

1st November 2016

Mr Simon Harris TD,
Minister for Health
Department of Health
Hawkins House
Dublin 2

Owen Boyden
Coomhola
Bantry
Co. Cork

Dear Minister Simon Harris,

I wish to thank you for the letter (22nd June 2016) I received in relation to my communication regarding the constitutional status of water fluoridation and I apologise for the delay in replying to you on this urgent matter.

In relation to your response which also appears to be the Government's position on the matter, I have a number of concerns regarding same for which I'll briefly outline below where further clarification can be found in the attached refutation.

- The response I received appears to have disregarded much of the referenced evidence brought forward and therefore the concerns raised in my letter were not addressed. Of utmost concern is that the conditions attached to the Judgement (Ryan v Ag 1964) appear to have been accorded inadequate consideration by regulatory authorities to date.
- As the constitutionality of the legislation was based on conditions including that no citizen would suffer damage or harm to their health and that there would be no risk of children or any citizens suffering fluorosis to their teeth, it is very concerning when the widely cited York Report (2001) and Cochrane Review (2015) provide estimates of the population who will suffer from dental fluorosis which when referenced to the 2016 census shows up to 2 million and 571 thousand citizens will suffer from dental fluorosis and dental fluorosis with a severity level of "aesthetic concern" respectively noting the Irish Dental Association have in the past reported similar proportions of the population suffering from dental fluorosis. Of further concern is the admission that a significant proportion of the population have suffered dental fluorosis that is visible to an untrained eye or the general public and that the same adverse effect, at times, will require corrective treatment which indicates the Government is aware the policy has been a cause of physical damage and harm to citizens health which was prohibited from occurring during the Constitutional challenge of 1964.
- With regards your Department's position in relation to the contention of "mass medication" where excerpts of the Judgment (Ryan v AG 1964) are

cited, the grounds on which the High Court based this decision are now invalid which in turn appears to render the Department's position on this aspect of CWF also invalid. Similarly, reference is made to the HPRA (Irish Health Products Regulatory Authority) who've decided that artificially fluoridated water should not be classified as a medicinal product but instead is a process similar to food fortification. The HPRA's position to which the Department relies appears to also be a misrepresentation of all three relevant legal instruments including the EU Regulation on Food Safety (178/2002), the EU Drinking Water Directive (98/83) as well as the EU Medicinal Products Directive (2001/83 as amended by 2004/27). The latter three instruments all contain provisions invalidating artificially fluoridated water being considered as a food product, exempt waters coming within the meaning of a medicinal product being considered under the Drinking Water Directive and finally, the Medicinal Products Directive provides for a scenario where in the event that a product falls within the definition of a medicinal product and definitions provided for by other Community legislation, the provisions of the Medicinal Products Directive shall apply. The ECJ (European Court of Justice) reiterated this same point in the case of HLH Warenvertriebs GmbH and Orthica BV v Bundesrepublik Deutschland (2005) where Article 2 of the Medicinal Products Directive was explicitly reference. As artificially produced water cannot legally be considered a food product, it can only therefore be defined as a medicinal product. Further evidence clarifying the above is contained within the attached refutation.

- In relation to the fluoridation induced birth defect of primary dentition fluorosis which you would have received in your capacity as a TD and Minister of State at the Department of Finance during the Autumn of 2015 for which the former Minister for Health and Minister of State at the Department of Health gave conflicting responses to representations made directly to the Department of Health and a PQ raised in Dail Eireann, as a courtesy, I wish to update and inform you that the FSAI (Food Safety Authority of Ireland) have indicated it's Scientific Committee (September 2016) are now investigating the issue of fluoridation induced birth defects. Additionally, the Cabinet of the European Commissioner Mr Vytenis Andriukaitis for Health and Food Safety is also considering the matter (October 2016).
- The assertion contained in your Department's response that the European Union SCHER Report (2011) concluded "that there are no known negative health implications from fluoridating water at levels used in the EU" is blatantly false and misleading. The Report did however contain 13 conclusions, one of which explicitly refers to dental fluorosis as an adverse effect and as raised in previous communications, an additional finding that fluoride crosses the placenta which is responsible for the developing foetus suffering enamel fluorosis to it's primary dentition. From a layman's perspective, any substance which crosses the placenta and interferes with

the normal dentition formation of a developing foetus is logically a poisonous substance that causes birth defects.

- The HRB Review (2015) to which the Department refers unfortunately fell short in fulfilling the independent brief initially accorded to it when announced at Cork County Hall on March 10th 2014 for which I was also briefed by the then Minister for Agriculture, Food and the Marine, Mr Simon Coveney TD. In the terms of reference of the Review and for unknown reasons, the Review authors were explicitly prevented from examining evidence documenting the effects CWF has on dental health which would have naturally included dental fluorosis which is acknowledged by regulatory authorities around the world as an adverse side effect associated with systemic fluoride ingestion. The same shortcoming of the HRB Review has been acknowledged in 2016 by The Expert Body on Fluorides and Health who have statutory responsibility for advising yourself as the Minister for Health on all matters relating to the policy and it therefore appears misleading when position statements disseminated to the public attempting to allay widespread concerns over the matter cite the Review as an independent authoritative source who concluded there was “no definitive evidence that community water fluoridation is associated with negative health effects.”
- I note fluoride quantities added to public water supplies in 2007 were reduced from a range of 0.8mg/l – 1mg/l to a range of between 0.6mg/l – 0.8mg/l in order to lower incidence levels of dental fluorosis throughout the population and whilst disregarding the High Court ruling that no citizen would suffer fluorosis as a result of fluoridation which brings the assumed legal status of CWF (Community Water Fluoridation) into immediate disrepute, it must be asked what reductions of dental fluorosis prevalence levels are or were The Expert Body on Fluorides and Health and the Department of Health hoping to achieve when the York Report (2001) estimates up to 42% of the population will suffer from dental fluorosis where water fluoride concentration levels are set at 0.7mg/l, as is currently required by SI No 42 of 2007. The Cochrane Review (2015) to which the Department will also be familiar, similarly estimates that 40% of the population will suffer from dental fluorosis who reside in areas where water fluoride concentrations attain a level of 0.7ppm. Estimates provided by these two aforementioned sources appear to call into question the whole point and purpose of reducing fluoride levels added to public water supplies in 2007 unless of course 40% of the population suffering from dental fluorosis was deemed an acceptable objective.
- As previously raised in my letter of 19th May 2016, an additional condition on which the constitutionality of CWF in Ireland was granted was that citizens health would not be adversely affected should they retain no more than

4000mg in their bodies during their lifetimes. Given this figure could easily be exceeded due to multiple dietary sources of fluoride now available to population including drinking water, food, tea, dental products and medicine as well as other industrial sources, it is concerning when the policy continues to be implemented in the absence of individual dietary fluoride intakes being monitored. Of further relevance to safety thresholds is that the WHO (World Health Organisation) have warned daily dietary fluoride intakes exceeding 6mg per day could result in adverse effects which again are not being monitored.

In light of the summary above and the attached refutation which again calls into question the assumed constitutional status of water fluoridation in Ireland and raises serious questions as to the credibility of the Department's position on the matter, it is very concerning when regulatory authorities continue and fail to heed and act on clear evidence showing significant proportions of the population have been and continue to be adversely affected as a consequence of the isolated policy within Europe of enforcing a mandatory water fluoridation policy upon her citizens notwithstanding and despite multiple requests to relevant authorities including the Department of Health, the Judgement (Ryan v Attorney General 1964) and conditions attached therein fail to be adequately and appropriately upheld and implemented.

Though a fully independent review of the policy would be a very welcome development in this 11th hour of a disastrous public health policy which is shown to be both illegal and unconstitutional, I believe there is a substantive enough body of evidence contained in this communication providing the grounds for repealing the Health (fluoridation of water supplies) Act 1960 with immediate effect.

I therefore call on you in your capacity as the Minister for Health with overall responsibility for the health of the nation, to sanction a moratorium on the current policy of CWF pending investigative deliberations of both the FSAI's Scientific Committee and the Cabinet of the European Commissioner for Health and Food Safety into the issue of fluoridation induced birth defects in conjunction with other relevant matters I have presented for your urgent consideration.

Thank you for your consideration and I look forward to hearing from you at your convenience.

Yours sincerely,
Owen Boyden