



Government Response to the House of Commons Science and Technology Committee report on Energy drinks and children

Presented to Parliament
by the Secretary of State for Health and Social Care
by Command of Her Majesty

Published March 2019



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Introduction

This paper sets out the Government's response to the conclusions and recommendations made in the Science and Technology Select Committee's report *Energy drinks and children*¹.

Overview

Energy drinks contain higher levels of caffeine than other soft drinks (for example colas), and may also contain a lot of sugar (although low- or zero-calorie energy drinks are also available). Under current labelling rules, any drink, other than tea or coffee, that contains over 150mg of caffeine per litre requires a warning label saying: 'High caffeine content. Not recommended for children or pregnant or breast-feeding women'. The amount of caffeine in milligrams per 100ml of drink must also be stated on the label.

Evidence suggests that excessive consumption of caffeine by children can be linked to negative health outcomes in some children, affecting anxiety, as well as sleep latency and duration². The European Food Safety Authority (EFSA) derived a safety level for caffeine of 3mg per kilogram body weight per day for both single doses and habitual consumption.

Some evidence has also linked energy drink consumption with depressive symptoms, emotional difficulties and lower well-being among children and adolescents. One study in New Zealand found that depressive symptoms were 11% higher and 'total difficulties' were 25% higher in those who consumed energy drinks 4 or more times a week compared to those who never consumed energy drinks³.

We are hearing strong calls from parents, health professionals, teachers and some industry bodies and retailers for an end to sales of high-caffeine energy drinks to children. Many larger retailers and supermarkets have voluntarily stopped selling energy drinks to children under 16 years of age. While we recognise the efforts of retailers who have already acted, there are still many retailers who continue to sell these drinks to children.

In the second chapter of our world-leading childhood obesity plan⁴, published in June 2018, we committed to consult on our intention to introduce legislation ending the sale of energy drinks to children. The consultation closed in November and received a high level of interest.

¹ <https://publications.parliament.uk/pa/cm201719/cmselect/cmsctech/821/821.pdf>

² EFSA NDA Panel (EFSA Panel on Dietetic Products, Nutrition and Allergies), 2015. Scientific Opinion on the safety of caffeine. EFSA Journal 2015;13(5):4102, 120 pp. doi:10.2903/j.efsa.2015.4102

³ Utter, J., Denny, S., Teevale, T., & Sheridan, J. (2017). Energy drink consumption among New Zealand adolescents: associations with mental health, health risk behaviours and body size. *Journal of paediatrics and child health*, 54(3), 279-283

⁴ https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/718903/childhood-obesity-a-plan-for-action-chapter-2.pdf

The consultation asked whether ending the sale of energy drinks to children by all retailers is the right approach to take to prevent children from consuming excessive amounts of energy drinks. We are proposing that if a restriction on the sale of energy drinks to children is introduced, the drinks in scope would be any drink, other than tea or coffee, which contains over 150mg of caffeine per litre and under current EU laws are required to state ‘High caffeine content. Not recommended for children or pregnant or breast-feeding women’ on the label. We will use the feedback to the consultation to gather further views and evidence on the advantages and disadvantages of ending the sale of energy drinks to children, and on alternative options, before making a decision.

We welcome the work of the Science and Technology Select Committee in this area and the report of its Inquiry on *Energy drinks and children*. We will consider this and all responses to the consultation and will respond to the feedback later in the year.

Conclusions and recommendations

Introduction

1. There is a lack of consistency in the age used to define a child when it comes to the marketing, sale, advertising and regulation of energy drinks. *In considering its responses to the consultation on restricting the sale of energy drinks, the Government should ensure that advertising restrictions and any restrictions on sale are aligned in order to give a consistent and clear message to young people and parents.* (Paragraph 11)

The consultation asked whether the age limit for an end to sales of energy drinks to children should be 16 or 18 years old, or for other ages to be suggested.

The Government believes that the age of 18 is widely recognised as the age at which one becomes an adult, gaining full citizenship rights and responsibilities. It is also the age limit for purchasing other age-restricted substances, such as tobacco and alcohol.

Some retailers, including all major supermarkets, have already stopped the sale of energy drinks to under 16 year olds. An age limit of 16 would therefore be consistent with existing voluntary limits that many retailers have already applied. However, 16 and 17 year olds are the highest consumers of energy drinks.

We will consider all feedback and evidence on which age limit would be appropriate if the Government does decide to end the sale of energy drinks to children in England.

Effects of consumption on children

2. Many young people choose to consume energy drinks, and some consume them in significant volumes. Energy drink consumption is higher on average in the UK than in other countries in Europe. Nevertheless, young people consume caffeine from a variety of sources, including tea, coffee, cola and chocolate. (Paragraph 42)

3. Drinking energy drinks is correlated with young people engaging in other risky behaviours such as drinking alcohol and smoking, but it is not possible to determine whether there is any causal link. (Paragraph 43)
4. In our view, 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. *We recommend that in the next six months the Government should commission independent research to establish whether energy drinks have more harmful effects than other soft drinks containing caffeine in order to support evidence-based decision-making. There are ethical questions related to undertaking research on the effects of energy drink consumption on children, which would need to be borne in mind when designing further research.* (Paragraph 44)

Despite energy drinks having warning labels which state ‘High caffeine content. Not recommended for children or pregnant or breast-feeding women’, we know that children are still consuming them.

Recent evidence has estimated that more than two thirds of UK children aged 10-17, and nearly a quarter of those aged 6-9, have consumed an energy drink in the last year. Furthermore, adolescents (aged 10-17) who drink energy drinks are drinking, on average, 50% more than the EU average for that age group. Though some of these children may only have an energy drink occasionally, the study tells us that a quarter of adolescents who consume energy drinks will have three or more in one sitting, potentially meaning that some children are consuming very large amounts of caffeine in one go⁵.

Evidence also suggests that children, especially younger children, may not be aware of the potential health implications of consuming energy drinks. A European study found that 42% of children aged 3-9 could not confidently tell the difference between energy drinks and cola⁶. This raises questions about whether children and their parents are aware of what energy drinks contain, specifically their high caffeine content.

The consultation asked whether ending the sale of energy drinks to children is the right approach to prevent children from excessive consumption of energy drinks. If we are presented with evidence through the consultation that other foods or drinks containing high caffeine also present an issue then we will consider whether action needs to be taken to restrict children's access to these items.

We have asked the Evidence for Policy and Practice Information and Co-ordinating Centre (EPPI-Centre) to conduct a complete literature review and further analysis of population-level datasets so that we can ensure we are using all available evidence to come to a decision on the right action to take. The reports will be published shortly.

⁵ Zucconi S., Volpato C., Adinolfi F., Gandini E., Gentile E., Loi A., Fioriti L.; “Gathering consumption data on specific consumer groups of energy drinks”. Supporting Publications 2013:EN-394

⁶ Zucconi, S., Volpato, C., Adinolfi, F., Gandini, E., Gentile, E., Loi, A., & Fioriti, L. (2013). Gathering consumption data on specific consumer groups of energy drinks. EFSA Supporting Publications, 10(3)

We are also considering the statement paper from the Committee on Toxicity of Chemicals in Food, Consumer Products and the Environment (COT) on the potential risks from energy drinks in the diet of children and adolescents⁷.

A statutory or a voluntary ban?

5. We acknowledge that energy drinks are consumed disproportionately by disadvantaged groups and there is evidence that consumption of energy drinks is associated with negative impacts on “executive functions” and may risk hyperactivity or lack of concentration. Any trend that undermines the educational attainment of disadvantaged groups needs to be tackled. Meanwhile, the pricing of some energy drinks means that it is easy for children to consume them in excess, beyond the suggested safe limits—and there is evidence that children are doing this. The current voluntary ban implemented by a number of retailers amplifies the message that energy drinks are associated with negative health, behavioural and dietary effects. We would support schools, local authorities and local communities working with businesses and vending machine providers on possible actions (e.g. exclusion zones) that could be used to reduce energy drink consumption among children, and in particular to reduce the extent to which they are consumed in excess. (Paragraph 59)
6. 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. Single portions are within the European Food Safety Authority’s suggested limit for caffeine intake by children. This limit may be exceeded if other products containing caffeine are also consumed, or if energy drinks are consumed in excess, but the same can be said for many products available for sale to young people, including other drinks containing caffeine. However, we recognise 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, such as the experience of school teachers. If the Government decides to introduce a statutory ban it should set out the reasoning for its decision. (Paragraph 60)

We welcome the Committee’s acknowledgement that there is a higher consumption of energy drinks amongst disadvantaged groups and that lower pricing makes them more appealing, especially to children.

Evidence suggests there is a link between energy drink use and sleeping difficulties. A 2014 study in England suggested that 34% of adolescents who consumed two to four energy drinks per week (14% of the sample) said that their ability to concentrate at school was affected by not getting enough sleep, compared to 18% of non-energy drink consumers (53% of the sample)⁸.

⁷ <https://cot.food.gov.uk/sites/default/files/cotenergydrinksstatement.pdf>

⁸ F. M. Brooks, E. Klemra, J. Magnusson, K. Chester, (2018) Young People and Energy Drink Consumption in England: findings from the WHO Health Behaviour in School aged Children (HBSC) Survey 2015, Commissioned report for Department of Health, UH, 2018;

Research in Finland has found that adolescents (aged 12-18) who consume energy drinks several times a day are 4.5 times more likely to report experiencing headaches, 3.5 times more likely to report sleeping problems, and 3.4 times more likely to report experiencing tiredness, compared to adolescents who do not consume energy drinks⁹.

Many larger retailers and supermarkets have voluntarily stopped selling energy drinks to under-16s. While we recognise the efforts of retailers who have already acted, there are still many retailers who continue to sell these drinks to children. Legislating to end the sale of high-caffeine energy drinks to children would create a level playing field for businesses and create consistency, helping ensure that children do not consume excessive amounts of these drinks.

Vending machines offer another access point to energy drinks for children, therefore the consultation asked for views on whether sales of energy drinks from these machines should also be restricted. As adults may also purchase energy drinks from vending machines, the consultation asked how sales could be restricted in a way that is proportionate. The consultation suggested possible approaches including prohibiting all sales from all vending machines, prohibiting sales in specific locations such as educational establishments, sports centres and youth centres, and imposing age restrictions. The consultation also invited views on whether there are other approaches to restricting vending machine sales that would be more appropriate.

We recognise that the evidence base around energy drinks and their effects is complex. However, we are hearing strong calls from parents, health professionals, teachers and some industry bodies and retailers for an end to sales of high-caffeine energy drinks to children. Those who work with children are expressing concern about the effects that energy drinks are having on children. A recent survey by the Teacher's Union NASUWT, for example, found that more than one in ten (13%) of teachers and school leaders identified energy drinks as a key contributor to the poor behaviour they had witnessed¹⁰.

We will use the consultation to gather further views and evidence on the advantages and disadvantages of ending the sale of energy drinks to children, and on alternative options, before making a decision.

We will also continue to monitor any new emerging scientific evidence including the statement paper from the Committee on Toxicology of Chemicals in Food, Consumer Products and the Environment.

Through the feedback to the consultation alongside available evidence the Government will present a rational decision supported by evidence and an Impact Assessment.

⁹ Huhtinen, H., Lindfors, P., & Rimpelä, A. (2013). Adolescents' use of energy drinks and caffeine induced health complaints in Finland: Arja Rimpelä. *The European Journal of Public Health*, 23(1), 123-050

¹⁰ NASUWT Big Question Survey: <https://www.nasuwt.org.uk/advice/in-the-classroom/behaviour-management/energy-drinks.html>

Labelling and advertising

7. Labelling of food and drinks should be designed to help the consumer make an informed choice. In the case of energy drinks, there are concerns that children and their parents do not fully understand what they are consuming. Despite statutory labelling on energy drinks that they are not recommended for children, a significant number of young people continue to consume these products, and some in excessive amounts. While there is a risk of glamorising the product in the minds of younger consumers from warning labels, increasing the prominence of the message could help parents to make informed choices about what they buy for their children. We believe that the evidence threshold for including more prominent advisory notices is lower than for prohibiting their sale. *We therefore recommend that the Government should use the opportunity of leaving the EU to introduce, within 18 months of exit day, additional labelling requirements to ensure that advisory messages are more prominent on energy drinks packaging and not merely in 'the small print'.* (Paragraph 70)

8. It is important that the sugar and caffeine content of energy drinks is clearly communicated to consumers. *The Government should consult on whether introducing caffeine labelling requirements on all products containing caffeine (in milligrams per 100 millilitres) including average values per serving of tea and coffee in coffee shops, would help consumers make informed choices in relation to energy drinks as well.* (Paragraph 77)

Energy drinks containing over 150mg of caffeine are already required by EU law to bear labels “High caffeine content. Not recommended for children or pregnant or breast-feeding women” and must provide information on the level of caffeine in them. These drinks must also indicate they have a high caffeine content and so consumers are aware these have higher caffeine levels than other caffeinated soft drinks.

In June 2016, the Government committed to exploring what additional opportunities leaving the European Union would present for food labelling of pre-packaged food and drinks. If the consultation responses and other research suggest that making this labelling clearer or more prominent would be beneficial, we will explore the opportunities that leaving the EU presents us for making labelling more effective.

We want to build on the success of our current labelling scheme, and review additional opportunities to go further and ensure we are using the most effective ways to communicate information.

Marketing and advertising

9. Energy drinks companies claim that they do not directly advertise or promote their products to children, but several leading brands are nevertheless strongly associated with sporting events which children may find attractive. *The Government should keep under review whether it is appropriate for energy drinks to sponsor sporting events.* (Paragraph 87)

10. We believe that some energy drinks company associations with sports could be construed as advertising to children and building brand awareness among those that their products are not suitable. We were not convinced by Monster Energy's explanation of the contradiction between claiming that children are not the target audience for their brand and providing the Monster Army as an athlete development scheme for 13–21 year-olds. While we have no wish to see the Monster Army programme discontinued, we recommend that the Advertising Standards Agency review the marketing and nature of this programme as a matter of urgency. (Paragraph 88)
11. We recommend that the Committee of Advertising Practice consider whether to explicitly include high-caffeine products within the scope of its advertising approach to high-fat, sugar or salt content (HFSS) foods and drinks. (Paragraph 97)
12. Although there are codes of practice in place that limit the advertising of energy drinks to children (on the basis that they are usually high-sugar products), we are concerned that children may nevertheless be exposed to advertisements aimed at older target audiences. We are particularly worried by 'advergaming' and 'gamification' as a route through which young people will be encouraged to buy energy drinks, including purchases influencing progress in a game itself. Weak controls on age verification in gaming make this possible, and other games clearly produced by and associated with energy drinks companies are freely available for children to play. We recommend that the Advertising Standards Agency hold an urgent review of age verification processes used in games to ensure that children are not exposed to advertisements and game features aimed at adults. The ASA should report by the end of March 2019 specifically on the promotional games drawn to our attention (which are set out at paragraph 101 of our Report). (Paragraph 103)

Whilst we recognise that some brands of energy drinks may be associated with sporting events, *Sporting Future: A New Strategy for an Active Nation*¹¹, published in 2015, committed Government to continue to discuss with sports bodies the scope for voluntary agreements on high fat, salt and sugar (HFSS) food sponsorship. Working with Department of Health and Social Care, Public Health England, the Sport and Recreation Alliance and sports organisations the Department for Digital, Culture, Media and Sport developed a set of principles for sports bodies to consider when entering into relationships that relate to HFSS products.

These principles were set out in Sport England's wider guidance to sports bodies on commercial sponsorship in May 2017. This included ensuring any monies received are reinvested into developing and promoting sport and providing information to consumers on the content of food and drink available at sporting events. We will continue to keep this guidance under review in terms of whether high caffeine drinks should be included in this guidance.

¹¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/486622/Sporting_Future_ACCESSIBLE.pdf

As the Committee's report acknowledges, advertising in the UK is regulated by the Advertising Standards Authority (ASA), the industry's independent regulator. The ASA enforce the Advertising Codes through a system of self-regulation and co-regulation with Ofcom.

In the case of TV and radio, the ASA enforce the UK Code of Broadcast Advertising (BCAP Code), through a system of co-regulation with Ofcom. In non-broadcast media, the ASA enforce the Code of Non-broadcast Advertising and Direct & Promotional Marketing (CAP Code) which applies to non-broadcast media, including online, print, outdoors, video-on-demand, direct marketing and cinema, through a system of self-regulation.

The Codes are regularly reviewed and updated by the industry (the Broadcast Committee of Advertising Practice for the BCAP Code and the Committee of Advertising Practice for the CAP Code) to ensure they remain effective, and proposed changes to the Codes are routinely subject to public consultation.

It would not be appropriate for Government to respond to the recommendations for the ASA or Committee of Advertising Practice as these bodies are wholly independent of Government.

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