

# Response ID ANON-J8JA-R1FT-A

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

Submitted on **2020-02-04 15:01:06**

## Ministerial Foreword

### Introduction

### Mandatory Measures

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

Unsure

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

The Alliance welcomes the proposal to ban sales of energy drinks to children and young people. There are excessive amounts of sugar in energy drinks, some containing 20 teaspoons of sugar (78g) per 500ml serving [1], and excessive sugar consumption is linked with tooth decay, Type 2 diabetes and obesity which can increase the risk of heart disease, stroke and some forms of cancer [2]. Consumption of energy drinks among children and young people is further associated with anxiety, depression, sensation seeking, poorer executive function, and increased hyperactivity and inattention [3,4]. These manifest as increased psychological distress, poor behaviour, risky behaviours (such as substance use) [5] and poorer academic attainment in maths and English [6].

Members of the Alliance are in agreement that a mandatory age restriction should be introduced on the sale of energy drinks to children and young people to protect their health. There is not, however, an agreement amongst members of the Alliance on the specific age restriction that should be introduced. There is support for a ban of energy drinks sales to individuals under the age of 16, and there is also support for a mandatory age limit at 18. The arguments for each are set out below:

Yes - (the mandatory age limit should be 16)

The main arguments for a mandatory age limit at 16 include:

- In Scotland it is recognised that at age 16, young people are able to make certain choices for themselves. A key aspect has been allowing young people from 16 to vote.
- Young people should be supported to make the right choices to support their health from an early age and this should be further supported through education. Skills development, including communication skills, managing failure and problem solving, emotional regulation, help-seeking and healthy coping, should all be incorporated into education from an early age. In particular, there needs to be a focus on how to critically appraise information to inform decision making [7]. (Also see answer to Q9).
- This supports the UN Convention of the Rights of the Child Article 12 (right to be heard) and the principle of “no decision about me without me” [8].
- In a survey conducted by RCPCH with 198 young people aged between 11-25 years: two-thirds felt that energy drinks should be banned for under 16s, with the remaining one-third opting for under 18s [9].
- There may be challenges for retailers and schools in introducing a ban at 16, however a large number of retailers have voluntarily adopted a ban on the sale of energy drinks to under 16s and believe that legislation will make it easier for them to enforce.

No - the mandatory age limit should be 18

The main arguments for a mandatory age limit at 18 include:

- Article 1 of the UN Convention on the Rights of the Child uses 18 as the upper boundary of childhood [10]. Article 24 in the Convention outlines that ‘States Parties recognise the right if the child to enjoy the highest attainable standard of health’. Article 36 continues to state that ‘State Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child’s welfare’.
  - The age of legal alcohol consumption is 18, and the effects of energy drink consumption and alcohol use are similar, in relation to risk of dependency (alcohol/caffeine), long term health detriments, and short-term mood and behaviour alteration [11,12]. In addition the interplay of energy drinks and the consumption of alcohol presents an additional threat, and is a potential indicator of increased substance use or abuse as well as other health-compromising behaviour [13,14].
  - The highest consumption of energy drinks is amongst 17 year olds. In 2016, almost 2 million litres of energy drinks were consumed by 17 years olds every month in the UK [15]. In a comprehensive review into energy drinks consumption across the EU, the European Food Safety Authority reported 69% of 10-17 year olds in the UK consumed 3.1 litres of energy drinks per month on average [16]. This is more than 50% higher than counterparts in the EU. It also reported that the highest consumers of energy drinks in children EU-wide are 15 -17.
- A mandatory age limit at 18 would avoid neglecting the highest consumers of energy drinks, at 16 years the young person has not finished growth.
- Setting the mandatory age limit to 18 would bring the prohibition on energy drink sales to be consistent with age restrictions applied to other health harming products (smoking and tobacco) also known to be harmful to young people’s health.
  - A ban on the sales of energy drinks for young people under the age of 18 would be the most practical and easiest to implement for sellers, where age verification processes already exist for the purchase of other restricted products.
  - Lithuania, Latvia and Turkey have all implemented a ban on the sales of energy drinks at the mandatory age limit of 18 [8,9].

[1] Action on Sugar (2015) Energy Drinks Fuel the Obesity Epidemic

[2] Tedstone A, Targett V, Allen R (2015) Sugar Reduction. The evidence for action

[3] Curran CP, Marczynski CA Taurine, caffeine, and energy drinks: reviewing the risks to the adolescent brain. Birth Defects Res2017;109:1640-8. doi:10.1002/bdr2.1177 pmid:2925184

[4] Dawodu A, Cleaver K Behavioural correlates of energy drink consumption among adolescents: review of the literature. J Child Health Care2017;21:446-62

[5] Scaless M, Denoth F, Siciliano V, et al. Energy drink and alcohol mixed energy drink use among high school adolescents: association with risk taking behavior, social characteristics. Addict Behav 2017;72:93-9

- [6] Smith AP, Richards G. Energy drinks, caffeine, junk food, breakfast, depression and academic attainment of secondary school students. *J Psychopharmacol* 2018;32:893-9
- [7] RCPCH. Response to Department for Education Consultation on Relationships Education, Relationships and Sex Education and Health Education. November 2018. [https://www.rcpch.ac.uk/sites/default/files/2018-11/rcpch\\_response\\_to\\_consultation\\_on\\_relationships\\_education\\_relationships\\_and\\_sex\\_education\\_and\\_health\\_education\\_-\\_final.pdf](https://www.rcpch.ac.uk/sites/default/files/2018-11/rcpch_response_to_consultation_on_relationships_education_relationships_and_sex_education_and_health_education_-_final.pdf)
- [8] The United Nations Convention on the Right of the Child. <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>
- [9] RCPCH Roadshow Review data. Available on request.
- [10] The United Nations Convention on the Right of the Child. <https://www.unicef.org.uk/what-we-do/un-convention-child-rights/>
- [11] Huhtinen H, Lindfors P, Rimpelä A (2013) Adolescents' use of energy drinks and caffeine induced complaints in Finland. *J Public Heal* 23:
- [12] Visram S, Crossley SJ, Cheetham M, Lake A (2017) Children and young people's perceptions of energy drinks: A qualitative study. *PLoS One* 12:1–17. <https://doi.org/10.1371/journal.pone.0188668>
- [13] Visram S, Hashem KM (2016) Energy drinks: what's the evidence? *Food Res Collab* 1–13
- [14] Department of Health and Social Care (2018) Impact assessment: ending the sale of energy drinks to children. <https://www.gov.uk/government/consultations/ending-the-sale-of-energy-drinks-to-children>
- [15] Nomisma-Arete Consortium, External scientific report. Gathering consumption data on specific consumer groups of energy drinks. 2013, European Food Safety Authority: Parma, Italy. <https://www.efsa.europa.eu/en/supporting/pub/en-394>
- [16] Tedstone A, Targett V, Allen R (2015) Sugar Reduction. The evidence for action
- [17] World Cancer Research Fund International (2019) NOURISHING database. <https://www.wcrf.org/int/policy/nourishing-database>
- [18] Daily Sabah (2018) Turkey aims to curb energy drink consumption, homemade booze with new regulations. <https://www.dailysabah.com/turkey/2017/12/31/turkey-aims-to-curb-energy-drink-consumption-homemade-booze-with-new-regulations>

## 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.:**

There should be no exemptions on the sale of energy drinks in order for the ban to be effective. A mandatory age restriction should be applied to all retailers who operate in Scotland, including online businesses and Out of Home sectors.

We believe that all sale of energy drinks from all vending machines should be banned, regardless of the age of the person buying them. It is difficult to enforce the sale of products in any location or venue. Options were outlined by the tobacco industry to introduce child-proof vending machines but were seen as unsuitable and open to abuse. While in operation responsible staff frequently failed to ask for ID [2].

Currently all retailers have verification processes in place for the sale of alcohol and tobacco – in store and online. These can be applied to the sale of energy drinks. This should not include any means of online self-certification, such as check date or entering a date of birth.

[1] Action on Smoking and Health (2011) Tobacco Vending Machines. Briefing.

[2] National Association of Cigarette Machine Operators. Evidence submission to the Scottish Bill Committee, 2009.

### 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.:**

We believe that proposal number 8 should be brought in line with enforcement policies on other age-restricted products (tobacco and alcohol) where it is also an offence for an adult to purchase a product on behalf of a child (under the age of 18 in these cases).

All retailers have age verification processes in place for the sale of alcohol and tobacco – in store and online. These can be applied/adapted to the sale of energy drinks to avoid being overly burdensome.

We do not have relevant knowledge to comment on the other proposals listed.

### 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.:**

The Alliance is broadly supportive of the proposals outlined for evaluating the policy. We believe that 'any changes in consumption levels by the age groups affected' and 'any related impacts on health and wellbeing' are the most important amongst those listed however. This is the overall change we are striving to achieve by introducing this policy.

Furthermore we believe there should be monitoring for any unintended impacts of the energy drinks ban. This would include potential substitution with other highly caffeinated or high sugar products.

## 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.:**

The introduction of a mandatory age restriction to sales of energy drinks is necessary to create a consistent approach across all retailers while protecting the health of children and young people.

Age verification processes already exist for the sale of other restricted products (tobacco and alcohol) to the young. A ban on the sales of energy drinks for young people under the age of 18 would be the most practical and easiest to implement for retailers building on these processes, however the majority of retailers have voluntarily adopted a ban to under 16s and believe that legislation will make it easier for them to enforce. (Also see answer to Q1).

Some in-house training may be required for retail staff to be updated on the changes from voluntary to mandatory legislation and a mandatory age limit of 16 or 18. The evidence indicates that this would be minimal if the age limit was set at 18 for businesses using an electronic point of sale system [1].

[1] House of Commons Science and Technology Committee (2018) Energy Drinks and Children. Thirteenth report of session, 2017-2019. Written evidence submitted by Tesco (END0034), Aldi (END0036), Waitrose (END0037), Morrisons (END0038), Asda (END0039), Sainsbury's (END0040) and Boots (END0042). <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee/energy-drinks/written/88000.html>

## 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.:**

The evidence suggests that boys may be more affected than girls. It is reported that the most common users of energy drinks are male [1].

Obesity levels are higher in children living in more deprived areas, and inequalities are continuing to rise in Scotland [2]. There is an association between energy drinks consumption and receipt of free school meals in a sample population in England where 13% receive free school meals [3]. Among students who reported drinking at least one energy drink per day, 23% receive free-school meals, whereas among those who report never drinking energy drinks, 11% receive free school meals. This disproportionate consumption suggests that the ban may have greater impact and health benefits for children from lower socio-economic backgrounds.

We suggest that the impact of this policy on children from lower socio-economic backgrounds is monitored as part of the impact assessment.

[1] HBSC (201) England National Report. [https://www.researchgate.net/publication/282857118\\_HBSC\\_England\\_National\\_report](https://www.researchgate.net/publication/282857118_HBSC_England_National_report)

[2] NHS Health Scotland (2019) Diet and Obesity

[3] Brooks F, Klemra E, Magnusson J, Chester K (2018) Young People and Energy Drink Consumption in England. Univ. Hertfordshire, Hatf. 1–16

## Any other comments

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

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

Advertising, marketing and sponsorship:

Exposure to junk food advertising has a clear impact on children's consumption of various food and drinks high in fat, sugar and salt, including energy drinks. A CRUK report has shown that children are 2.5 times more likely to consume energy drinks after seeing an energy drinks advert [1]. Seeing one extra broadcast ad per week for any junk food increased yearly energy drink consumption by about a quarter (23.8%) [2]. Furthermore the imagery seen in energy drinks advertising and their names are highly attractive to children, and gendered branding has an important role [3].

To reduce energy drink consumption in children under 18, there should be restrictions on the advertising of these products on TV until after a 9pm watershed (to cover most children's shows) and across all other media platforms (on-demand and online viewing) to ensure children are provided a consistent level of protection. There should be restrictions on the marketing of these products in a way that makes them attractive to children such via cartoon style adverts, social media, you tube and celebrity endorsements.

There should be no sponsorship or hosting of events, sports events or competitions aimed at children by energy drinks companies [3]. We would also be concerned about the use of promotion of energy drinks as a means of aiding physical activity and boost sport performance. In 2011, the American Academy of Paediatrics warned young people might mistakenly use energy drinks, rather than sports drinks, for rehydration during physical activity and that advertising aimed at young people was contributing to the confusion [4].

[1] Thomas, C. Hooper, L. Petty, R. Thomas, F. Rosenberg, G. Vohra, J (2018) "10 Years On: New evidence on TV marketing and junk food eating amongst 11-19 year olds 10 years after broadcast regulations" Policy Centre for Cancer Prevention, Cancer Research UK (pdf)

[2] Thomas, C. Hooper, L. Rosenberg, G. Thomas, F. Vohra, J (2018) "Under Pressure: New evidence of young people's broadcast marketing exposure in the UK" Policy Centre for Cancer Prevention, Cancer Research UK (pdf)

[3] Visram, S and Hashem, K. Energy drinks: what's the evidence? 21st July 2016. Food Research Collaboration Policy Brief.

[4] Talpos, S (2019) "In the energy drink market, advertising and science collide" <https://undark.org/2019/06/26/kids-energy-drinks/>.

Price and promotion:

The low price and ease of availability in the form of multi-purchase packs are some of the reasons why young people choose energy drinks over other drinks including fizzy drinks [1]. We believe that a minimum price point for the sale of energy drinks should be considered as part of a package to support the introduction of the ban, alongside a restriction on monetary promotions on energy drinks.

Furthermore we know the location of unhealthy food and drink products can influence shoppers to buy more of those products. There should be further restrictions on the placement of the sale of energy drinks in stores.

[1] Visram S, Crossley SJ, Cheetham M, Lake A (2017) Children and young people's perceptions of energy drinks: A qualitative study. PLoS ONE 12(11): e0188668. <https://doi.org/10.1371/journal.pone.0188668>

Labelling:

Despite clear EU labels to warn that energy drinks are unsuitable for children, children and young people continue to consume energy drinks in high volumes in the UK. We believe clearer and additional labelling requirements are needed.

In Latvia, the ban on energy drink sales to under 18 year olds must be accompanied at the point of sale by signs warning of a high caffeine content and unsuitability for children and pregnant women [1]. This should be introduced alongside the ban in Scotland.

Clearer, more prominent, labelling should also be considered on energy drinks themselves highlighting caffeine and sugar content alongside recommended levels of consumption. This would help inform decision-making.

[1] A World Cancer Research Fund International (2019) NOURISHING database. <https://www.wcrf.org/int/policy/nourishing-database>

Education:

We believe there needs to be wide-spread education on the harmful effects of the consumption of energy drinks, in particular on children, alongside introduction of mandatory legislation. This should be supported by local action in schools. Any campaign should highlight the amount of sugar and caffeine in energy drinks, supporting young people in their critical appraisal to support and promote informed decision making.

Dependency:

Given that some individuals may have an addictive component, consideration should be given for support for those who are current users, and seek to quit.

## About you

### What is your name?

Name:

Shruti Jain

### What is your email address?

Email:

shruti.jain@rcpsg.ac.uk

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

Organisation

### What is your organisation?

Organisation:

Scottish Obesity Alliance. A full list of our members is available on our website [www.scottishobesityalliance.org](http://www.scottishobesityalliance.org). The following organisations are in support of this response: Action on Sugar, Association for the Study of Obesity Scotland Network, British Dental Association Scotland, British Dietetic Association Scotland Board, British Medical Association Scotland, Cancer Research UK, Chest Heart Stroke Scotland, Children in Scotland, Diabetes Scotland, Glasgow Centre for Population Health, Obesity Action Scotland, Paths for All, Royal College of Anaesthetists, Royal College of Nursing, Royal College of Paediatrics & Child Health Scotland, Royal College of Physicians Edinburgh, Royal College of Physicians and Surgeons Glasgow, Royal College of Psychiatrists, Social and Public Health Sciences Unit (University of Glasgow), The Breastfeeding Network Scotland, The British Psychological Society (Scottish Branch), Voluntary Health Scotland.

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

Publish response only (without name)

**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?:**

Slightly satisfied

**Please enter comments here.:**

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

Slightly satisfied

**Please enter comments here.:**