

From: [redacted]

Sent: 29 October 2019 09:13

To: [redacted]@childreninscotland.org.uk; [redacted]@communityleisureuk.org;
[redacted]@jamieoliver.org; [redacted]@obesityactionsotland.org; [redacted]@young.scot;
[redacted]@britishsoftdrinks.com; [redacted]@sgfscot.co.uk; [redacted]@brc.org.uk;
[redacted]@stuc.org.uk; [redacted]@rcpch.ac.uk; [redacted]@sustainweb.org;
[redacted]@the-ava.com

Cc: Communications Healthier; [redacted]

Subject: Consultation paper on ending the sale of energy drinks to children
and young people-stakeholders

Attachments: EMBARGOED UNTIL 09.30 - Energy Drinks Age Restriction
Consultation Oct 2019.pdf

Dear all,

I attach a copy of our consultation paper on ending the sale of energy drinks to children and young people that has just been announced in Parliament. The paper will be published at 9.30am today, please do not share widely until then. The consultation will close on Tuesday 4 February 2020.

This consultation fulfils our commitment in [A Healthier Future: Scotland's Diet & Healthy Weight Delivery Plan](#) to consult on proposals for implementing a mandatory age restriction for energy drinks. We are asking for views on whether a mandatory action is needed, how best to implement an age restriction and the impacts such a policy might have.

If you have any questions please don't hesitate to get in touch.

Best wishes,

[redacted]

[redacted]

Policy Officer, Diet Policy

Population Health Directorate | Health Improvement Division

Scottish Government

[redacted], St Andrew's House, Regent Road EH1 3DG

Tel: [redacted]

Pronouns: [redacted]

Email attachment

A pdf version of the consultation paper on [ending the sale of energy drinks to children and young people](#) was attached to the email.

Mr Joe FitzPatrick MSP
Public Health, Sport and Wellbeing Minister
St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Copy by email to: scottish.ministers@gov.scot

03 February 2020

Dear Minister,

Industry responsibility on energy drinks

We write to you ahead of the close of the Government's consultation on ending the sale of energy drinks to children and young people. In addition to submitting our respective consultation responses with you and your team in the Health Improvement Division, we would welcome a meeting with you to discuss what our sectors have done in relation to the sale of energy drinks to under 16s and what more can be done to educate children about caffeine consumption from all sources.

Producers and retailers have led the way in helping consumers and parents to make informed choices about the consumption of energy drinks, and we are keen to work with the Scottish Government to ensure that energy drinks are promoted and sold responsibly. The British Soft Drinks Association (BSDA) is clear that energy drink manufacturers do not market or promote products to under 16s and that all energy drinks carry an advisory note on the label stating: *Not recommended to children*. This is compulsory for any manufacturer of energy drinks within BSDA membership (namely *Red Bull*, *Coca-Cola European Partners (Coca-Cola Energy* and distributors of *Relentless Energy* and *Monster Energy*), and *AG Barr (Irn Bru Energy* and distributor of *Rockstar*)). BSDA has continued to develop the UK-wide Code of Practice¹, and in 2015 it was updated to include more stringent guidelines around marketing and promoting, including limiting activity in and around schools.

Meanwhile, many retailers have their own measures to voluntarily ban the sale of energy drinks to under 16s. Retailers have shown they are conscious of these concerns and many have developed policies based on their own business and the place that energy drinks have in it, and local circumstances in the communities they serve.

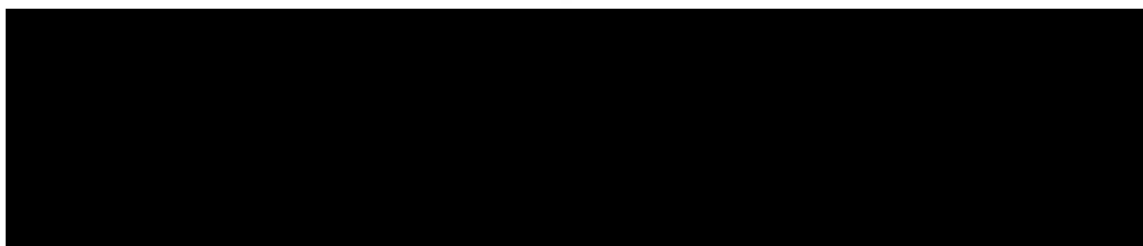
Producers, retailers, schools and parents all have a role to play in educating children about caffeine consumption from all sources. However, as set out in our consultation responses, we do not believe there is evidence to justify an outright ban on the sale of energy drinks to either under 18s or under 16s. Nevertheless, should Scottish Government decide that regulation is necessary, prohibiting the sale of energy drinks to under 16s would have the lowest regulatory impact on the industry, the wider economy, and consumers. Furthermore, this limit would align with the voluntary codes already in place as well as with the UK Government's proposals to implement a restriction on the sale of energy drinks to under 16s in England, easing consumer understanding and simplifying the regulatory operating environment for businesses².

In the event of such regulatory action, our organisations would also be keen to support and work closely with Scottish Government to ensure that, in any case, any measures adopted are clearly communicated to prevent misunderstanding or misapplication, and to avoid creating consumer concerns about a safe, responsible product category. For instance, the definition of energy drinks (high-caffeine beverages containing more than 150mg/l of caffeine) must be made explicitly clear at all times to avoid any products which may be easily confused, but fall outside the definition (for example sports drinks and other soft drinks which are marketed as providing “energy”) being mistakenly included in a sales ban based on the misunderstanding of a retailer or others.

We do recognise and appreciate that the Scottish government has an important role in raising awareness and in supporting the different stakeholders in their voluntary engagement regarding caffeine consumption. With that in mind, we would welcome the opportunity to meet with you and discuss how we can work together on this as well as on wider measures in *A Healthier Future: Scotland's Diet & Healthy Weight Delivery Plan*.

We look forward to hearing from you in due course and to receiving your response to the consultation.

Yours sincerely,



Director General
British Soft Drinks Association

Chief Executive
Scottish Grocers Federation



Cc:

Jeane Freeman OBE MSP
Cabinet Secretary for Health
and Sport
1E.10, St Andrew's House
Regent Road
Edinburgh
EH1 3DG

Policy Officer, Diet Policy
Health Improvement
Division
Scottish Government
3ES, St Andrew's House
Regent Road
EH1 3DG

Diet Policy Executive
Diet and Healthy Weight
Team - Population Health
Scottish Government

¹ Energy drinks that have a high caffeine content are legally required to be labelled as having a high caffeine content. Since 2010, the BSDA has operated a voluntary Code of Practice agreeing not to market or promote products to under 16s – available at <https://www.britishsoftdrinks.com/Energy-Drinks>

² <https://www.gov.uk/government/consultations/advancing-our-health-prevention-in-the-2020s/advancing-our-health-prevention-in-the-2020s-consultation-document> "Therefore, we can now announce that the government will end the sale of energy drinks to children under the age of 16."

Minister for Public Health, Sport and Wellbeing
Joe FitzPatrick MSP



Scottish Government
Riaghaltas na h-Alba
gov.scot

T :0131-244 4000
E :scottish.ministers@gov.scot

[redacted] and [redacted]
[redacted]@britishsoftdrinks.com

Our Reference: 202000014688
Your Reference: Industry responsibility on energy drinks

26 February 2020

Dear [redacted] and [redacted]

Thank you for your email of 3 February, regarding the recent consultation on proposals of a mandatory age restriction on energy drink sales. The Minister has asked me to respond to you on his behalf and to also pass on his thanks for submitting a response to this consultation.

The Minister has welcomed the responsible retailing of energy drinks that has occurred over the past few years, including the BSDA Code of Practice and the voluntary age restrictions some retailers have put in place. Consultation responses are guiding considerations of whether a mandatory age restriction is needed to ensure a level-playing field and consistent approach. Alongside other policy development, the Minister and policy officials are continuing to have discussions with UK counterparts to discuss where alignment is appropriate and how best this can be enabled to happen.

An age restriction is not a silver bullet and officials are looking at how best to communicate positive health messages about caffeine and energy drink consumption by young people alongside any policy decisions taken. This includes developing a clear narrative about the reasons behind any restrictions and the products that are in scope, in particular to avoid misunderstanding about specific drinks such as Lucozade Energy. Officials will of course be seeking engagement with industry to utilise their experience and expertise throughout this process.

Please arrange a meeting with policy officials who will be in touch separately and are happy to discuss the topic of energy drinks as well as the wider actions in the Diet and Healthy Weight Delivery Plan.

Yours sincerely

Scottish Ministers, special advisers and the Permanent Secretary
are covered by the terms of the Lobbying (Scotland) Act 2016. See
www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



INVESTORS
IN PEOPLE

Accredited
Until 2020





Private Secretary

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

St Andrew's House, Regent Road, Edinburgh EH1 3DG
www.gov.scot



INVESTORS
IN PEOPLE

Accredited
Until 2020



From: [redacted] <[redacted]@bdbpitmans.com>

Sent: 22 January 2020 15:10

To: Minister for Public Health, Sport and Wellbeing <MinisterPHSW@gov.scot>

Subject: Monster Energy Company [BDB-BDB1.FID9989205]

Dear Minister

We are working with Monster Energy Company ("Monster"), which, as you may know, is one of the world's leading energy drink companies.

We write because the Government is currently consulting on a proposed ban on the sale of energy drinks to individuals under the ages of 16 or perhaps 18; however, there continue to be a number of basic misconceptions about energy drinks that are being perpetuated by uninformed parties who support an age restriction in connection with the consultation. Monster would be grateful for the opportunity to set the record straight.

For example, Monster believes that it is important that you know that a UK scientific committee and two other European food safety authorities recently determined that the scientific evidence concerning energy drinks does not support an age restriction. In addition, the Science and Technology Select Committee in the Westminster Parliament recently concluded that "the current scientific evidence alone is not sufficient to justify a measure as prohibitive as a statutory ban on the sale of energy drinks to children." This conclusion is in line with the conclusions of food safety authorities in Sweden and Norway, which have recently rejected energy drink age restrictions following substantial reviews of the issues. In this regard, following an almost year-long review of the scientific evidence, the Swedish National Food Agency issued a report in December 2018, rejecting an age restriction on the sale of energy drinks, concluding that an age restriction would not constitute an "effective and proportionate measure . . . to lower the consumption of caffeine by children and adolescents." Likewise, in February 2019, the Norwegian Food Safety Authority concluded that there is no scientific basis to support a statutory age restriction on the sale of energy drinks.

Monster is ready to offer its assistance to ensure that the Scottish Government and Parliamentarians have an accurate, fair, and balanced view and understanding of the evidence surrounding the safety, consumption, and marketing of energy drinks.

In particular, Monster is keen to share the evidence available, which establishes that:

- * Energy drinks are not unsafe for consumption for under 16s;
- * Energy drinks are not consumed excessively;
- * Energy drinks are not the main source of caffeine for children; and
- * There is no scientific evidence to support an age restriction on sales.

Senior representatives of Monster will be in Edinburgh in February and would be delighted to have the opportunity to meet with you to discuss the issues involved, which may, of course, be directly relevant to your own constituency.

We would not take up a great deal of your time but, if you could spare, say 30 minutes, to meet Monster Energy to discuss these important issues, we would be extremely grateful.

We would be ready to arrange a meeting on any date and at a time to suit your convenience.

Best wishes
[redacted]



[redacted] **Head of Public Affairs**
T [redacted]
M [redacted]
W www.bdbpitmans.com

For and on behalf of BDB Pitmans LLP
[redacted]

WARNING – This email and any files transmitted with it are confidential and may also be privileged. If you are not the intended recipient, you should not copy, forward or use any part of it or disclose its contents to any person. If you have received it in error please notify our system manager immediately on +44 (0)20 7783 3555 or +44 (0)345 222 9222. This email and any automatic copies should be deleted after you have contacted the system manager.

This email is sent from the offices of BDB Pitmans LLP, a limited liability partnership authorised and regulated by the Solicitors Regulation Authority (SRA ID number 448617) and registered in England and Wales with registered number OC320798. Its registered office and principal place of business is 50 Broadway, London SW1H 0BL. A full list of members, referred to as partners by the firm, is available for inspection on request. BDB Pitmans LLP accepts no responsibility for software viruses and you should check for viruses before opening any attachments.

Cybercrime Alert : *If you receive an email purporting to be from someone at this firm and telling you that we have changed our bank details, it is likely to be from a criminal.*

Please do not reply to that email – instead ring the person you have been dealing with as soon as possible to check whether the change is genuine.

Internet communications are not secure and therefore BDB Pitmans LLP does not provide any guarantee or warranty that this message or any attachments shall remain confidential. To ensure client service levels and business continuity BDB Pitmans LLP operates a policy whereby emails can be read by its employees or partners other than the addressee. This policy complies with the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000.

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>
