction

This briefing paper follows the introductory discussion on public health at Meeting 5. The initial paper provided an overview of the current situation with regard to tax and welfare measures relating to public health including alcohol, tobacco, sugar sweetened drinks tax. In addition the paper also focused on the issue of obesity and the challenges this area of public health poses now and into the future both for society and the economy.

Following the discussion at meeting 5 the Commission indicated that here was a need to focus on social harm as the 'hook' for hanging any new tax on. Finally it was decided that further work by the Secretariat on the obesity element of public health terms of reference would be brought forward.

This paper considers further taxes in this area, focuses in on the issue of obesity more closely and examines matters arising from Meeting 5. The paper explores issues relating to obesity in Ireland, its social impacts, the food environment and current research. Arising from Meeting 5 the issue of VAT, alcohol taxation and food pricing are examined. International examples of fiscal measures in the area of public health in Hungary, Finland and the United Kingdom are outlined. Improving access to healthy food and measures to improve the food environment are also examined, a brief outline of the current situation with regard to food poverty in Ireland is also presented.

2. Obesity

2.1 Obesity in Ireland

Ireland, like much of the world's population, is seeing significant and increasing rates of overweight and obesity[1]. The World Health Organization (WHO) predicts that Ireland will be one of Europe's most overweight countries by 2030.[2] With one in four children and two in three adults carrying excess weight, obesity is at an unacceptably high level.[3] [4] The latest official figures for Ireland put the

[1] **Definitions of overweight and obesity:** The WHO definition of obesity is widely used for adults and often also for adolescents. It defines overweight in adults as a body mass index (BMI) equal to or greater than 25 kg m^{-2} and obesity as a BMI equal to or greater than 30 kg m^{-2}, further subdivided into class I obesity when the BMI is 30.0–34.9 kg m^2, class II with BMI 35.0–39.9 kg m^{-2} and class III obesity with a BMI of 40 kg m^{-2} and above (9). However, when it comes to childhood and adolescent overweight and obesity, the WHO definitions, based on a number of standard deviations above the respective WHO Growth Reference medians, are not as universally applied, and many definitions prevail. Hamilton, Dee and Perry (2017), The lifetime costs of overweight and obesity in childhood and adolescence: a systematic review

[2] Breda, J, et al, 2015. WHO projections in adults to 2030, Obesity Facts, European Journal of Obesity, 8, 18.

[3] Layte, R. & McCrory, C. 2011. Growing Up in Ireland. Overweight and Obesity among 9-year olds, Department of Children and Youth Affairs.

[4] Keane et al, 2014, Trends and prevalence of overweight and obesity in primary school aged children in the Republic of Ireland from 2002-2012: a systematic review. BMC Public Health. 14: 974.

proportion of the adult population with excess weight at 60%, with an obesity rate of 23%.[5] These rates have changed little in recent years, despite evidence-based policy change such as healthy eating and awareness programmes.[6] Childhood obesity rates are also concerning with 5% and 9% of girls and boys respectively in Ireland living with obesity. The lifetime risk of chronic disease from these rates is significant, as greater time spent living with obesity can infer a greater health risk. The economic costs of these rates are also significant, running into billions of euros a year at current levels, and the predicted lifetime costs for childhood obesity at these rates is higher still.

Box 1: Body Mass Index (BMI)

BMI is a standardised measure used to estimate whether or not someone is underweight, normal weight, overweight or obese. It is calculated by dividing weight (in kilograms) by height (in metres) squared. A score of over 25 is overweight, with scores of 30 or higher considered obese.

2.2 Health Equity Gradient

As also demonstrated in other jurisdictions, Ireland shows a health equity gradient where the most deprived suffer obesity at rates much greater, and much more dangerous, than the least deprived. In Ireland, this difference can be as great as 10 percent, with the most deprived having a 10% higher proportion of obesity than the least deprived, and with it, significantly higher risk of morbidity and mortality due to excess weight. Those living in deprived areas are more likely than those living in affluent areas to be overweight or obese (65 percent and 55 percent respectively). Among those aged under 35, 50 percent of those living in deprived areas are overweight or obese, compared to 37 percent of those living in affluent areas.[7] Not only do population proportions differ between the least and most deprived, but so do health-related behaviours, with the most deprived having been shown to engage in less weight loss behaviour. The weight difference is displayed in children also with data showing that in disadvantaged schools, the prevalence of overweight and obesity in children was 32.8 percent, compared to 17.7 percent in non-disadvantaged schools. Similar childhood obesity trends have been shown across the United Kingdom.

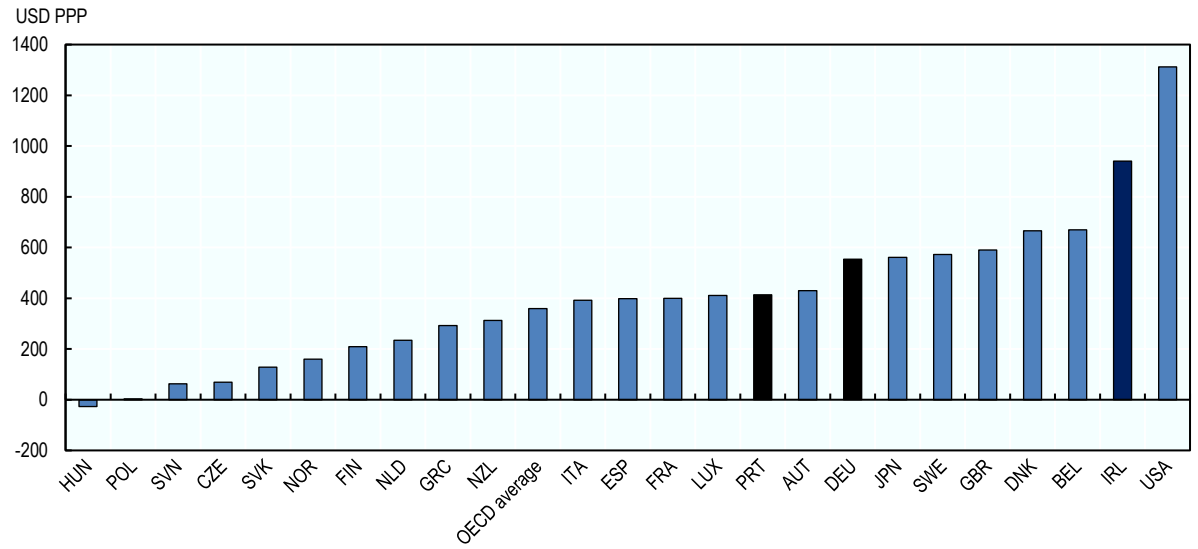
[5] Department of Health (2019), Healthy Ireland: Summary Report 2019
[6] Safefood: Whole systems approach to childhood obesity: A review of the evidence.
[7] Department of Health (2019), Healthy Ireland: Summary Report 2019

2.3 Cost of Obesity in Ireland

The estimated lifetime costs of obesity in the Republic of Ireland is €4.6 billion which amounts to €16,036 per person which demonstrates the economic as well as the Public Health rationale for tackling this issue.[8]

At the macroeconomic level, overweight reduces Ireland's GDP by 3.2% over the next thirty years according to the OECD.[9] The OECD also notes that overweight has a significant impact on fiscal pressure (where tax increase per capita will be needed to cover the cost of obesity) in particular countries including Ireland along with Belgium, Denmark and the USA as illustrated in Figure 1 below.[10]

Figure 1: Equivalent per capita annual tax needed to cover the increased fiscal pressure due to overweight, in US$ purchasing power parity, average 2020-2050

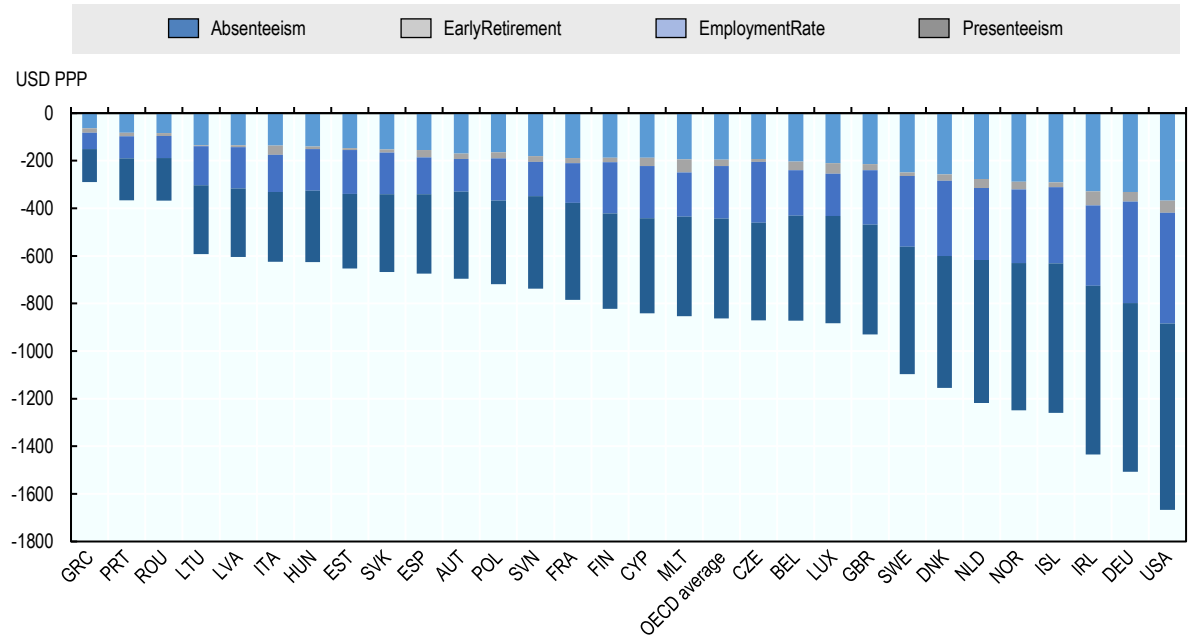


Source: OECD analyses based on the OECD SPHeP-NCDs model & OECD long-term economic model, 2019.

Obesity reduces the employment rate, and increases early retirement, absenteeism and productivity. By measuring absenteeism, early retirement, employment rate and presenteeism, Figure 2 below shows how the labour market in Ireland will be amongst the most impacted countries in terms of overweight and obesity in the OECD comparable to Germany and the USA in the coming decades. (Presenteeism refers to employees who are present at work but less productive.)

[8] Safefood: What are the estimated costs of childhood overweight and obesity on the island of Ireland
[9] OECD Statlink
[10] OECD (2019), The Heavy Burden of Obesity: The Economics of Prevention, OECD Health Policy Studies, OECD Publishing, Paris, https://doi.org/10.1787/67450d67-en

Figure 2: Economic impact of overweight on per capita labour market output based on average wages, per year, in US$ Purchasing Power Parity, average 2020-2050



Source: OECD, The Heavy Burden of Obesity

The determinants of overweight and obesity are multiple and include the environment, access to healthy and affordable food, physical activity, exercise and leisure activity, cultural and societal norms, education and skill levels, genetic makeup and lifestyle choices.[11] This complex mix of factors means that solutions to the problem of overweight and obesity are not simple, however it is generally recognised that the food environment forms an integral part of addressing the issue.[12] This paper focuses on the food environment and its impact of obesity and the possible fiscal measures that may be considered. The 'food environment' is the wide range of interconnected factors such as food production, processing, marketing, and distribution that characterise our food system and largely determine our dietary intakes.[13] Unhealthy food environments encourage the consumption of unhealthy foods (i.e. ultra-processed, energy-dense, nutrient poor products) which are intensely promoted and easily accessible.[14]

2.4 Obesity and Overweight Stigma

While examining the issue of obesity it is important to be cognisant that people living with obesity are a highly stigmatised and vulnerable group, and 'calls to action' can potentially increase stigmatisation.

[11] Department of Health: A Healthy Weight for Ireland: Obesity Policy and Action Plan 2016 - 2025
[12] Institute of Public Health (2013), Proposed Sugar Sweetened Drinks Tax: Health Impact Assessment Full Report
[13] Policy Evaluation Network, (2020), Irish Healthy Food Environment Policy Index
[14] Harrington et al, (2020), Policies for tackling obesity and creating healthier food environments in Ireland: Food-EPI

Weight stigma can lead to the development of other health challenges such as psychological issues, eating disorders and behaviours that potentially make obesity worse. Public health initiatives aimed at tackling obesity can have unintended negative consequences such as driving mental health concerns about body image and beliefs about food and weight. Obesity is a clinical term with health implications and not related to how a person looks.[15] The causes of obesity as noted above are multifactorial and while this paper examines the food environment and the potential role for fiscal measures, the wider drivers of obesity such as genetics, environment and socioeconomic status need to be taken into account.[16]

2.5 Need for Action on Obesity

Public health experts focusing on obesity in Ireland believe there is a critical and urgent need for cross governmental and cross sectoral policies and initiatives which will address the effects of an unhealthy environment through meaningful legislative change and societal factors. Common population level primary prevention strategies include taxation of unhealthy food and drinks, limiting food and beverage advertising, affordable physical activity options, and addressing the social determinants of health, the important role of such initiatives should be emphasised.[17]

The findings of research and expert bodies tracking obesity in Ireland and its economic cost continue to highlight the need for significant investment in research to examine the influence of fiscal and other policies on consumer purchasing and their impact on overweight and obesity, including, for example, risk-benefits assessment of taxation that supports healthy eating and active living and subsidies for healthy food such as fruit and vegetables.[18]

The Irish Healthy Food Environment Policy Index 2020 which benchmarked the Irish Government's level of support for improving the healthiness of the food environment against international best practice found that Ireland performs well in areas such as monitoring overweight and obesity prevalence and public access to nutritional information. However the report found that Ireland falls behind international best practice for implementing some of the policies such as promotion of unhealthy foods to children, underutilising of fiscal policies to support healthy food choices and food composition targets.[19]

[15] HSE (2021), Model of Care for the Management of Overweight and Obesity
[16] HSE (2021), Model of Care for the Management of Overweight and Obesity
[17] HSE (2021), Model of Care for the Management of Overweight and Obesity
[18] Safefood (2012), The cost of overweight and obesity on the Island of Ireland
[19] Harrington et al, (2020), Policies for tackling obesity and creating healthier food environments in Ireland: Food-EPI

3. VAT and Food

At meeting 5 Commission members queried the potential use of VAT to move certain categories and types of food out of their existing zero rating to a reduced or standard rate of VAT in order to influence purchase behaviours. Following that meeting the secretariat has undertaken some additional research on this matter engaging with colleagues in Revenue, Department of Finance and the Department of Health.

3.1 VAT

VAT rating is subject to the EU VAT Directive with which Irish VAT law must comply. The basic rule or default position is that VAT is charged in relation to the supply of taxable goods or services at the standard rate of (currently) 23%. The VAT Directive provides that Member States must apply a standard VAT rate of at least 15% and have the option of applying up to two reduced VAT rates of over 5%. Ireland currently operates a standard VAT rate of 23% (the average EU rate is 21.5%) and two reduced rates:

- The reduced rate (13.5%) and
- The second reduced rate (9%).

These two reduced rates can apply to a limited range of goods and services provided for under Annex III of the EU VAT Directive.

At a meeting of the Economic and Financial Affairs Council (ECOFIN) on 7 December, EU Finance Ministers reached an agreement to update the current rules governing VAT rates for goods and services. The new legislation is intended to provide governments with more flexibility in the rates they can apply and ensure more equality between EU Member States. The updated rules will also bring VAT rules into line with EU priorities, such as, the fight against climate change, digitalisation, and public health protection. It is expected that Ireland will be able to maintain its range of derogations and exemptions for specific goods and services, including food, under the new directive.

3.2 VAT Zero rate

Ireland maintains a derogation from EU law that allows it to apply a zero rate to certain supplies. The social policy objectives were not to impose VAT on everyday items of food. This derogation from the EU legislation is provided for under Article 110 of the EU VAT Directive and it only applies to goods or services that were zero rated in Irish law before 1 January 1991 among other conditions.

Article 110 of the VAT Directive[20], permits, for “clearly defined social reasons and for the benefit of the final consumer”, Member States to retain provisions “granting exemptions with deductibility of the VAT paid at the preceding stage”, as well as reduced rates lower than the accepted lower limit therefor under Article 99 of 5%, provided they were in their domestic legislation on 1 January 1991. Thus, the EU law conditions that must be met are that zero-rating be provided for "clearly defined social reasons" that "benefit the final consumer". The social policy objectives were not to impose VAT on everyday items of food.

Crucially, Member States are not permitted under that provision to introduce new derogations or extend the scope of the derogations existing as at 1 January 1991, otherwise they risk losing their entitlement to the zero-rating provision in their domestic VAT law. Also it is important to note that where a product or products are removed from the zero VAT rate and become liable to VAT at either reduced or standard rate, those products cannot be returned to a zero rate of VAT as there is no provision in the Directive to allow this. They shall remain at either the reduced or standard rate of VAT. A new VAT directive currently in development may change this situation and further details will be provided to the Commission when available.[21]

3.3 Zero Rate and Food

Paragraph 8(1) of the Second Schedule, VATCA 2010 provides for the zero rate of VAT to supplies of food and drink of a kind for human consumption.

The zero rate applies to the supply of most foodstuffs, such as most breads, butter, cheese, cereals, condiments, flour, fruit, herbs, meat, milk, pasta, pastes, sauces, soup, spices, sugar, and vegetables (fresh or frozen).

The supply of cold takeaway food is liable to VAT at the zero rate. Chilled, cold or frozen cooked meals are liable to VAT at the zero rate. Cold sandwiches include cold bread, bagels, baguettes, paninis and wraps.

Paragraph 8 contains a definition of bread that was updated by Finance Act 2012 to ensure that certain products that are commonly accepted as being bread are not excluded from the application of the zero rate. The changes were predominantly guided by a desire to ensure that breads made from non-cereal flours, for example, gluten free breads, qualify for the zero rate. Therefore, this was not an extension to the Zero rate rather a clarification to ensure it was applied appropriately. Breads subject

[20] Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax, as amended

[21] Commission welcomes ECOFIN agreement on new rules governing VAT rates in the EU

to the zero rate include loaves, rolls, batch bread, certain bagels, baps, blaa bread, burger buns, finger rolls, wraps, naan bread and pitta bread.

3.3.1 Food and Drink Excluded from the Zero Rate and liable at the Standard Rate of VAT

- Alcohol, bottled drinking water, soft drinks, juice extracted from, and other drinkable products derived from fruit or vegetables.
- Ice cream, frozen desserts, frozen yogurts and similar frozen products, and prepared mixes and powders for making any such products or similar products.
- Savoury products made from cereal or grain, pork scratchings, and similar products such as vegetable crisps, and prawn crackers. This includes savoury biscuits.
- Potato crisps/sticks/puffs and similar products made from potato, potato flour or potato starch.
- Popcorn, salted or roasted nuts.
- Biscuits and wafers wholly or partly covered or decorated with chocolate or similar product.
- All kinds of chocolates, sweets and similar confectionery. This includes products marketed as healthy confectionery.

3.4 Second Reduced VAT rate (transposed from Annex III of the Directive)

Paragraph 3(3) of the Third Schedule VATCA 2010 provides for the second reduced rate to the supply of heated or ambient food and drink.

Therefore, the supply of hot takeaway food is liable to VAT at the second reduced rate. This includes food heated, retained heated or supplied while still warm.

3.5 Reduced VAT rate (transposed from Annex III of the Directive)

Paragraph (3)(5) of the Third Schedule provides for the reduced rate of VAT to apply to the supply of flour or egg-based bakery products.

This includes cakes, crackers and certain biscuits and wafers, but excluding items in this category that are subject to the zero or standard rate of VAT.

3.6 VAT in the context of healthy and unhealthy food

It is open to Member States to determine what types of foodstuffs the standard or reduced rate of VAT could apply to, following the introduction of legislation. Ireland has two current reduced rates of VAT, 13.5% and 9% and it is permissible to apply one of the current reduced rates to certain food products. It is also open for Member States to reduce one of these reduced rates to a minimum of 5% should that be desirable. Products that have *clearly different characteristics and meet different needs of the consumer* can be rated differently and an example of that is in the current legislation covering food products.

To note that the Court of Justice of the European Union (CJEU) has recently ruled that the application of the reduced rate, under Article 98 and Annex III, can be selective and restricted to "concrete and specific aspects" of a category in the Annex as long as it does not infringe on the principle of fiscal neutrality. As such, similar products cannot be rated differently e.g. a 'normal burger' versus a 'healthy burger' therefore, it appears that if a particular rate is applied whether it is standard or reduced it must be applied to all 'burger' products (see Appendix 1 for VAT Example).

The introduction of two rates of VAT for similar food products would create both legal and administrative difficulties as the composition of the products are generally the same or similar. This would lead to the opportunity for tax planning, the development of competition issues in the marketplace, fiscal neutrality issues for taxpayers, added complexity in the marketplace for suppliers, importers, wholesalers and retailers and administrative difficulties for business and Revenue.

Trying to distinguish a zero-rated healthy food product from a similar zero-rated food product (unhealthy) would be extremely difficult and probably impossible to legislate for two different VAT rates applying to two very similar products. Taxation legislation must be clear and effective and would face the difficulty of distinguishing between two products so that two different rates of VAT can apply. The task of examining the ingredients of several thousand products would have to be undertaken. The likely outcome involves a lot of litigation with taxpayers, resource intensive work on the administration of the tax and disagreements over the ingredients of products and what can act as a substitute.

4. Policy Options for Tackling Obesity to improve the Food Environment

As an alternative to using VAT ratings for food in the context of obesity other policy options can be investigated. It is worthwhile examining what other countries particularly in Europe have implemented or are considering in this area.

4.1 A Balanced Healthy Diet

A healthy diet is of critical importance in maintaining a healthy body weight and minimising the risk of chronic disease including cardiovascular disease, diabetes and common cancers. The fundamental components of a healthy diet are well defined - a diet rich in wholegrains, vegetables and fruit and low in saturated fat, trans fat, sugar and salt. The findings from national nutrition surveys indicate that the majority of the Irish population are not currently meeting these dietary guidelines.

While the exact composition of a diversified, balanced and healthy diet will vary depending on individual characteristics, including age, gender, lifestyle and degree of physical activity, the basic principles of what constitutes a healthy diet are now well defined. Current nutritional targets for the Irish population are summarised in Table 1.

Table 1: Current dietary guidelines Ireland

Current Nutritional Targets for the Irish Population aged 5 years and over	
Salt	Less than 6g a day of salt (preferably closer to 5g, WHO)
Sugar	Less than 10% of daily energy from added sugars progressively reducing to 5% (WHO)
Trans Fatty Acids	Less than 1% of daily energy from trans fatty acids
Saturated Fatty Acids	Less than 10% of daily energy from saturated fatty acids
Fruit & Vegetables	More than 400g fruits and vegetables a day

Source: Department of Health, A Roadmap for Food Product Reformulation in Ireland

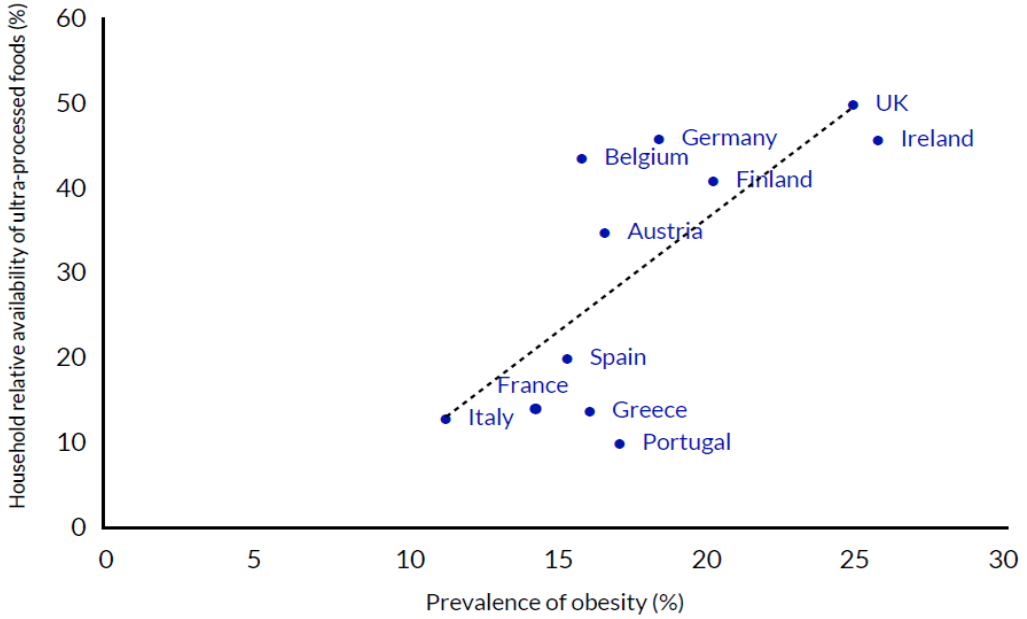
4.2 Obesity and Ultra-Processed Foods

The *Global Nutrition Report 2020* shows that Irish adults consume only 39% of the recommended target for fruit and vegetables and only 15% of wholegrains and 22% of legumes. In contrast Irish adults consume 402% of recommended dairy and 291% red meat.[22] A study in the *Journal of Public Health Nutrition* 2018 shows that Irish shopping baskets contain 46 per cent ultra-processed foods, making Ireland the third highest consumer after the UK (51 per cent) and Germany (46 per cent).[23] This research and other studies have shown, where countries have a high availability of ultra-processed foods there are corresponding high rates of obesity as seen in Figure 3 below.

[22] Global Nutrition Report 2020 - Ireland

[23] Monteiro, C., Moubarac, J., Levy, R., Canella, D., Louzada, M., & Cannon, G. (2018). Household availability of ultra-processed foods and obesity in nineteen European countries. Public Health Nutrition, 21(1), 18-26.

Figure 3: Regression of prevalence of obesity among adults v. household availability of ultra-processed foods in selected Western European countries



Source: Public Health Nutrition: 21(1), 18–26, updated with Eurostat Overweight and obesity - BMI statistics 2019

Ultra-processed foods are formulations industrially manufactured mostly or entirely from substances which have already been processed, sugar, salt, oils and fats, starches.[24] The ingredients of ultra-processed foods are not used in kitchens, such as hydrogenated fat, high-fructose corn syrup, emulsifiers, preservatives, and flavours, colours and other additives used to make the product more appealing.[25] The most commonly consumed ultra-processed foods in Ireland are packaged breads, confectionery, cakes, cookies and other baked products, reconstituted meat products and sugar-sweetened beverages. In a European context Ireland has the highest prevalence of sweet and savoury snack consumption and the second highest confectionery consumption among twenty four EU countries and the UK in 2016 (see Figures 4 and 5).[26]

Dietary intake of ultra-processed foods has been found to be a key driver of increasing incidence of overweight and obesity and associated chronic diseases.[27] Limiting consumption of ultra-processed

[24] NOVA Food Group 4: Ultra-processed foods include sweet, fatty or salty packaged snack products; ice cream, chocolate, sweets; mass-produced packaged breads, cookies, pastries, cakes; breakfast cereals; 'energy' bars; preserves; margarines; carbonated drinks, 'energy' drinks; milk drinks, including 'fruit' yoghurts; cocoa drinks; infant formulas, follow-on milks, other baby products; 'health' and 'slimming' products such as powdered or 'fortified' meal and dish substitutes; and many ready-to-heat products including pre-prepared pies and pizza dishes, burgers, hot dogs, poultry and fish 'nuggets', and other reconstituted meat products, and powdered and packaged soups, noodles and industrial desserts.

[25] Monteiro, C., Moubarac, J., Levy, R., Canella, D., Louzada, M., & Cannon, G. (2018). Household availability of ultra-processed foods and obesity in nineteen European countries. Public Health Nutrition, 21(1), 18-26.

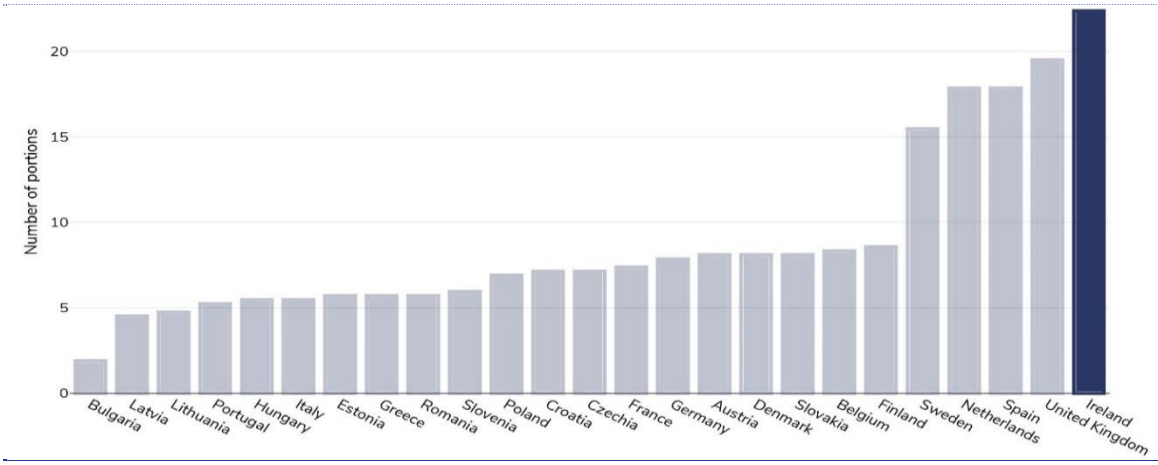
[26] Global Obesity Observatory 2016

[27] ibid

food may be an effective strategy for obesity prevention and treatment.[28] There is growing evidence that ultra-processed food can be highly addictive with some studies showing that high levels of refined carbohydrates in the body activates rewards systems in the brain in similar ways to other addictive substances such as tobacco and cocaine.[29]

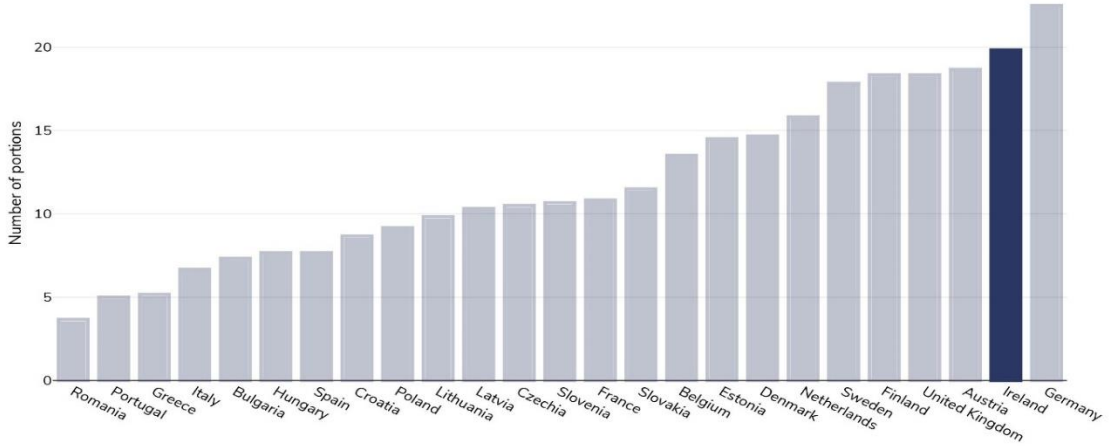
Another growing problem in food consumption patterns is the "health halo effect" whereby consumers overestimate the healthfulness of an item based on a single claim, such as being "low in calories" or "low in fat" resulting in the overconsumption of certain foods. This halo effect gives people license to eat more than they would otherwise consume.[30]

Figure 4: Prevalence of sweet/savoury snack consumption 2016 (Number of 35g sweet/savoury snack portions/person/month)



Source: Euromonitor International/Global Obesity Observatory

Figure 5: Prevalence of confectionery consumption (Number of 50g confectionery portions/person/month)



Source: Euromonitor International/Global Obesity Observatory

[28] Hall et al., 2019, *Ultra-Processed Diets Cause Excess Calorie Intake and Weight Gain*, Cell Metabolism 30.
[29] Gearhardt, A, (2021) Foods high in added fats and refined carbs are like cigarettes – addictive and unhealthy, The Conversation US & University of Michigan
[30] Peloza and Montford (2015) The health halo: how good PR is misleading shoppers

As noted by the 2017 Global Burden of Disease study, poor diet is now the single most important contributor to premature death and chronic disease in Ireland.[31]

This burden of diet related disease has provided the main impetus for a number of public policy initiatives. Ireland's national *Obesity Policy and Action Plan* launched initially in 2016 includes a strategy for reformulation of food products. Reformulation is defined as changing the nutrient content of a processed food product to either reduce the content of negative nutrients such as sodium, saturated fat, trans fat or energy (kilojoules) or to increase the content of beneficial nutrients such as dietary fibre, wholegrains, fruit, vegetables and unsaturated fats. The definition does not include the addition of vitamins, minerals or nutrients through fortification processes.[32] Regulatory bodies such as the FSAI support reformulation.[33]

The Action Plan has already seen the introduction of the Sugar-Sweetened Drinks Tax which has driven the reformulation of many sugar-sweetened beverages. In December 2021 arising from the Obesity Policy and Action Plan Progress Report the Minister for Health launched *A Roadmap for Food Product Reformulation in Ireland*. As the roadmap outlines, it is now understood that food reformulation is a critical element in achieving population nutrient goals consistent with the prevention of obesity and chronic disease and the promotion of health and wellbeing.[34] The roadmap further notes that there is "a clear and urgent need to achieve further substantial reductions in the salt, sugar, saturated fat content, calorie density and/or single serving portion size across a wide range of major food and drink products in Ireland."[35]

The roadmap outlines that to improve the food choice environment for Irish citizens, voluntary agreements with the food industry should be used as a first step to reduce sugar, salt and other ingredients deemed harmful to public health. However the roadmap does note that the option of statutory or **fiscal** approaches to reformulation need to be retained, given the personal, economic and broader societal costs of obesity and nutrition-related chronic disease. Depending on the progress, the voluntary framework may need to be supplemented with additional **fiscal** and/or mandatory reformulation measures (with robust and transparent monitoring), this option should remain under review.[36] A dedicated Reformulation Task Force, situated within the FSAI, has been established to

[31] GBD 2017 Diet Collaborators. Health effects of dietary risks in 195 countries, 1990–2017: a systematic analysis for the Global Burden of Disease Study 2017. Lancet 2019; 393: 1958–72.
[32] Department of Health (2021) A Roadmap for Food Product Reformulation in Ireland
[33] FSAI (2019) Healthy eating, food safety and food legislation, A guide supporting the Healthy Ireland Food Pyramid
[34] Department of Health (2021) A Roadmap for Food Product Reformulation in Ireland
[35] Ibid
[36] Ibid, 19.

implement and drive the actions in the Roadmap covering the period to the end of 2025. The taskforce has been set a number of deliverables including setting out a programme of reformulation work activities and timings within the timescale of the *Obesity Policy and Action Plan* to 2025, to include the reduction of salt, sugar and saturated fats.

Voluntary and industry led reformulation is not without its critics. Academics from Trinity College Dublin and NUI Galway have pointed out that voluntary and industry led reformulation strategies targeting unhealthy food products can have the effect of delaying more substantive strategies to get rid of the most harmful products altogether. Research by these academics contends that these strategies can often be public relations exercises framed by industry as public health measures. The dominance and legitimacy of the ultra-processed food category is not challenged.[37] It is inadvertently legitimated as attention is focused on changing the formulas of energy-dense, nutrient-poor foods instead of working out ways to replace them altogether. Despite efforts to rehabilitate this food category, there is no such thing as healthy ultra-processed food products.[38] Voluntary and industry led reformulation endorsed by government implicitly sanctions the pace, targets and substitutions of ultra-processed foods.[39] Voluntary reformulation strategies are employed by industry as a tool to divert policy away from mandatory measures including taxation. The effectiveness of mandatory measures in particular tax is downplayed despite evidence to the contrary.[40] Using current rates of voluntary reformulation for sugar reduction in Ireland the academics assert that it will take about 300 years to reach the recommended intake of 25g for Irish children who are currently eating 101g of added sugar per day.[41]

It should be noted that included in the *Obesity Policy and Action Plan to 2025* is a specific action to develop proposals on the rollout of evidence-based fiscal measures to support healthy eating and lifestyles with lead partners the Department of Health and the Department of Finance. This action has not been progressed to date.

4.3 International Public Health Taxes

Health related taxes have been recommended by the World Health Organization and a recent task force on fiscal policies for health to reduce purchases of sugar sweetened beverages.

[37] Campbell N and Finucane F, (2019) The food system needs a revolution
[38] Campbell N and Finucane F, (2019) The food system needs a revolution
[39] Campbell et al (2019) Reformulating Reformulation: A Technical Appraisal and Policy Context for the 2019 FDI report on the Impact of Ultra-Processed Food Reformulation in Ireland, TRiSS-WPS-05-2019
[40] Ibid, 6.
[41] ibid

Early adopters of such a taxation strategy include Mexico (2014), Hungary (2012), and Finland (2011) These countries introduced taxes not only on sugar sweetened beverages but also on other unhealthy foods, including high sugar snacks. In Mexico, for example, all "non-essential foods" with 275 or more kcal/100 g are taxed at 8%, including biscuits and cereal bars. In Hungary, prepacked high sugar sweets with more than 25g of sugar are taxed at €0.40 per kilogram. Finland had a tax on sweets and ice cream (about 75p per kilogram) between 2011 and 2017. Existing evaluations suggest that the tax in Hungary, which also applied to products high in salt, reduced purchases of the taxed foods by 3.4%. In Mexico the tax on non-essential foods was estimated to have reduced purchases by 5-6%, with greater effects (reduction by 12.3%) among those with higher baseline purchases of taxed foods.

While the Hungarian tax is still in operation the Finnish tax has been amended to just sugar sweetened beverages owing to issues with EU rules. It is worth noting the EU State Aid rules in this context.

4.3.1 EU State Aid Rules on Sugar and Food Taxes

Member States are in principle free to design their taxation system. Nonetheless, Member States must exercise this competence in accordance with Union law, including state aid rules.

As regards special-purpose taxes, such as environmental and health taxes imposed to discourage certain activities or products that have an adverse effect on the environment or human health, the Commission Notice on the notion of state aid explains that such measures do not fall under state aid rules if Member States ensure that all activities or products, whose situation is the same in light of the intrinsic objective pursued by the tax, are subject to the tax on equal grounds.

If the effect of the tax is to apply different tax treatment in such a way that it favours certain undertakings or the production of certain goods over others which are in a comparable legal and factual situation in the light of the intrinsic objective pursued by the tax, the measure is prima facie selective and constitutes state aid (if all the other conditions of existence of state aid are fulfilled), unless the Member State can show that this differentiation is actually justified by the nature and general scheme of the system in question.

4.3.2 Economic rationale for food taxes

The economic rationale for taxing certain food is that consumption of unhealthy products creates an "external cost" to society that is not factored into the costs borne by producers or consumers at point of sale. Foods high in sugar, salt and saturated fats can be cheap to produce and purchase, but are associated with increased risk of overweight and obesity and related diseases such as type 2 diabetes, cardiovascular disease and some cancers. The increased illness and disability associated with excessive consumption of such products is likely to result in increased health and social care costs to

governments and the taxpayer and lost productivity. This is an example of market failure, which may justify government intervention to increase the price of a product through taxation and reduce demand.

Individuals do not bear the full costs of their over-consumption of unhealthy foods. An individual consumer does not face the full cost or the consequences of excess consumption of unhealthy foods and drinks that contribute to obesity. There is a 'cost transfer' from obese people to non-obese taxpayers, for two reasons:

1. Most healthcare costs are covered by government;
2. The government provides a social safety net for people who may become under-employed, unemployed or disabled because of obesity.

Some people eat more unhealthy food than they would if the costs of obesity were incorporated into the price of food. This suggests foods with excessive calories and poor nutritional value are under-priced. This results in higher health and welfare costs than otherwise and a cost transfer from obese people to non-obese taxpayers (see also Figure 1 above).[42]

Levying a tax on a good or service that imposes third-party costs is a well-recognised approach to dealing with this type of market failure. Tax on a market transaction that creates a negative externality, or an additional cost, borne by individuals not directly involved in the transaction is known as Pigouvian tax, named after British economist Arthur C. Pigou. In principle, a tax on a product that creates third-party costs not borne by the consumer or the producer should increase the price so that consumption falls to a socially optimal level. By implementing a Pigouvian tax, the government places responsibility on producers and consumers to pay for the negative consequences of their production and consumption.

4.4 Hungary Public Health Tax

In 2011, the Hungarian Parliament passed legislation creating the public health product tax—a tax levied on food products containing unhealthy levels of sugar, salt and other ingredients such as caffeine, in an effort to reduce their consumption, promote healthy eating and create an additional mechanism for financing public health services. In the decade since the tax was introduced, consumption of taxable unhealthy foods in Hungary has decreased. Many food manufacturers have reduced or eliminated unhealthy ingredients in their products, population awareness of healthy eating has increased and revenues raised have been allocated to health services.

[42] Duckett S and H Swerissen H, (2016) A sugary drinks tax: recovering the community costs of obesity, Grattan Institute

Before introducing the public health product tax, laboratory analyses of food product content were collected to identify unhealthy foods and to quantify the levels of salt, sugar and other unhealthy ingredients that they contained. This information was combined with data on consumption of high-salt and high-sugar food products to serve as a reference in preparing the tax legislation. Classification was based on customs tariff headings of EU Commission Regulations (No 861/2010).

The information also served as baseline data to be used later in monitoring and evaluating changes in consumption patterns and product formulations. The administrative burden of the tax on manufacturers and sellers was assessed and determined to be minimal. Subsequent to its introduction, the tax was amended five times to close loopholes in the legislation and ensure its effectiveness.

The public health product tax is collected at points of sale from consumers who purchase a taxable food product and also from sellers when selling a taxable food product in Hungary for the first time. The tax is per unit of product sold, measured in kilograms or litres.

Although exceptions exist and the tax in some cases depends on the quantity of the unhealthy ingredient rather than on its presence alone, the tax applies to:

- pre-packaged sweetened products such as sweets, biscuits, confectionery products, bakery products and cocoa-containing products;
- soft drinks with added sugar;
- fruit jams and similar sweetened preserves;
- flavoured beer with added sugar;
- “alcopops” (alcoholic soda beverage);
- alcoholic beverages;
- energy drinks; and
- Excessively salty snacks.

4.4.1 Impact

The first impact assessment, conducted by the Hungarian National Institute for Health Development in 2012, showed that after instating the tax, approximately 40% of unhealthy food product manufacturers changed their product formulas to either reduce or eliminate unhealthy ingredients (28% and 12%, respectively). Manufacturer sales of taxable products fell by an average of 27% and prices for taxable products rose by an average of 29%. A second impact assessment, conducted by the National Institute for Food and Nutrition Science in 2014, showed that consumers of unhealthy food

products responded to the tax by choosing a cheaper, often healthier products.[43] The top 35 companies that pay the PHPT accounted for 83 % of the revenue.[44]

A 2021 study of the Hungarian health tax concluded that countries contemplating the introduction of unhealthy food and drinks taxes have to calculate with the negative impacts of the tax on producers in particular small business producers.[45]

4.5 Finland Confectionary Tax

In 2011 Finland introduced a confectionary tax which applied to sweets, chocolate, ice-cream and soft drinks. The tax was charged at a rate of 95 cent per kilo and raised in the region of €100 million for the Finnish exchequer annually. However the tax fell afoul of EU State Aid rules and had to be amended and now only applies to soft drinks. The Finnish government decided to cancel the sweets tax after the food industry made complaints to the European Commission of unequal taxation on sweets. The tax favoured domestic products because imported sweets were also subject to customs duty.

4.6 United Kingdom Sugar and Salt Reformulation Tax

4.6.1 National Food Strategy Proposal for a Sugar and Salt Reformulation Tax

The UK *National Food Strategy* 2021 recently recommended amongst a range of measures, the introduction of a Sugar and Salt Reformulation Tax. This tax would be charged at as a £3 (€3.57) per kg tax on sugar and a £6 (€7.15) per kg tax on salt sold for use in processed foods or in restaurants and catering businesses. This tax would supersede the UK's tax on sugar sweetened beverages.

The strategy proposes that this tax would encourage manufacturers to reformulate their products to use less sugar and salt, in order to keep costs down. In some cases – where products cannot be reformulated, and therefore remain extremely high in sugar and salt – the increased cost might be passed on to the consumer. The strategy suggests that this would make such products less appealing.

The Sugar and Salt Reformulation Tax would apply to all sugar and other ingredients used for sweetening (such as syrups and fruit extracts, but not raw fruit) at a rate of £3 (€3.57)per kg. This is

[43] WHO, Public Health Product Tax In Hungary: An example of successful intersectoral action using a fiscal tool to promote healthier food choices and raise revenues for public health
[44] State Secretariat for Health Hungary & National Institute of Pharmacy and Nutrition, The Hungarian Public Health Product Tax
[45] Bíró, Anik (2021) The impact of sweet food tax on producers and household spending—Evidence from Hungary, Agricultural Economics, 54,4

approximately the same rate as the current UK Soft Drinks Industry Levy (SDIL), which the sugar and salt tax would replace.

In terms of salt content the tax would apply at a rate of £6 (€7.15) per kg to all salt sold for use in food manufacturing. As salt is used in much smaller quantities than sugar, the rate needs to be higher in order to achieve an impact.

There would be some exceptions to the application of the tax for example neither tax would apply to ingredients used in home cooking. The strategy proposes that this exemption could be managed either by taxing sales to manufacturers and food service businesses, or by taxing all sales of sugar and salt when they leave the factory and then allowing supermarkets to claim a rebate for sales to consumers. It is noted that small businesses could theoretically abuse this exemption.

In order to stop food manufacturers relocating overseas to avoid these taxes, imports of processed food should also be taxed according to sugar and salt content when they enter the UK. Importers should be required to register for the tax, report the amount of added sugar or salt contained in their product, and pay the tax on that sugar or salt at the same rate as charged domestically.

The strategy proposes that there should be a three year period before implementation to facilitate adaptation.

4.6.2 Public Health Rationale

The UK *National Food Strategy* asserts that health information programmes, especially the ones which required individuals to change their behaviour, have not worked well because they assume that people take balanced, rational decisions about what they eat, and have the motivation, means and ability to act.

In recent years the UK has set voluntary salt and sugar reduction targets for manufacturers however these target have produced limited results. Mandatory interventions have been more successful. For example, in the UK data on the impact of the Sugar Drink Industry Levy for retailers and manufacturer branded products, there was a 43.7 percent reduction in the total sugar content per 100ml between 2015 and 2019 for the drinks subject to the levy. While overall sales (in litres) of drinks subject to the levy have increased by 14.9 percent, but the total sugar sales from the soft drinks decreased by 35.4 percent.[46] In contrast products subject to voluntary reformulation guidelines such as chocolate and ice cream only reduced sugar content by 3 percent and 1.5 percent respectively, well short of the Public Health England target of 20 percent reduction.[47]

[46] Public Health England (2020) Sugar Reduction Report on progress between 2015 and 2019
[47] Ibid, 7

The proposed tax is mandatory for all companies, and places fewer demands on consumers than previous policies. It targets a wide range of processed and prepared foods, which are the principal source of sugar and salt in British people's diets. 85% of the sugar sold in the UK is for use in manufacturing and 75% of the salt consumed by British people comes from processed foods.

A tax on the amount of sugar and salt used in these foods is expected to create a significant incentive for companies to reformulate their products so as to avoid having to put the price up, which would be damaging to their business in the UK's highly competitive and price-sensitive food market

There is significant evidence that industry responds to taxes on unhealthy foods by reformulating. For example the Public Health Product Tax in Hungary encouraged 40% of manufacturers of unhealthy foods to reformulate their products.

The strategy also presents evidence which suggests that food taxes do not lead to economic damage or job losses. The UK SDIL had no lasting negative impacts on the UK soft drinks industry with turnover remaining constant and share prices continued to grow. A recent study of the food and soft drink tax in Mexico found that it had no impact on employment either in the manufacturing industry or in retail.

4.6.3 Costs

The proposed UK tax would have two main effects: incentivising businesses to reformulate their products and driving up the cost of those products which are not reformulated. Costs would therefore be incurred by two main groups: businesses and consumers.

Businesses would incur costs in administering the tax and reformulating their products. Given the scope of the taxes, however, calculating an average cost of reformulation is next to impossible. Some larger manufacturers may achieve economies of scale. Some products are easier to reformulate than others. Sugar reduction is easier in liquid and semiliquid products such as yoghurt than in biscuits or confectionery, while salt reduction is likely to be more challenging in products such as cured meats and cheeses, where it is used as a preservative as well as for flavour. Nonetheless, there is considerable room for improvement in this area. The tax is expected to incentivise further innovation and reformulation, such as the suggested use of potassium chloride – which is less harmful to health than conventional salt.

5. Improving access to healthy food and mitigating the socio-economic impact of food taxes

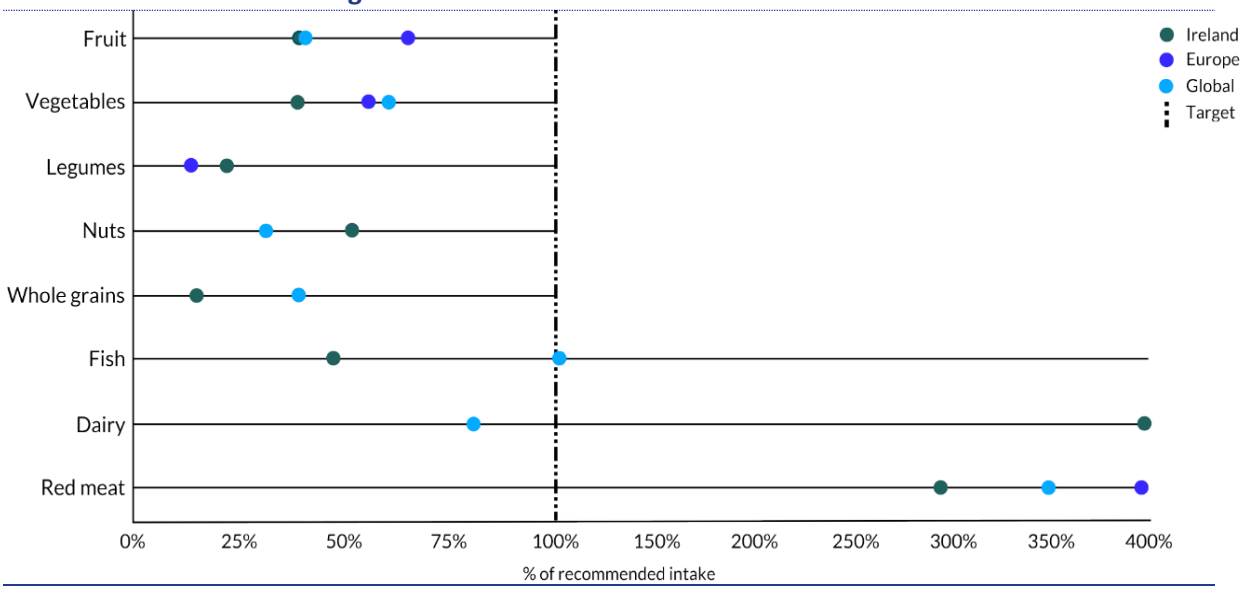
Implementing a tax on food products could potentially impact food prices and place further pressures on households in term of food poverty. While sugar taxes in general are intended to encourage reformulation, it is possible that the price of some products – particularly those, such as jam, that are almost entirely made from sugar – would rise.

In terms of the cost of living and food poverty in Ireland, the *Safefood* 2020 report examining the cost of a healthy food basket in Ireland found that low-income households need to spend between 13% and 35% of their net income to buy a healthy minimum essential food basket. Households reliant on social welfare spend a larger percentage of their household income on food compared to households with an employed adult. Low-income families may sacrifice a healthy diet given other competing budget demands. This research shines a light on the challenge of trying to balance the cost of a healthy food basket, in the context of meeting other needs and expenses, on a low income. Low-income households tend to eat less well, are reliant on cheaper, high calorie, low nutrition products. Significantly more of those who are unemployed consume processed meals as their primary food source compared to those who are employed (11 percent versus 2 percent) and twice as many (30 percent) of those in employment eat the recommended amount of fruit and vegetables compared with those who are unemployed (14 percent).[48]

In an effort to encourage greater consumption of healthier foodstuffs in particular fruit and vegetables some countries have implemented incentive schemes. Such a scheme exists in the UK with increasing attention been given to the concept of subsidising healthy food to complement taxing unhealthy foods thereby taking a “carrot and stick” approach.

[48] Harrington et al, 2020, Policies For Tackling Obesity and Creating Healthier Food Environments in Ireland: Food-EPI

Figure 6: Dietary intakes of key foods and nutrients in adults aged 20+ years compared against minimum and maximum targets



Source: Tufts University. Global Dietary Database. Published online 2019. (Intakes are reported in grams per day (g/d) for all dietary factors.)

5.1.1 UK Healthy Start and Best Start Schemes

In an effort to encourage greater consumption of fruit and vegetables the UK administers a scheme known as *Healthy Start* (*Best Start* in Scotland).

The UK Healthy Start Scheme is a means tested voucher system to help to buy healthy food and milk. Those who qualify for the scheme are provided with a prepaid voucher card that can be used for buying certain foods and milk. Items that the voucher scheme covers is restricted to[49]:

- Plain liquid cow's milk, but not milk to or from which chemicals, vitamins, flavours or colours have been added or removed.
- Fresh, frozen or canned fruit or vegetables, including loose, pre-packed, whole, sliced, chopped, or mixed fruit or vegetables, but not fruit or vegetables to which fat, salt, sugar, flavouring or any other ingredient has been added.
- Fresh, dried or canned pulses, including but not limited to lentils, beans, peas and barley, but not those to which fat, salt, sugar, flavouring or any other ingredient has been added.
- Infant formula based on cow's or goat's milk intended for particular nutritional use from birth by infants in good health.
- Fresh eggs.

Healthy Start also provides free vitamins for recipients.

Recipients of Healthy Start are provided with a prepaid card which is topped up every 4 weeks and cardholders can spend:

[49] Healthy Start UK

- £4.25 (€5) each week of pregnancy from the 10th week
- £8.50 (€10) each week for children from birth to 12 months
- £4.25 (€5) each week for children between 1 and 4 years of age

The scheme ends when the child reaches 4 years of age, or if the recipient is no longer receiving benefits.

In Scotland the Scottish Government operate a similar system known as "Best Start" which covers nutrition, early learning and pregnancy. "*Best Start Foods*" similar to *Healthy Start* in the rest of the UK applies until the child is 3 years of age with recipients receiving slightly higher payment rates.[50]

Studies on the effects of *Healthy Start* have shown that it plays an important role in helping pregnant women and their children access healthier foods. Women registered for the scheme report that it made them think more about their health and diet and led to better dietary choices.51 Food preferences may also be influenced by early life exposures so introducing children to healthy food at an early age may help develop lifelong habits.[52]

Several UK national supermarket chains also stepped forward to supplement the value of the vouchers. For example, Sainsbury's top up the vouchers by a further £2, Waitrose by £1.50, Lidl by £1.15 and Tesco, Iceland and Co-op by £1.

The UK *National Food Strategy* proposes extending *Healthy Start* in the particular context of introducing the sugar and salt levy. *Healthy Start* would be expanded to 5 years of age to bridge the gap with the Free School Meals scheme. Additional measures recommended include, new "Eat and Learn" initiative for schools, a "*Community Eatwell*" Programme, and the extension of the *Healthy Start* scheme. It is intended that revenues from the sugar and salt levy would fund this expansion.

5.1.2 Effectiveness of Healthy Food Subsidies

Research from the University of Washington's Institute for Health Metrics and Evaluation and Tufts University has found that subsidising healthy food had a greater impact on changing consumption than taxing unhealthy food. For example, a 10 percent decrease in the price of healthy food due to subsidies led to a 12 percent increase in the consumption of that food.[53] A study by Imperial College London found that in the USA taken together food policies such as increased subsidies on fruit and vegetables, higher taxes on sugar sweetened drinks, and awareness campaigns to change dietary habits, could avert hundreds of thousands of deaths from cardiovascular disease.[54]

[50] Best Start Scotland
[51] National Food Strategy Chapter 16 pg 12
[52] Role of government policy in nutrition—barriers to and opportunities for healthier eating
[53] Leach-Kemon, K. (2019) To Encourage Healthy Eating, Use the Carrot, Not Just the Stick
[54] Imperial College London - USA Impact Food Study Model

Countries such as New Zealand and Australia are currently examining implementing similar scheme to improve the national diet of their respective countries.

As current global food systems encourage quantity over quality, in particular the production of cereal crops while at the same time reducing access to diverse, healthy foods, subsidising healthy foods such as fruit, vegetables, legumes, and nuts could help reduce obesity and prevent premature death and disability. Encouraging greater consumption of fruit and vegetables brings other benefits. As noted by the Intergovernmental Panel on Climate Change (IPCC), plant-based diets present a major opportunity for mitigating and adapting to climate change and offer alternative opportunities for agriculture and farming.[55]

The Food EPI 2020 has made a number of recommendations for Ireland in terms of improving access to healthy food including:

- Increasing taxes on unhealthy foods
- Reducing taxes on healthy foods
- Ring-fence revenue from tax on unhealthy foods to improve public health initiatives and provide healthy food subsidies targeted at disadvantaged groups in the community.
- Establish a committee with a cross-governmental structure to monitor and evaluate food-related income support programmes for vulnerable population groups.
- Create incentives for encouraging outlets to sell fruit and vegetables.

Food pricing policies (unhealthy food taxes and income for vulnerable groups) aligning with health outcomes by making healthy eating choices affordable and accessible, was an area that experts rated as having a considerable reduction on socioeconomic inequalities if implemented in Ireland.[56]

5.1.3 Current Food Supports in Ireland

Current food supports in Ireland include:

FEAD Ireland

The Fund for European Aid to the Most Deprived (FEAD) programme. The Programme is for people without access to income or living in very poor circumstances and is administered through not-for-profit bodies to fund the purchase of food and basic material assistance.[57]

[5555] IPCC Climate Change and Land
[56] Harrington et al, 2020, Policies For Tackling Obesity and Creating Healthier Food Environments in Ireland: Food-EPI
[57] https://www.gov.ie/en/publication/f68e91-fead-the-fund-for-european-aid-to-the-most-deprived/

Hot School Meals

The School Meals Programme provides funding towards provision of food services for disadvantaged school children. Priority for funding is currently given to schools which are part of the Department of Education's initiative for disadvantaged schools, 'Delivering Equality of Opportunity in Schools' (DEIS). The Hot School Meals Programme will be extended from January 2022, bringing the total number of students benefiting to 55,650.[58]

Roadmap for Social Inclusion

Social Inclusion Roadmap Steering Group recently setup a new Working Group on Food Poverty. The Working Group will examine the issue of food poverty in accordance with the commitment on food poverty in the Roadmap for Social Inclusion.[59]

6. Update on Alcohol Products Tax

Following a discussion at Meeting 5 on the issue of alcohol and the current application of taxation and its impact on pricing the following is provided as an update. European Council Alcohol Products Directive 92/83/EEC also known as the "Alcohol Structures Directive" lays down a harmonised approach to the structures of excise duties on alcohol and alcoholic beverages in the EU. It includes provisions that set out the categories of alcohol and alcoholic beverages as well as the basis on which excise duties on such products are to be established. The scope for reform to excise duties is currently restricted by the directive. The directive sets out that the tax base for wine and cider should be the volume of liquid, whereas the base for spirits and beer is the alcohol content. This results in a scenario where the tax per unit of alcohol varies considerably across beverage types and in a way that is not in line with the social costs or harm associated with the products.

Article 9 sets out how the duties on wine shall be established and states that member states "shall levy the same rate of excise duty on products chargeable" within the wine and sparkling wine categories. Similarly, Article 13 which governs other fermented beverages and Article 18 which governs intermediate beverages both hold that all beverages in the category must be subject to the same rate of duty. This eliminates the possibility of charging excise pro rata with the alcohol content by percentage.

The EU directive (Council Directive 92/84/EEC) mandates a minimum rate of excise and details when exceptions to this minimum rate may be made but does not contain any upper limit to the rate of excise. Therefore there is no regulatory impediment to raising the excise on alcohol beverages. There

[58] https://www.gov.ie/en/service/29a3ff-school-meals-scheme/
[59] https://www.gov.ie/en/press-release/4f450-minister-obrien-announces-new-working-group-on-food-poverty/

are, however, economic concerns as Ireland already has the second highest alcohol excise in the EU per 2019 statistics in addition to being a country with relatively high sales tax/VAT. If the excise on beer were to be increased in line with the excise per percent of alcohol in spirits, this would nearly double the current excise level resulting in excise €0.4257 per litre per 1% alcohol per litre of beer making us the highest excise state in the EU above Finland where all alcohol is sold by a single monopoly, *Alko*.

7. Proposals for the Commission – looking forward

As illustrated in this briefing document the issue of obesity poses a considerable public health challenge to both society and the economy.

In the context of obesity the Commission may wish to consider:

- Does the Commission believe that a fiscal intervention is warranted to help tackle the issue of obesity?
- If so, does the Commission support any specific fiscal intervention, or does it recommend that evidence based fiscal proposals should be developed in parallel with existing Government policy?
- Given the complexity of the VAT system, is there any role for VAT in supporting public health outcomes?
- How can access to healthy foods be improved in Ireland for low income/vulnerable groups? Do members believe that the Commission have a specific role to play in this area?

Appendix 1 VAT Example: Healthy Burger v Unhealthy Burger

Revenue would envisage problems were there to be similar products with different VAT rates. The example given in the correspondence was a healthy burger versus an unhealthy burger, which we will use in our analysis so that we can highlight the issues that would arise from using different VAT rates on those particular products.

Applying the test from CJEU case law, it can be summarised that it would be impossible to apply two rates to burger products because:

- They all have similar origins.
- They are manufactured the same way or in similar ways.
- They take the same or similar forms, but the ingredients (nutrients / substances) would be the same.
- They have the same or similar organoleptic properties.
- They are consumed in the same manner.
- They are used for the same or similar purposes.
- They meet the same or similar needs of the consumer.
- They are composed of the same or similar ingredients.

In summary the burgers are similar in form, are composed of similar ingredients and crucially have the same or similar characteristics and meet the same or similar needs of the consumer.

Appendix 2 NOVA Food Groups

The NOVA system classifies food into the following four groups according to the nature, extent **and purposes of the industrial processes they undergo:**[60]

GROUP	DEFINITION	EXAMPLES
NOVA 1	Unprocessed or minimally processed foods	Fresh, chilled, frozen, or dried fruit, vegetables, meat, poultry, fresh and pasteurised milk, plain yoghurt, herbs and spices.
NOVA 2	Processed culinary ingredients used to prepare, season and cook group 1 foods.	Starches, syrups, butter, vegetable oils and table salt
NOVA 3	Processed foods which often have been processed to increase their durability and are usually recognizable as the original food.	Canned vegetables, tinned fish preserved in oil, salted nuts, freshly made unpackaged breads and cheeses.
NOVA 4	Ultra-processed foods engineered by recombining ingredients created through extraction from and refinement of food and other organic sources through physical, biological and chemical processes. These are foods are made from low-cost ingredients are convenient and have a long shelf-life and are hyper-palatable products.	Ready-to-consume products such as carbonated drinks, snacks, chocolate, confectionery, ice-cream; packaged breads and buns, margarines, biscuits, pastries, cakes, breakfast cereals, fruit yoghurts. Ready-to-cook products such as pizzas, chicken nuggets, burgers, pies, pastas, instant soups and noodles. Infant formulas, meal replacement/slimming shakes and powders.

[60] Food and Agriculture Organization of the United Nations, NOVA classification system