Message 103

Communication from the Commission - TRIS/(2023) 1828

Directive (EU) 2015/1535

Notification: 2023/0125/HU

Forwarding of the observations of a Member State (Slovakia) (article 5, paragraph 2, of Directive (EU) 2015/1535). These observations do not have the effect of extending the standstill period.

MSG: 20231828.EN

1. MSG 103 IND 2023 0125 HU EN 23-06-2023 15-06-2023 SK COMMS 5.2 23-06-2023

2. Slovakia

3A. Úrad pre normalizáciu, metrológiu a skúšobníctvo SR
Odbor skúšobníctva a európskych záležitosti
Centrálna jednotka pre smernicu (EÚ) 2015/1535
P.O.Box 76
Štefanovičova 3
810 05 Bratislava 15
e-mail: 2015.1535@normoff.gov.sk

3B. Ministerstvo životného prostredia Slovenskej republiky
Námestie Ľudovíta Štúra 1
812 35 Bratislava

4. 2023/0125/HU - S50E - Environmentally-friendly measures

5. article 5, paragraph 2, of Directive (EU) 2015/1535

6. The scope of the draft Government Decree (“hereinafter referred as the “Draft”) covers products with a backup and deposit fee which are placed on the Hungarian market and concerns the activities relating to these products under this Draft. According to the Draft, products with a mandatory backup and deposit fee include the consumer packaging of ready-to-drink beverage products or concentrate, excluding specified milk and milk-based beverage products, where such packaging consists of plastics, metals or glass and comes in the form of bottles or cans, either reusable or non-reusable, with a capacity of 0 to 6 litres. Product which is subject to a mandatory deposit fee and has a capacity of less than 0.1 l or more than 3 l will be collected manually (by hand). Deposit fee will be HUF 50 per item.

Detected problematic areas:
Mandatory deposit of small bottles (under 0.1l)
- such small sized bottles will be hugely overpriced due to the amount of the deposit (since deposit fee HUF 50 is common for all bottle sizes)
- there are serious concerns that consumers will stop buying them according to their high price
- expensive and inefficient deposit system due to the fact that bottles under 0.1l and over 3l have to be collected manually, as for these volumes there is worldwide no technological solution for collection by an automatic reverse vending machine, it means higher handling fee for such collection, higher pressure for the environment due to logistic needs and higher risk of fraud

- There is EU standard best practice to collect volume from 0,1L up to 3L included, due to available technological solutions for the most effective and ecological take back. Examples of other countries where deposit system is already in place:
- in Slovak Republic, Lithuania, Latvia, Estonia, Finland, Germany, Malta deposit system only applies to volumes between 0.1 and 3 litres
- in Sweden deposit system applies only to volumes of 0,15 and above in Croatia over 0,2l
Mandatory deposit of the type of drink – beverage
- according to the Draft, mandatory deposit will apply the consumer packaging of ready-to-drink beverage products or concentrate, with the exception of milk and milk-based beverage products (listed in Part XVI of Annex I to Regulation (EU) No 1308/2013)
- the Draft lacks an explicit definition of the term beverage or reference to the relevant legal regulation that defines this term
- according to recital 12 of SUP directive examples of beverage containers are beverage bottles or composite beverage packaging used for beer, wine, water, liquid refreshments, juices and nectars, instant beverages or milk
- when defining the term "beverage", the Slovak deposit law refers to the relevant part of the Food Code; within the meaning of this definition: beverages are liquid foods containing more than 80% water and able to satisfy the physiological need for water. They are divided into non-alcoholic and alcoholic (which contain more than 80% water). Beverages do not include milk.
Other comments:
- Calculation model of DRS financial contributions paid by the producer should be in line with EU extended producer responsibility principles. For example sales revenue of secondary raw materials should be allocated to fund the activities carried out by the concessionaire related to products included in the DRS scheme and the operation of the DRS system.
- Legal status of DRS central operator should comply with minimum general requirements for deposit and return systems proposed by the European Parliament and of the Council – operate as non-profit organization.
- 12 months adoption period required for the draft decree – due to parallel DRS legislation in Packaging and Packaging Waste Directive
- Proper transition time needed for non-DRS stocks to enter the market (minimum 2 months after go-live)
- Product marking requirements (HU country specific GTIN number and barcode required, may create barriers to the free movement of goods in Europe, as well as distortion of competition.
Recommendations:
Mandatory deposit in HU should, due to best practices from existing systems, apply:
- to the consumer packaging of bottles and cans made of plastic, metal and glass with a capacity of 0.1l to 3 litres
- to the consumer packaging of ready-to-drink beverage products or concentrate, excluding specified milk and milk-based beverage products (including plant-based beverages such as soy, oat, almond ect.), while the definition of the ready-to-drink beverage would clearly state that it must contain more than 80% water and able to satisfy the physiological need for water, or a reference to a legal text of the similar meaning, to reach more clarity and legal certainty for the producers.

****

European Commission
Contact point Directive (EU) 2015/1535
email: grow-dir2015-1535-central@ec.europa.eu