

Ministerial Foreword

Introduction

Mandatory Measures

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

No – the mandatory age limit should be 18

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

BDA believe 18 to be the most logical age because most other age restricted products are restricted to this age e.g. tobacco and alcohol. Introducing an 18 limit would therefore be simplest for retailers to implement, as existing training and policies such as “challenge 25” could be utilised for energy drinks as are currently used for tobacco and alcohol. Eighteen is also recognised as the legal definition of an adult in law.

(<https://www.nspcc.org.uk/preventing-abuse/child-protection-system/legal-definition-child-rights-law/legaldefinitions/>)

There is significant evidence about the negative impact of high caffeine intakes on children. There is also evidence that consumption of these products, despite health warnings, has grown amongst under-18s. Energy drinks are of particular concern because of the similarity to other soft drinks, which are known to be appealing and palatable to children. Consumption of energy drinks is highest amongst those aged 16 and 17, even though they are still legally recognised as children and can be impacted by issues of poor sleep, anxiety and poor concentration in school the same as children under 16. Having a mandatory age limit of 18 would bring the UK into line with other European countries that have already implemented bans, including Lithuania and Latvia.

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.:

Restrictions should apply to all retailers, including online businesses, the out of home sector (cafes, restaurants and takeaways) and the workplace. It is also very important that restrictions apply to vending machines. Failing to prevent the purchase of energy drinks from online or out of home sources and vending machines would leave a significant loophole for manufacturers to sell these products to children. BDA believes uniformity in approach is essential.

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 will be important that those given the responsibility for enforcement, be that trading standards or local authorities, are given sufficient resources to properly enforce the new law if it is to be effective. Structures already exist, such as test purchases and penalty notices, for ensuring age restrictions on product sales are enforced. Mirroring the regulations, requirements and penalties for alcohol and tobacco would be simplest both for enforcement agencies and for retailers.

In relation to vending machines, as with alcohol or cigarettes, regardless of how the product is sold, proof of age should be required before purchase. The most effective means of doing this is to only allow energy drink vending machines in those areas where ID is required in order to enter (e.g. nightclubs or bookmakers).

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.:

BDA consider the proposed methods of monitoring and evaluation to be realistic and effective measures.

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. :

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. :

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 obvious impact would be a reduction in sales of energy drinks, which from a health point of view BDA would find extremely favourable. In relation to business,

financial or other impact, BDA are not best placed to comment.

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.:

- Age Clearly this is an age specific ban so will impact children.
- Sex This ban may potentially impact on the basis of gender. Boys and girls appear to purchase and consume these drinks for different reasons, e.g. boys for image, girls often to replace meals. BDA is aware that marketing is aimed predominantly at young males and that consumption is higher amongst males.
- Race
- Religion
- Sexual orientation
- Pregnancy and maternity Current UK Government advice recommends restricting caffeine intake during pregnancy to no more than 200 milligrams per day. Restricting sales of energy drink could have a positive impact in assisting pregnant to limit their intake of caffeinated drinks.
- Disability Individuals with a learning disability are very susceptible to influence and may not understand the health issues around consuming energy drinks. Individuals with a learning disability are more likely to be overweight. Restricting sales could have a positive impact in reducing access for those with a learning disability who have difficulty making healthier choices.
- Gender reassignment
- Marriage or civil partnership
- Socioeconomic disadvantage

Any other comments

9 Please outline any other comments you wish to make.

Please outline any other comments you wish to make.:

Although BDA consider energy drinks, which are particularly appealing to children and are known to be consumed in unhealthy quantities by children, should be the focus of any prohibition, all sources of caffeine should be included. This should include powders that can be used to make up energy drinks. BDA are conscious that energy drink manufacturers will argue children and adolescents get a considerable amount of their caffeine from other sources other than energy drinks, including coffee. BDA do not believe children should be consuming large quantities of coffee or indeed any other beverage or food product which contributes to excessive caffeine intake. Although BDA do not deem coffee to be a popular and common source of caffeine for children (and specifically not in such large quantities in short periods of time), government may wish to consider whether some coffee products should also be restricted. The UK Committee on Toxicity, COT has recognised that coffee can have higher levels of caffeine than a typical energy drink and that the way caffeine is absorbed from coffee is much the same as from an energy drink. (<https://cot.food.gov.uk/sites/default/files/tox2018-30.pdf>)

BDA would be keen to ensure that industry is not able to use the exclusion of tea or coffee products from a ban as a loophole to continue to sell high-caffeine energy drinks to children. Coffee based products already exist but should also be subject to a ban.

Following a ban on sales, BDA encourage a UK wide national campaign to support the implementation through a series of public health messages so that parents and young people can understand why these high caffeine energy drinks have been restricted. This may reduce parents purchasing these drinks for young people. It will also be necessary to counter any potential 'Streisand Effect' whereby banning or restricting something unintentionally increases its appeal. BDA are aware that energy drink companies associate their brands with extreme sports and other elements of rebelliousness and danger, so countering this message will be important. Increasing public understanding of the potential harmful effects of energy drinks may also reduce overall consumption as we should also seek to reduce excess caffeine consumption amongst adults.

Restrictions on advertising and sponsorship should be essential considerations in relation to promotion of energy drinks to children and young people. There has been a significant rise in the profile of energy drinks within environments promoting physical activity, for example leisure centres. Advertising focussed through sport, social and leisure events are strongly appealing to children. Stronger regulations to limit the use of energy drink brands via social media channels are also needed.

For further information, please see the article from the British Dietetic Association regarding the evidence on the effects of energy drinks: https://www.bda.uk.com/dt/articles/energy_drinks_young_people

About you

What is your name?

Name:
Ruth Balmer

What is your email address?

Email:
r.balmer@bda.uk.com

Are you responding as an individual or an organisation?

Organisation

What is your organisation?

Organisation:

British Dietetic Association (BDA). Response on behalf of the BDA Scotland Board.

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

Publish response with 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?:

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.: