

**DIRECTORATE FOR POPULATION HEALTH**  
**DPH : Health Improvement**

[redacted]

[redacted]@bdbpitmans.com

Our Reference: 202000012903

29 January 2020

Dear [redacted],

Thank you for your email of 22 January, as the lead Policy Official for this topic, the Minister has asked me to reply to you on his behalf.

The Minister would like to make clear that the purpose of this consultation is to ask whether there is sufficient cause and evidence to support a mandatory age restriction. We would appreciate any evidence you are able to provide and encourage you to submit a response to the [online consultation](#) before it closes on the 4th February.

Though the Science and Technology Select Committee concluded that the current scientific evidence alone is not enough to justify mandatory age restrictions, they recognised that "it might be legitimate for the Government to go beyond the quantitative evidence available and implement a statutory ban on the basis of societal concerns and qualitative evidence". We are looking to deepen our understanding of any recent scientific developments and evidence (of both positive and negative effects) whilst balancing this with public opinion and the experiences of young people in Scotland.

Our main concerns are around the impact these drinks can have on the quality of young people's sleep. There is evidence that adolescents who frequently consume energy drinks are 3.5 times more likely to report sleeping problems [1]. Though past research demonstrated that energy drinks may not be the main source of caffeine for young people, a single can, in some cases, contains more caffeine than some people's recommended daily limit. Recent research commissioned by the UK Government, following their consultation, suggests that some young people consume three or more energy drinks in one sitting [2]. The efficacy of the warning labels [3] that these drinks are required to carry also cause concern, as children continue to consume these drinks.

It would be great if we could arrange a meeting to discuss further, do let me know when would work. I can then ensure that the evidence you present is included when presenting the consultation findings to the Minister. For awareness, I am also liaising with the BSDA on this topic, and recently had a meeting to discuss the impact on business. I'm also expecting a consultation response from them.

[1] Huhtinen, H., Lindfors, P. & Rimeplä, A. (2013). Adolescents' use of energy drinks and caffeine induced health complaints in Finland. European Journal of Public Health, 23. Available at: <https://doi.org/10.1093/eurpub/ckt123.050>

[2] DHSC Reviews Facility, Brunton, G. et al. (2019). Caffeinated energy drinks use and reported effects in young people: a rapid overview of systematic reviews. Available at: <http://eppi.ioe.ac.uk/cms/Default.aspx?tabid=3751>

[3] As you will know, under EU Law, these drinks require a warning label that states: high caffeine content. Not suitable for children or pregnant or breast-feeding women.

Yours sincerely,

**[redacted]**

**HIE : Creating Health**

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**From:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Sent:** 08 January 2021 10:40  
**To:** Minister for Public Health and Sport <[MinisterPHS@gov.scot](mailto:MinisterPHS@gov.scot)>  
**Cc:** [redacted] <[redacted]@gov.scot>  
**Subject:** Congratulations from the British Soft Drinks Association

**FAO: Mairi Gougeon MSP, Minister for Public Health and Sport**  
**Cc: [redacted], Diet Policy Executive - Diet and Healthy Weight Team**

Dear Minister,

Please find attached a letter from [redacted], Director General of the British Soft Drinks Association, congratulating you on your recent appointment as Minister for Public Health and Sport.

We look forward to hearing from you in due course.

Kind regards,

[redacted]

[redacted]  
**British Soft Drinks Association**

Address: [redacted]  
Telephone: [redacted]  
Website: [britishsoftdrinks.com](http://britishsoftdrinks.com)  
Twitter: [@britishsoftdrinks](https://twitter.com/britishsoftdrinks)  
LinkedIn: [linkedin.com/company/british-soft-drinks-association](https://www.linkedin.com/company/british-soft-drinks-association)



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## **Attached pdf document**

Ms Mairi Gougeon MSP  
Minister for Public Health and Sport  
The Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG  
*by email to: MinisterPHS@gov.scot*

08 January 2021

### **Congratulations from the British Soft Drinks Association**

Dear Minister,

On behalf of the British Soft Drinks Association (BSDA) may I offer our congratulations on your appointment as Minister for Public Health and Sport. I hope that the Association may continue working closely with your department regarding the proposals for ending the sale of energy drinks to children and young people, as well as more broadly on public health policies and our shared efforts to reduce obesity rates. With that in mind, I would be most will to meet with you to 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*.

As you may be aware, the BSDA represents producers of soft drinks, including carbonated drinks, still and dilutable drinks, fruit juices and waters. Our membership includes the majority of Britain's soft drinks manufacturers as well as franchisors, importers and suppliers to the soft drinks industry. Overall, activity in the soft drinks sector and associated industries has been estimated to sustain over 32,286 jobs in Scotland, and contributes more than £1.1billion to the Scottish economy each year<sup>1</sup>.

Producers 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. BSDA welcomed the Scottish Government's announcement of a proposed ban on selling energy drinks to under-16s as being in line with our longstanding industry Code of Practice<sup>2</sup>. Our members do not market or promote energy drinks to this age group and any caffeine content is clearly stated on products. All energy drinks also carry an advisory note on the label stating: *Not recommended to children*.

More broadly on public health, the industry has worked for many years to provide healthy options and reformulate products that cater to consumers' evolving tastes and dietary preferences, and we have led industry-wide initiatives to reduce calories and

sugar across the market, with notable results. Our extensive list of long-standing actions includes:

- **Developing new zero and low calorie product options** and increasing advertising on these products
- **Reformulating existing drinks recipes**
- **Widening the availability of smaller pack sizes**
- **Marketing and promoting lower sugar options** – soft drinks is the only food and drink category where the balance of promotions is in favour of low and no calorie options

We were pleased to note in the 2020 BSDA Annual Report that that low and no calorie soft drinks accounted for 68.2% of category sales in 2019, and also that consumers' average 'take home sugar' from all soft drinks has fallen 28.1% between March 2016 and March 2020, according to Kantar Worldpanel data<sup>3</sup>.

Whilst such progress continues, we would like to work closer with the Scottish Government on our shared ambition to reduce obesity rates, and to look at ways in which industry and government can 'nudge' consumers towards healthier options, including promoting reduced sugar options as easy, healthier, swaps. With this in mind, I would be most willing to meet with you to how BSDA can support you and your department more broadly in the coming months.

In the meantime if you or your office have any further questions please do not hesitate to contact BSDA Public Affairs Manager **[redacted]** on **[redacted]** or alternatively email **[redacted]**@britishsoftdrinks.com.

Yours sincerely,

**[redacted]**

**Director General  
British Soft Drinks Association**

1 Oxford Economics - BSDA Economic Report (October 2015). Available at:

<https://www.britishsoftdrinks.com/Publications>

2 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>

3 British Soft Drinks Association 2020 Annual Report - *Meeting The Challenge*. Available at:

[https://www.britishsoftdrinks.com/write/MediaUploads/BSDA\\_Annual\\_Report\\_2020.pdf](https://www.britishsoftdrinks.com/write/MediaUploads/BSDA_Annual_Report_2020.pdf)

## **PDF Response**

**[redacted]**  
**[redacted]**@britishsoftdrinks.com

Our Reference: 202100140432

18 March 2021

Dear **[redacted]**,

Thank you for your letter of 8 January.

Unfortunately, due to current diary pressures at this difficult time, I am afraid that I am unable to meet with your colleague, **[redacted]**, Director General British Soft Drinks Association at present.

However, the Scottish Government do wish to engage with yourselves on the important issues that you have specified and so I would be keen for my officials to meet with you at some point in the near future.

Therefore, in the first instance, please email **[redacted]**@gov.scot, with some suggested dates so that we can make the necessary arrangements.

Yours sincerely,

**[redacted]**  
**Private Secretary**

**From:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Sent:** 17 November 2020 10:48  
**To:** [redacted]  
**Subject:** Update

Hi [redacted]

How are things? Hope your parents are well? I'm relocating to Brora for a few months this week!

Just wondered on the off chance if there was any update on energy drinks? Let's catch up if so?

Thanks

[redacted]

[redacted]  
**Policy Manager**  
**British Soft Drinks Association**

**We are providing members with regular updates on Brexit:**  
[www.britishsoftdrinks.com/Brexit](http://www.britishsoftdrinks.com/Brexit)

Address: [redacted]  
Email: [redacted]@britishsoftdrinks.com  
Telephone: [redacted]  
Mobile: [redacted]  
Website: [britishsoftdrinks.com](http://britishsoftdrinks.com)  
Twitter: [@britishsoftdrinks](https://twitter.com/britishsoftdrinks)  
LinkedIn: [linkedin.com/company/british-soft-drinks-association](https://www.linkedin.com/company/british-soft-drinks-association)



Registration Number: 500979 Place of Registration: England

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**From:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Sent:** 09 August 2022 16:44  
**To:** [redacted]  
**Cc:** [redacted]  
**Subject:** RE: Energy Drinks

Thanks so much for that, may well tale you up on that... I'm working my way through the 2 Welsh consultations first 😊

[redacted]

**Policy Manager**  
**British Soft Drinks Association**

Address: [redacted]  
Email: [redacted]@britishsoftdrinks.com  
Twitter: [@britishsoftdrinks](https://twitter.com/becka_steven)  
Direct Dial: [redacted]

Mobile: [redacted]

Website: [britishsoftdrinks.com](http://britishsoftdrinks.com)  
LinkedIn: [linkedin.com/company/british-soft-drinks-association](https://www.linkedin.com/company/british-soft-drinks-association)



Registration Number: 500979 Place of Registration: England

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**From:** [redacted] @gov.scot [mailto:[redacted]@gov.scot]  
**Sent:** 09 August 2022 16:05  
**To:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Cc:** [redacted]@gov.scot  
**Subject:** FW: Energy Drinks

Hi [redacted]

Hope you are well. Thanks for your email. Apologies for the delayed response. [redacted] has been on A/L so we just got your email.

On energy drinks, I don't have anything to add to my previous update. We are still considering the responses to our consultation and will publish an analysis of the feedback to our consultation and our policy response in due course.

On promotions, if it would be helpful to have a discussion at any point on our proposals, please do let us know and we can set something up.

Kind regards

**[redacted]**

**[redacted]** | Diet and Healthy Weight Team | Health Improvement Division |  
Working days: Tues, Wed & Thurs

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**From:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Sent:** 28 July 2022 15:22  
**To:** [redacted] <[redacted]@gov.scot>  
**Subject:** Energy Drinks

Hi [redacted]

Hope you are well.

I wondered if there was any update on EDs north of the border... tough worth asking with the promotions consultation coming forward.

Thanks

**[redacted]**

**[redacted]**  
**Policy Manager**  
**British Soft Drinks Association**

Address: [redacted]  
Email: [redacted]@britishsoftdrinks.com  
Twitter: [@britishsoftdrinks](https://twitter.com/becka_steven)  
Direct Dial: [redacted]  
Mobile: [redacted]  
Website: [britishsoftdrinks.com](http://britishsoftdrinks.com)  
LinkedIn: [linkedin.com/company/british-soft-drinks-association](https://www.linkedin.com/company/british-soft-drinks-association)



Registration Number: 500979 Place of Registration: England

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**From:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Sent:** 12 May 2021 10:27  
**To:** [redacted]  
**Subject:** RE: Meeting request - British Soft Drinks Association

Hi [redacted],

Thanks for following-up on this, and no worries about the delay. The afternoon of 8<sup>th</sup> June still works for both [redacted] and [redacted], and they are still keen to catch-up. Would it be helpful if I send through an appointment and call details?

Thanks,

[redacted]

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**From:** [redacted]@gov.scot [mailto:[redacted]@gov.scot]  
**Sent:** 12 May 2021 10:12  
**To:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Subject:** RE: Meeting request - British Soft Drinks Association

Hi [redacted]

With sincere apologies for the delay in getting back to you. I completely missed your email on my return from A/L.

We are still of course happy to meet [redacted] and [redacted]. I appreciate, however, that diaries are likely to have moved on since this email. I have highlighted below the dates [redacted] and I am still available. Can I ask you consider and see if either of these suit? If not, please do suggest alternatives.

Kind Regards

[redacted]

[redacted] | *Working from home* | Diet and Healthy Weight Team | Health Improvement Division | Scottish Government | Room 3ES, St Andrews House | Regent Road, Edinburgh EH1 3DG | Email: [redacted]@gov.scot

Phone: *Currently working from home - please email and I am happy to give you a call back if required.*

Working days: Tues, Wed & Thurs

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**From:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Sent:** 01 April 2021 10:09  
**To:** [redacted] <[redacted]@gov.scot>  
**Cc:** [redacted] <[redacted]@gov.scot>  
**Subject:** RE: Meeting request - British Soft Drinks Association

Hi [redacted],

Thanks for that, and a sensible suggestion. Offering the following dates for [redacted] and [redacted] below – when you know more do let me know if any of these also work for your colleagues.

- Monday 24<sup>th</sup> May - afternoon
- Tuesday 25<sup>th</sup> May - flexible
- Wednesday 26<sup>th</sup> May - afternoon
- Thursday 27<sup>th</sup> May – morning (from 11am)
- Thursday 3<sup>rd</sup> June – morning
- Tuesday 8<sup>th</sup> June – afternoon (anytime)
- Wednesday 9<sup>th</sup> – afternoon
- Monday 14<sup>th</sup> June – afternoon

Many thanks,

[redacted]

[redacted]

**British Soft Drinks Association**

Address: [redacted]  
Telephone: [redacted]  
Website: [britishsoftdrinks.com](http://britishsoftdrinks.com)  
Twitter: [\[redacted\]@britishsoftdrinks](https://twitter.com/[redacted]@britishsoftdrinks)  
LinkedIn: [linkedin.com/company/british-soft-drinks-association](https://www.linkedin.com/company/british-soft-drinks-association)



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**From:** [redacted]@gov.scot [mailto: [redacted] @gov.scot]  
**Sent:** 23 March 2021 15:44  
**To:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Cc:** [redacted]@gov.scot  
**Subject:** FW: Meeting request - British Soft Drinks Association

Dear [redacted]

Thank you for your email to my colleague [redacted] to arrange a meeting to discuss, amongst other things, proposals on ending the sale of energy drinks to children and young people.

My colleague [redacted] (Diet and Healthy Weight Team Leader) and I ([redacted] – Energy drinks policy lead) would be pleased to meet [redacted] and [redacted]. In terms of timing, you'll be aware that we have the upcoming Scottish election on 6th May. As such, can I suggest a meeting after the election to take account of the new administration and ensure our discussion is as informed as possible? Would late May/early June be suitable?

I look forward to hearing from you.

Kind Regards

[redacted]

[redacted] | *Working from home* | Diet and Healthy Weight Team | Health Improvement Division |

Phone: *Currently working from home - please email and I am happy to give you a call back if required.*

Working days: Tues, Wed & Thurs

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**From:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Sent:** 22 March 2021 11:42  
**To:** [redacted] <[redacted]@gov.scot>  
**Subject:** Meeting request - British Soft Drinks Association

Dear [redacted],

Following a suggestion from Minister Gougeon's Private Secretary (see attached), I am contacting you on behalf of the British Soft Drinks Association (BSDA) to arrange a meeting to

discuss the Government's proposals for ending the sale of energy drinks to children, as well as more broadly on public health policies and our shared efforts to reduce obesity rates.

My colleagues **[redacted]** (Director General) and **[redacted]** (Policy Manager) would be most willing to meet with you to discuss how we might work together on this, as well as on wider measures in *A Healthier Future: Scotland's Diet & Healthy Weight Delivery Plan*.

The following dates are currently available in their diaries for such a meeting, should it be of interest to you and your colleagues. But please do let me know if you would like additional suggestions.

- Thursday 25 March, 11:30 am
- Friday 26 March, between 2pm and 4pm
- Monday 29 March, between 11am and 1pm
- Wednesday 31 March, flexible
- Thursday 1 April, between 2pm and 4pm
- Wednesday 7 April, 10am or 2pm
- Friday 9 April, 11am or 2pm

Kind regards,

**[redacted]**

**[redacted]**

**Public Affairs Manager**  
**British Soft Drinks Association**

Address: **[redacted]**  
Email: **[redacted]**@britishsoftdrinks.com  
Telephone: **[redacted]**  
Website: [britishsoftdrinks.com](http://britishsoftdrinks.com)  
Twitter: [@britishsoftdrinks](https://twitter.com/britishsoftdrinks)  
LinkedIn: [linkedin.com/company/british-soft-drinks-association](https://www.linkedin.com/company/british-soft-drinks-association)

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Registration Number: 500979 Place of Registration: England



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**From:** [casehandling.service@gov.scot](mailto:casehandling.service@gov.scot) [<mailto:casehandling.service@gov.scot>]  
**Sent:** 18 March 2021 12:26  
**To:** [redacted] <[redacted]@britishsoftdrinks.com>  
**Subject:** Your recent correspondence with Scottish Government and partner agencies - 202100140432

Dear [redacted],

Please find attached a response to your correspondence.

Regards

**[redacted]**

Assistant Private Secretary to Mairi Gougeon MSP  
Minister for Public Health and Sport  
2N.15 | St Andrew's House | Regent Road | Edinburgh | EH1 3DG

\*\*\*\*\*  
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**From:** [redacted]  
**Sent:** 28 March 2023 12:07  
**To:** [redacted]@suntory.com  
**Subject:** RE: Meeting request from Lucozade and Ribena

Thanks for letting us know [redacted]. See you shortly.

[redacted]

[redacted] | Diet and Healthy Weight Team | Health Improvement Division |  
Working days: Tues, Wed & Thurs

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**From:** [redacted]@suntory.com <[redacted]@suntory.com>  
**Sent:** 28 March 2023 12:05  
**To:** [redacted] @hanovercomms.com; [redacted] <[redacted]@gov.scot>; [redacted]@suntory.com  
**Cc:** [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@hanovercomms.com>; [redacted] <[redacted]@gov.scot>  
**Subject:** Re: Meeting request from Lucozade and Ribena

Hi [redacted],

Plane mad up time so should all be fine. See you at 1.

Best,

[redacted]  
Sent from my iPhone

On 28 Mar 2023, at 10:12, [redacted] <[redacted]@suntory.com> wrote:

Hi [redacted],

Just wanted to flag my flight has been delayed by an hour. We seem to be moving now but I might be a few mins late for our meeting. The good news is that I don't have to be in Parliament this afternoon so have a bit more flexibility, but appreciate you and [redacted] might not.

I'll send a message again when we land and hopefully will be with you at 1.

Best wishes,

[redacted]

Sent from my iPhone

On 27 Mar 2023, at 11:19, [redacted]  
<[redacted]@suntory.com> wrote:

Hi [redacted],

Hope you're well.

Thanks so much for confirming, Looking forward to meeting you and Peter tomorrow.

Best wishes,

[redacted]

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**From:** [redacted] <[redacted]@hanovercomms.com>  
**Sent:** 22 March 2023 12:44  
**To:** [redacted]@gov.scot; [redacted]  
<[redacted]@suntory.com>; [redacted]  
<[redacted]@suntory.com>  
**Cc:** [redacted]@gov.scot; [redacted]@gov.scot; [redacted]  
<[redacted]@hanovercomms.com>; [redacted]@gov.scot  
**Subject:** RE: Meeting request from Lucozade and Ribena

Hi [redacted],

I hope you are well, just picking this up as [redacted] is on leave, to confirm this meeting. We will ensure he is aware of the ID requirements noted below. Do let us know if anything changes.

Best,  
[redacted]

---

**From:** [redacted]@gov.scot <[redacted]@gov.scot>  
**Sent:** 21 March 2023 09:37  
**To:** [redacted] <[redacted]@suntory.com>; [redacted]@suntory.com  
**Cc:** [redacted]@gov.scot; [redacted]@gov.scot; [redacted]  
<[redacted]@hanovercomms.com>; [redacted]@gov.scot  
**Subject:** RE: Meeting request from Lucozade and Ribena

Hi [redacted]

Thanks to [redacted] for moving this along. Let's go for 1-1.30pm on Tuesday 28<sup>th</sup> in St Andrews House. This gives you plenty of time to make your next meeting at the Parliament. I'll send through a meeting request.

To flag that all visitors are required to present photo ID on arrival at reception. Any official documentation which includes photo ID with your name is valid such as:

1. passport
2. driving licence
3. government issued ID
4. military ID card
5. national ID card
6. national entitlement card (saltire card)
7. police and fire and rescue warrant cards

Hope that all makes sense. Anything else crops up, please do just get in touch. Otherwise, [redacted] and I look forward to meeting you on the 28<sup>th</sup>.

Best wishes

[redacted]

[redacted] | Diet and Healthy Weight Team | Health Improvement  
Division | Working days: Tues, Wed & Thurs

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**From:** [redacted] <[redacted]@gov.scot>  
**Sent:** 17 March 2023 17:57  
**To:** [redacted]@suntory.com; [redacted]  
<[redacted]@gov.scot>  
**Cc:** [redacted] <[redacted]@gov.scot>; [redacted]  
<[redacted]@gov.scot>; [redacted]@hanovercomms.com;  
[redacted]@suntory.com  
**Subject:** RE: Meeting request from Lucozade and Ribena

Thanks. Let me check in with [redacted] on Tuesday – she’s not available at 1pm. I’m sure we can sort something out. Is your meeting with the MSP at Parliament?

Kind regards

[redacted] (Pronouns – He/Him)

Senior Policy Manager | Diet & Healthy Weight Team | Directorate for  
Population Health | M: [redacted]

**Please note that I am working from home at this time.**



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**From:** [redacted]@suntory.com <[redacted]@suntory.com>  
**Sent:** 17 March 2023 16:50  
**To:** [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>  
**Cc:** [redacted] <[redacted]@gov.scot>; [redacted] <[redacted]@gov.scot>; [redacted]@hanovercomms.com; [redacted]@suntory.com  
**Subject:** RE: Meeting request from Lucozade and Ribena

Thanks so much [redacted]. I can do 1pm on 28<sup>th</sup> but 1.30 might be pushing it I'm afraid as I have a meeting with an MSP at 2pm. Alternatively any time before 1pm on 29<sup>th</sup>?

Looking forward to meeting.

Best,

[redacted]

---

**From:** [redacted]@gov.scot  
**Sent:** 17 March 2023 13:06  
**To:** [redacted] <[redacted]@suntory.com>; [redacted]@gov.scot  
**Cc:** [redacted]@gov.scot; [redacted]@gov.scot; [redacted]@hanovercomms.com; [redacted] <[redacted]@suntory.com>  
**Subject:** RE: Meeting request from Lucozade and Ribena

Hi [redacted],

Just nipping in here as this is [redacted] non-working day but I can check her diary.

If the meeting is just 30 mins then how about 1:30 to 2pm? That seems clear at the moment...

I'd be happy to meet you as well. I lead on other aspects of diet policy including reformulation, food out of home and climate change & diet. For the latter reason I'll be attending the FDFS reception as well.

Kind regards

[redacted] (Pronouns – He/Him)

Senior Policy Manager | Diet & Healthy Weight Team | Directorate for  
Population Health | M: [redacted]

Please note that I am working from home at this time.



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**From:** [redacted]@suntory.com <[redacted]@suntory.com>  
**Sent:** 17 March 2023 10:51  
**To:** [redacted] <[redacted]@gov.scot>  
**Cc:** [redacted] <[redacted]@gov.scot>; [redacted]  
<[redacted]@gov.scot>; [redacted]  
<[redacted]@gov.scot>; [redacted]  
<[redacted]@hanovercomms.com>; [redacted]@suntory.com  
**Subject:** RE: Meeting request from Lucozade and Ribena

Hi [redacted],

Thanks so much for getting back to me so quickly. Really appreciate your transparency. I'm not sure the next time I'll be up in Edinburgh, so even if it was 30 mins to do intros and update you about us and what we've been up to that would be great. We could then maybe have a follow up call once you've published the consultation analysis reports?

I'm free 1pm on Tuesday 28<sup>th</sup>, or free anytime the morning of 29<sup>th</sup> if either works for you and the team?

Just noted your working days in your signature. I'm on AL next week, but my colleague [redacted] or our agency Hanover both copied can help organize in my absence when you're back on Tuesday.

Many thanks,

[redacted]

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**From:** [redacted]@gov.scot <[redacted]@gov.scot>  
**Sent:** 16 March 2023 15:35  
**To:** [redacted] <[redacted]@suntory.com>  
**Cc:** [redacted]@gov.scot; [redacted]@gov.scot; [redacted]@gov.scot  
**Subject:** RE: Meeting request from Lucozade and Ribena

Hi [redacted]

Thanks for getting in touch. We are well thank you. Hope you are too.

We'd be happy to meet to hear the latest on your reformulation and innovation work. Also happy to discuss the proposals we consulted on for promotions. Beyond that, we will be very limited in what more we are able to say by way of an update until we are on the other side of the consultation analysis being published – which we hope to do shortly. We are in the same position for energy drinks.

With that in mind, if an early discussion would still be helpful then happy to arrange that for 28/29<sup>th</sup>. Alternatively we can arrange a meeting once we have published the consultation analysis reports at which point we will have a bit more to update on. Happy to go for whatever is most helpful to you.

Look forward to hearing from you.

Kind regards

**[redacted]**

**[redacted]** | Diet and Healthy Weight Team | Health Improvement Division | Working days: Tues, Wed & Thurs

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**From:** **[redacted]**@suntory.com <**[redacted]**@suntory.com>

**Sent:** 15 March 2023 10:46

**To:** **[redacted]** <**[redacted]**@gov.scot>; **[redacted]** <**[redacted]**@gov.scot>

**Subject:** Meeting request from Lucozade and Ribena

Hi both,

Hope you're well.

I will be in Edinburgh for FDF Scotland's Parliamentary Reception on Tuesday 28<sup>th</sup> March and wondered if you had any time to meet up please?

It would be great to update you on our reformulation and innovation work meaning that all of our brands and drinks are non-HFSS – including Lucozade Energy, Lucozade Sport, Ribena and Orangina – and to discuss the latest with Scotland's plans to restrict HFSS advertising and

promotions please. It would also be amazing to get an update on your plans to introduce a High Caffeine Stimulant Drink sales ban for under 16s, and the potential impact this could have on our Lucozade brands.

I'll be in Edinburgh most of the 28<sup>th</sup> and the day after, so if you had any time for a catch up please let me know.

Best wishes,

[redacted]



[redacted]

Senior Public Affairs Manager

M: [redacted]

E: [redacted]@Irsuntory.com

A: [redacted]

[www.suntorybfe.com/gbi](http://www.suntorybfe.com/gbi)



*We work flexibly at SBF GB&I – I sent this email at a time that suited me. I don't expect you to read or reply outside your normal working hours.*



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*Suntory Beverage & Food Europe is a regional division of Suntory Beverage & Food.*

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## Response ID ANON-J8JA-R1F9-F

Submitted to Ending the sale of energy drinks to children and young people: consultation

Submitted on 2020-02-04 17:31:52

### Ministerial Foreword

### Introduction

### Mandatory Measures

#### 1 Should sales of energy drinks to young people under the age of 16 be banned?

Not Answered

**Please describe any factors you have taken into consideration and provide any evidence you have to support a specific age restriction.:**

Along with all members of the British Soft Drinks Association (BSDA) we fully comply with the BSDA voluntary Energy Drinks Code of Practice whereby we do not:

- ~ undertake any marketing communications concerning energy drinks in any media with an audience of which more than 25% is under 16 years of age (in line with BCAP and Ofcom guidelines)
- ~ undertake any commercial activity of any sort relating to energy drinks in primary or secondary schools
- ~ use static outdoor advertising of energy drinks within 100 metres of primary or secondary school main gates
- ~ promote irresponsible or excessive consumption of energy drinks
- ~ suggest any association with illegal or anti social behaviour.

As such we welcomed the voluntary measures put in place by many retailers to stop the sale of energy drinks to under 16s.

Should Government determine it necessary to impose an age restriction on the sale of energy drinks we believe that it should not extend beyond 16 years. An age restriction beyond this would be inconsistent with government's historical definition of children. At the age of 16 in the UK, it is legal to get married, drive a moped, consent to sexual activity, work part time, join the armed forces, leave home, change your name by deed poll, consent to medical treatment and buy a lottery ticket.

At 17, you can drive, become a blood donor, and be interviewed by the police without an adult present.

A ban for under 18s would unfairly and incorrectly put energy drinks in the same category as alcohol and tobacco. According to all leading health authorities, EFSA and the Committee on Toxicity, the ingredients used within energy drinks are safe to be consumed by those who are 16 and over, which clearly puts the energy drinks debate in an entirely different context to alcohol and tobacco products. Furthermore, this

would align with proposals from the UK Government 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 businesses. It is imperative that any government interventions are clearly based on evidence.

The House of Commons Science and Technology Committee concluded in its recent inquiry on energy drinks that “there is insufficient evidence as to whether children’s consumption habits are significantly different for energy drinks compared with other caffeinated products such as tea and coffee”. The Committee, having considered all available evidence, stated “on balance, 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”.

The latest EFSA Scientific Opinion on the Safety of Caffeine confirms that daily caffeine intake from energy drinks is negligible in children (3-10 year olds) and is less than 10% in adolescents (10 to <18 years).

- (1) <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.”
- (2) <https://publications.parliament.uk/pa/cm201719/cmselect/cmsctech/821/821.pdf>  
(page 3)
- (3) <https://publications.parliament.uk/pa/cm201719/cmselect/cmsctech/821/821.pdf>  
(page 36)
- (4) European Food Safety Agency (EFSA), Scientific Opinion on the Safety of Caffeine (2015)<https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2015.4102>

## **Proposals for implementation and enforcement**

**2 If implemented, are there any places where energy drinks are currently sold, that should be exempt from mandatory age restrictions?**

**Please explain your answer and provide any thoughts on how this could work in practice. In particular, views are sought for energy drinks sales in vending machines and those made online.:**

This is a matter for retailers, who are in a better position to answer with authority. Any legislation introduced must ensure a level playing field across industry. Any ban should be at the point of sale to the end user.

**3 Please comment on our proposals for enforcing any requirements that are implemented. Please include any practical issues that we should consider to ensure that the enforcement of any policy implementation is done fairly and is not overly burdensome.:**

It is imperative that the definition of energy drinks being used for this proposal (high-caffeine beverages containing more than 150mg/l of caffeine) is clearly communicated to manufacturers, retailers and consumers to avoid any confusion between drinks out of scope, including sports drinks and other soft drinks beverages that may be marketed as providing “energy”, but are below the threshold of 150mg/l of caffeine. Any implementation and enforcement policy must take full account of this, to ensure that products out of scope are not inadvertently included in a ban by any retailer.

Published advice and guidance to support manufacturers and retailers (particularly small and medium sized businesses) will be required. It would be helpful if this guidance could include an indicative list of products in scope, and clear guidelines setting out how to identify products in scope.

**4 Please comment on our proposals for evaluating any policies that are implemented. Please comment on our proposals for evaluating any policies that are implemented.:**

It is important that the Scottish Government understands any unintended consequences of the ban and is fully aware of any circumstances where there has been confusion around out of scope products in order that this can be addressed and rectified at the earliest opportunity. ~

We would request that the Scottish Government provides support and advice to manufacturers, retailers and customers, to ensure all are clear about (1) the definition of energy drinks; and (2) which products are in or out of scope.

**Impact assessments**

**5 For sellers only: If you have implemented age restrictions for energy drinks, please describe any effect, positive or negative, that this has had on your business. :**

N/A

**6 For sellers only: If you do not have age restrictions in place for energy drinks, please describe any effect, positive or negative, that implementing such restrictions would have on your business. :**

N/A

**7 What, if any, impact do you think applying mandatory age restrictions to sales of energy drinks would have on businesses? Please include any anticipated differential impacts, positive and negative, on sellers, distributors and manufacturers of energy drinks.:**

We do not market or promote the sale of energy drinks to under 16s and so a ban on the sale of energy drinks to under 16s would have minimal impact. If a ban on the sale of energy drinks to under 18s is taken forward, despite no scientific evidence base, the reputation of the sector could be seriously affected. With safe, functional products for adults being categorised in the same way as alcohol and tobacco, which are banned to under 18s for causally clear and evidence-based health reasons, it would be impossible for manufacturers to predict the business impact and reputational implications that this would have.

**8 What, if any, impact do you think implementing mandatory age restrictions to sales of energy drinks will have on people based on any of the following characteristics? Please consider potentially positive, negative and differential impacts, supported by evidence, and, if applicable, advise on any mitigating actions we should take.:**

Yes – protected characteristic of “age” – Implementing a mandatory under-18 ban would unfairly restrict those aged 16 and 17 from choosing a safe, functional product.

**Any other comments**

**9 Please outline any other comments you wish to make.**

**About us**

A.G. Barr p.l.c. is a Scottish headquartered FTSE 250 branded consumer goods business focused on growth. The company was established over 140 years ago in Scotland and employs almost 1,000 people.

A soft drinks business at its core, A.G Barr offers a diverse and differentiated portfolio of great tasting brands such as the iconic IRN-BRU, market-leading RUBICON exotic fruit juice drinks, and the Scottish spring water STRATHMORE.

In addition to our Company owned brands, we also market and sell a number of franchise brands, including ROCKSTAR energy drinks, for which we have been the exclusive distributor in the UK since 2008.

We keep close to the behaviours and preferences of our consumers and know that attitudes are changing, particularly in relation to sugar, with more and more people wanting to reduce the amount of sugar in the food and drink they consume.

In response to these consumer changes we have successfully delivered a reformulation and innovation programme which means that that 99% of our portfolio is now made up of products that are now defined as reduced or no sugar, including many of our ROCKSTAR products.

In addition to reducing our soft drinks sugar content, we advertise responsibly, offer a wide range of pack sizes across our portfolio to assist with portion control and, by providing clear nutritional information on all of our products, enable our consumers to make informed choices.

We take our responsibility in how we market, promote and advertise our products very seriously and do not target any of our advertising or marketing activity at children, in or out of school. Furthermore we adhere to the British Soft Drink Associations voluntary Energy Drinks Code of Practice.

We believe that how we act reflects who we are. We take our responsibilities seriously and aim to be a sustainable and responsible business that listens to our consumers, takes care of

our people, works to minimise our environmental impact and gives something back to the communities we serve.

### **Definitions**

For the purposes of this submission:

“Energy drinks” are high-caffeine beverages (containing more than 150mg/l of caffeine)

‘children’ are persons under the age of 16, in line with UK advertising and marketing regulations

### **Other comments**

In order to minimise consumer and retailer confusion, we request that any ban on sales to under-16s be delivered on a GB-wide basis through co-ordination of regulation between Scotland, England and Wales.

Separate regimes across GB will present a significant and unnecessary burden on businesses by fracturing the single market economy we operate in. The financial cost of having to differentiate Scottish SKUs in terms of manufacture, packaging and labelling, transport, warehousing and distribution would be significant and would place a large administrative and resource requirements on business.

We request that an implementation period of a minimum of at least 12 months be provided to industry to enable changes to be made to on-pack labelling and to ensure that manufacturers and retailers are given time to understand the changes and implement them effectively.

We already promote the responsible sale of energy drinks through our voluntary adherence to the BSDA’s Energy Drinks Code of Practice. This Code was further updated in 2015 to include more stringent guidelines around marketing and promoting, including reference to commercial activities in and around schools.

The following voluntary measures are set out in the Code of Practice :

~ The labelling should include the statement “Consume Moderately” (or similar words based on consumer understanding)

~ No marketing communications concerning energy drinks will be placed in any media with an audience of which more than 25% is under 16 years of age (in line with BCAP and Ofcom guidelines)

~ No commercial activity of any sort relating to energy drinks by BSDA members will be undertaken in primary or secondary schools

~ No static outdoor advertising of energy drinks will be placed within 100 metres of primary or secondary school main gates



~ Sampling activity will not deliberately be aimed at or specifically designed to appeal to under 16s

~ Marketing communications will not promote irresponsible or excessive consumption of energy drinks

~ Marketing communications will not suggest any association with illegal or anti social behaviour

~ Manufacturer produced and controlled marketing communications, including labels, will not make any claims that the consumption of alcohol together with energy drinks counteracts the effects of alcohol

~ Energy drinks are functional beverages and not sports drinks. Although normal consumption of energy drinks also provides water to the body, energy drinks will not be marketed as sports beverages which deliver a rehydration benefit unless they contain specific ingredients in addition to caffeine to support this claim

~ Off label (e.g. through websites or leaflets) the BSDA on behalf of the industry will provide regularly updated comprehensive information to consumers and stakeholders about energy drinks, their responsible consumption and their characteristic ingredients

~ The BSDA on behalf of the industry will continue to work with retailers to support them on interpretation of this Code of Practice.

**10 Please upload any additional supporting documents.**

About you

**What is your name?**

Name: [redacted]

**What is your email address?**

Email: [redacted]@agbarr.co.uk

**Are you responding as an individual or an organisation?**

Organisation

**What is your organisation?**

Organisation:

A.G. Barr p.l.c.

**The Scottish Government would like your permission to publish your consultation response. Please indicate your publishing preference:**

Do not publish response

**We will share your response internally with other Scottish Government policy teams who may be addressing the issues you discuss. They may wish to contact you again in the future, but we require your permission to do so. Are you content for Scottish Government to contact you again in relation to this consultation exercise?**

Yes

### **Evaluation**

**Please help us improve our consultations by answering the questions below. (Responses to the evaluation will not be published.)**

**Matrix 1 - How satisfied were you with this consultation?:**

Very satisfied

**Please enter comments here.:**

**Matrix 1 - How would you rate your satisfaction with using this platform (Citizen Space) to respond to this consultation?:**

Very satisfied

**Please enter comments here.:**