

Response to consultation on proposal to end the sale of energy drinks to children

Background

The Children's Food Campaign welcomes the opportunity to respond to the government consultation on ending the sale of energy drinks to children.

In preparing our response, as well as examining the evidence and listening to our member organisations, we surveyed the views of members of our own Parents' Jury (a panel of over 500 parents who share their experience and views on key issues affecting their children's health and nutrition), from 4 to 25 October 2018. 135 members of our Parents' Jury (representing a total of 260 children from 2-17 years old) took part.

Working with several of our member organisations¹, we opened a survey for any teacher in the UK to share their experience and views on energy drinks and their effect on pupils, and their views towards a proposed ban. This ran from 18 October to 9 November 2018, and we received 768 responses from teachers working from pre-primary/reception years through to 18 years. 65% of teachers who responded work with the 11-16 age group (Key Stages 3 and 4), and 35% with 16-18 year olds (Sixth Form, FE or other), which is of particular relevance for this topic. 14% work with Key Stage 1, and 23% with Key Stage 2 – most teachers reported working across more than one age group. We are pleased to include these parents' and teachers' views, experiences and support for government action on the sale of energy drinks as part of our submission.

Finally, we worked with the University of Liverpool to organise a workshop bringing together health, education, children's organisation, academics researching the impacts of energy drinks and representatives from Lithuania and Norwegian organisations on their experiences of working with governments and other bodies towards a ban on sales of energy drinks to under-18s. The workshop looked at the state of evidence, and the various policy options.

1. Should businesses be prohibited from selling high-caffeine energy drinks to children?

Yes. We support the introduction of a ban prohibiting businesses from selling high-caffeine energy drinks (as defined by current EU labelling rules) to all children. They are of particular concern because of the rise in their consumption amongst under-18s, and their specific

¹ Participating organisations who promoted the opportunity for teachers to take part included Food Teachers Centre, School Food Matters, Soil Association Food for Life Programme, Health Education Trust, Royal Academy of Culinary Arts (RACA) Adopt-A-School Trust, Sugarwise, HyperActive Children's Support Group (HACSG).

appeal to children and young people alongside other fizzy drinks, as research by the Fuse collaboration has shown².

We would draw attention to the following reasons for a ban:

A ban will address the negative health effects of energy drinks on children. We believe a ban is necessary given the body of evidence of the negative health effects of high levels of consumption of these drinks. Evidence is clear that such drinks do not contribute positively to children's overall health, wellbeing or diet, and have been associated with increased sleeplessness, hyperactivity, depression, headaches and poorer performance and behaviour in schools. A 2013 study in Finland indicated an increase in reports of headaches, sleeping problems and tiredness for young people consuming energy drinks regularly, compared to those who don't.³ Frequent and high consumption of these drinks has also been associated with "serious adverse effects, especially in children, adolescents, and young adults with seizures, diabetes, cardiac abnormalities, or mood and behavioural disorders or those who take certain medications" (Seifert et al, 2011).⁴ Furthermore, we note that, whilst energy drinks are defined by the presence of a high level of caffeine, usually alongside other stimulants such as taurine or guarana (plus sugar/ natural or artificial sweeteners), and whilst reformulation has driven an increase in low and no-sugar options, there are often high levels of sugar present in energy drinks⁵, whilst sugar-sweetened beverages have been identified as one of the key food and drink categories contributing to childhood obesity. Finally, NHS data indicates that nearly half of 15 year olds and over one third of 12 year olds in the UK have some degree of tooth decay⁶, and fizzy drinks can be a contributor to this whether they contain either sugar or artificial sweeteners, and contribute to young people's overall desire to sweet-tasting beverages. Therefore there should be a clear and consistent message sent out that these drinks are simply not suitable for children.

²http://www.fuse.ac.uk/media/sites/researchwebsites/fuse/HYPER%20report%20FINAL_September%202015.pdf

³ Huhtinen H, Lindfors P, Rimpelä A. Adolescents' use of EDs and caffeine induced health complaints in Finland. *European Journal of Public Health*. 2013;23(suppl. 1):166
<https://doi.org/10.1093/eurpub/ckt123.050>

⁴ <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3065144/>

⁵ Action on Sugar, Kawther H, HE FJ and MacGregor G. (2017) Cross-sectional surveys of the amount of sugar, energy and caffeine in sugar-sweetened drinks marketed and consumed as EDs in the UK between 2015 and 2017: monitoring reformulation progress *BMJ Open* 2018;7:e018136

⁶ <https://digital.nhs.uk/data-and-information/publications/statistical/children-s-dental-health-survey/child-dental-health-survey-2013-england-wales-and-northern-ireland>

“Hyperactivity in lesson followed by slumps. Addiction and dependence to energy drink. To be seen drinking one is ‘cool’. One student hospitalised for sky high blood pressure and heart palpitations.”

Key Stage 3, 4 & 6th Form teacher, South East

“My youngest do not get them at all but I have seen the effects of them on my older boys, headaches, insomnia, weight gain and almost manic highs followed by despairing lows.”

Parent of 5 year old twins & 3 boys now over 18, Scotland

“Tiredness and lethargy, sugar highs and poor behaviour. We’ve had a pupil that had to go to the doctor due to heart palpitations - he was drinking four a day and doctors explained that the drinks were damaging his health.”

Key Stage 3 & 4 teacher, London

“Even though energy drinks are banned in school, pupils buy them from local shop/garage. Pupil - increased heart rate, unwell, struggling to breath - due to drinking these every morning on his way to school. Lack of focus due unable to sit, listen and concentrate.”

Key Stage 3 & 4 teacher, North West

A ban will create a more robust and level playing field for industry. A ban will build on the 2013 voluntary code adopted by the British Soft Drinks Association to market and sell energy drinks responsibly⁷, as well as the voluntary ban on sales to under-16s adopted in early 2018 by most major supermarket retailers and a number of other companies. However, energy drinks are still being widely sold to children in local, independent and convenience stores, garage forecourts, out-of-home locations and fast food takeaways, as well as via vending machines in a variety of locations including sports and leisure centres, transport hubs. We would therefore argue that a level playing field is now required to create equal competition conditions for all retailers.

In addition, there is evidence that the voluntary ban is not yet being fully endorsed, as research published in November 2018 involving 550 purchases by young people working as mystery shoppers with the organisation Serve Legal indicated that 54% of purchases were made without any request for age verification⁸. Introducing a ban would create a level playing field for all types of retailer and out-of-home outlet, and reinforce compliance in stores, and thereby be more likely to deliver coverage protecting all children, and drive the impact that voluntary measures alone have tried, but so far failed, to deliver.

A ban will have greater impact than warning labels alone. It is simple logic that any product which is required to carry a label stating “Not suitable for children”, as is the case for any energy drink containing more than 150mg caffeine per litre⁹, should then not be sold directly

⁷ [Code of Practice on High Caffeine Soft Drinks, British Soft Drinks Association, 24 September 2013](http://www.britishsoftdrinks.com/write/MediaUploads/Soft%20Drinks/130924_high_caffeine_soft_drinks.pdf)
http://www.britishsoftdrinks.com/write/MediaUploads/Soft%20Drinks/130924_high_caffeine_soft_drinks.pdf

⁸ <https://www.telegraph.co.uk/news/2018/11/20/supermarkets-selling-energy-drinks-children-despite-ban/>

⁹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32011R1169>

to children. Yet, despite these labels on drinks, sales and consumption of them by 10-17 year olds continues to grow year-on-year. According to the British Soft Drinks Association's 2016 Annual Report, sales grew 185% between 2006 and 2015 to reach 672 million litres in 2015 in a market worth £2 billion. In October 2018, Red Bull posted another year of double-digit sales.¹⁰ Their in-store placement in convenience stores and vending machines alongside other sugary fizzy drinks, along with price promotions (eg 4 for £1 on one brand, or 39p per 250ml can for another brand) make them more attractive to, and affordable by, children and young people.

A ban would address both health and behavioural issues associated with consumption of energy drinks for teachers and schools. In our survey, 97% of teachers overall were supportive of introducing a ban on sales to children and young people. 64% of teachers told us their school already has a policy on the sale and consumption of energy drinks, but young people are still consuming them on the way to and from school or bringing them onto the premises.

*"That's the rule but I am frequently confiscating energy drinks in school and I know students drink them on the way to school."
Teacher, KS3 & 4 and above, South East*

*"Even though they are banned students still drink them; often on the way to school - they arrive hyper/ 'wired' which causes behavioural issues but with any 'high' there's a comedown... if students don't top up at break or lunch, those that drink these drinks daily, become angry/ behave erratically to the point you cannot even reason with them
(especially in KS3&4)"
Key Stage 3 & 4 teacher, South East*

"In my previous school children were allowed to consume energy drinks and it was obvious that this had a detrimental effect on their behaviour and their concentration deteriorated significantly. Although my current school bans energy drinks some pupils consume them on the way to school and the negative impact of these drinks is once again evident." (Key Stage 3 & 4 Teacher, London)

Only one in five (21%) teachers said their school did not have a policy at all. The teaching union NASUWT's most recent Big Question Survey show that 13% of the thousands of teachers who responded cited the use of caffeine and energy drinks as a driver of poor pupil behaviour¹¹. A UK study found that energy drink consumption was positively correlated with behavioural incidents in school, the higher the consumption, the more likely students might

¹⁰ As reported in The Grocer, 5 October 2018 <https://www.thegrocer.co.uk/finance/results/red-bull-grows-uk-sales-as-regulatory-energy-drinks-threat-looms/572387.article>

¹¹ As cited by NASUWT in written evidence to the All Party Parliamentary Committee on Science and Technology enquiry on energy drinks 2018, http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/science-and-technology-committee/energy-drinks/written/83656.html#_ftn9

be involved in some sort of poor behaviour¹². This correlates with a Harvard Study in the US which found students aged 11-14 who reported drinking energy drinks were 66% more likely to be at risk of hyperactivity and/or a lack of concentration in class¹³.

Our survey asked teachers a free question if they were aware of any effects, positive or negative of consumption of energy drinks by young people in school. 480 teachers (out of 619 who provided comment in response) cited negative health, behavioural or other effects:

- 140 teachers mentioned changes in behaviour, with 29 specifically using the term 'disruptive'
- 93 teachers talked about students struggling to concentrate, whilst 55 talked about problems with lack of focus in class.
- 70 teachers referred to incidences of hyperactivity
- 16 teachers referred to students experiencing an energy 'crash'
- 15 teachers talked about pupils appearing or complaining about being tired, and 15 talked about problems with sleep.
- 11 teachers mentioned cases of pupils experiencing "heart palpitations"

"Yes, Makes them hyperactive then as they wear off then become irritable and tired. Affects levels of concentration."

Key Stage 2 teacher, Yorkshire & the Humber

"Difficulty concentrating in lessons because of overconsumption, difficulty concentrating because of lack of sleep."

Key Stage 3 & 4 teacher, London

"Students frequently buy an energy drink from a local shop on their way into school in the morning as breakfast if they are tired. You can tell when they have done this as they can be jittery and/or excessively energetic (chatty, fidgety etc) for the first hour or so of the day followed by a slump in concentration and energy about mid morning. Behaviour choices can be especially poor for students with specific SEND requirements such as ADHD."

Key Stage 4 teacher, London

A ban on sale of energy drinks is supported by parents. We believe a ban on sales to children would support parents to positively manage their children's dietary intake. Almost 100% (134 out of 135) of members of our Parents' Jury who responded to our survey support a ban on sales to children (either at 16 or 18). 8 in 10 parents told us they do not allow their children to consume energy drinks at home, so introducing a ban supports parents in regulating their children's consumption as they grow up and have more independent spending ability.

¹²[http://www.oasisacademylordshill.org/sites/default/files/files/Energy%20Drinks%20Research%20Project\(1\).pdf](http://www.oasisacademylordshill.org/sites/default/files/files/Energy%20Drinks%20Research%20Project(1).pdf)

¹³<http://www.sciencedaily.com/releases/2015/02/150209095004.htm>

Several parents cited negative effects of consumption:

"We never have these drinks at home or out. I have seen the impact of these drinks on my teenage nephews when they were studying for exams. They quickly became night creatures, fuelling their night study with Red Bull only to crash during the day."

Parent of 5 & 8 year olds, London

"My daughter used to have a Lucozade drink every gymnastics training session (4 times a week) as we thought this would be good for her. However she put on loads of weight and found concentration difficult - this improved when we stopped the drinks."

Parent of 16 & 17 year olds, South East

2. Are there any other approaches that you think should be implemented instead of, or as well as, a prohibition on sales of energy drinks to children, in order to address the issue of excess consumption of energy drinks by children?

"Education within schools. Limited advertising of these products. Constraints on what these products can sponsor." Parent of 12 and 14 year olds, Scotland

We believe that the introduction of a prohibition on sales of energy drinks to children is the most effective approach for government, and would be more impactful if accompanied by additional measures to reinforce and enforce the new regulations.

Public Health Campaigns and Education. Firstly, a prohibition should be accompanied by a national public awareness campaign to introduce the new age restrictions, and also to educate both children and adults of the possible health or other effects of excessive consumption of these heavily caffeinated drinks, many of which also contain significant amounts of sugar contributing to a higher risk of becoming overweight or obese. Regardless of sugar content, the consumption of energy drinks can still contribute to tooth decay.

Training and awareness raising amongst retailers and shop staff themselves is also key to enforce the age verification measures shops will need to operate to ensure that no sales are made to children, and if age proof cannot be provided the sale should not be made.

"Campaigns for wider understanding of the effects of energy drinks on health - perhaps warnings like for alcohol and smoking."

Parent of 1 year old, North West

"Ensure it is part of the school curriculum so they are aware and educate parents as well. These drinks are just one part of the sugar and drug (legal or illegal) highs that many seem to be searching for. Removing these drinks and better education will be a good start but ultimately society issues run much deeper."

Parent of 16 & 17 year olds, South East

Additional promotions and marketing guidelines

We would support government working with all retailers and out-of-home providers to enforce responsible retail of the products, which would include point-of-sale age restriction pointers, potentially separating them from other soft drinks categories and putting them alongside other age-restricted drinks, and out of eyesight of children themselves.

We would like to see energy drinks subjected to similar age restrictions for TV and non-broadcast marketing as HFSS products, tobacco and alcohol (because only those currently classed as HFSS due to sugar content are currently restricted), regardless of sugar content under the Nutrient Profile Model, on the basis that they are not suitable for children. A 2018 study by Cancer Research UK has shown that TV marketing exposure through on-demand streaming services with adverts was associated with being 2.5 times more likely to consume one energy drink or more per week.¹⁴

We believe that in the forthcoming childhood obesity plan consultations on price and location-based promotions of HFSS products, as well as energy drinks that fall into the HFSS category, there should be consideration for ALL energy drinks being subjected to the same marketing restrictions, as part of reinforcing a ban on sale to children.

The energy drinks industry has also focussed a lot of marketing through sports and social activity, and therefore we believe the Government should explore restrictions on sports sponsorship, especially of youth sports, such as the Monster Army.

“Have them high up in fridges/shelves in shops so children don’t see them and even packaging should not be targeted at children & teens.”
Parent of 4 year old, North East

“Supermarkets should not be allowed to put them near sandwich and healthy snacks. My local shop stock the shelves in the morning and by 9am the energy drink shelf is empty. It’s the first and last thing they see.”
KS3, KS4 & SEN Teacher, South West.

“It’s grossly irresponsible to allow minors to have access to this concentration of caffeine. It’s even more grossly irresponsible when you consider that a can of energy drink is cheaper than a bottle of water.”
Key Stage 3, 4 & above teacher, Scotland

Improve Labelling

Parents and teachers we surveyed wish to see much more robust and upfront labelling regulations that go beyond basic compliance with existing EU Labelling Regulations. For example, 14-17 year olds probably do not see a ‘not suitable for children’ label referring to their age group, so making it clear these drinks are ‘not suitable for under-18s’ for example, would provide much greater clarity. Many parents and teachers we surveyed also suggested that, like energy drinks could carry more robust health warnings about the dangers of consumption also potentially causing harm, eg. hyperactivity, insomnia, tiredness,

¹⁴ https://www.cancerresearchuk.org/sites/default/files/see_it_want_it_buy_it_eat_it_final_report.pdf

headaches, weight gain, tooth decay. Whilst such proposals would need to be based on scientific evidence, the Children's Food Campaign would support the need for greater transparency on the possible health and nutritional impacts, and for the levels of caffeine included in the product to be much more clearly indicated, and recommendations not to exceed recommended maximum daily intake of caffeine.

Some parents and teachers questioned why these drinks were even misleadingly allowed to call themselves 'energy drinks' given their observed effect is to cause temporary highs, followed by low-energy slumps, lethargy and lack of concentration, and feel that they would be more accurately called 'high caffeine soft drinks' or 'caffeinated soft drinks'.

As with tobacco and alcohol, parents and teachers would like to see more robust messaging on the potential health dangers associated with consumption of these drinks.

*"Put warnings on cans similar to cigarette packets about the harm they can cause."
Parent of 7 year old, London*

*"I think it would be better if they were called stimulants or excess sugar drinks."
Parent of 6 and 8 year olds, East of England*

Monitoring and Penalties for Non-Compliance

The Children's Food Campaign would like to see the introduction of a ban on sale of energy drinks to be accompanied by inclusion of these drinks in monitoring and enforcement of retail practice by trading standards, with fines in place for non-compliance in the same way that alcohol and tobacco product sales are monitored and inspected. Clear information should be provided to the food and drink industry at the time of an introduction of a ban to ensure clarity about the penalties of non-compliance with the new regulations.

*"Stop advertising to them, more education to arm the children of dangers, large fines to shops which sell them to children."
Key Stage 2 Teacher, South West*

*"Vendors of energy drinks should be fined for selling them to school children".
Key Stage 4 Teacher, North West*

*"There should be measures in place for the people who knowingly sell energy drinks to young people."
Parent of 1 & 3 year olds, West Midlands*

Promote healthy hydration alternatives for all school children

We would like to see consumption of water encouraged as a healthy cheaper alternative to energy drinks and other unhealthy soft drinks, and the Government can support this in the

following ways, fundamentally by making access to free water easier than alternatives. Within school settings we have seen some primaries adopt a water-only school policy – applying to school meals (dinners and pack lunches), but also a whole-school approach including what teachers and pupils are allowed to bring in, or what is served at school events. Similar approaches should be encouraged and explored within secondary schools. Government should include water-only schools within the review of the school food standards. Adequate provision of drinking fountains within school settings could be supported with commitments to further ring-fence money raised by the Soft Drinks Industry Levy. The Government, could go further by encouraging greater provision outside schools, particularly in areas where children congregate e.g. parks, shopping centres, sports clubs and leisure centres, by moving on the commitments of the 25 Environment Plan and getting commitments from organisations managing these settings to plan for installation in the coming five years.

3. Which age limit would be most appropriate for a prohibition on sales of energy drinks to children?

The Children's Food Campaign supports the introduction of a ban on sales of energy drinks to all children under 18.

A ban on sales of energy drinks to under-18s was the preferred option for 58% (n=76) of parents in our survey, whilst a further 41% (n=54) backed a ban for under 16s. A ban on sales to under-18s was supported by 47% of teachers, whilst 50% supported the ban only extending to under-16s. However, amongst teachers working specifically with the highest consumers amongst young people (562 teachers working at Key Stage 3, 4 and above), 51% supported the ban applying to under-18s, versus 47% to under 16s.

Having looked at evidence, policy arguments and also listened to both parents and teachers, the Children's Food Campaign supports a ban on sales of energy drinks to all children under-18. We believe there are only two arguments for under-16s, which are to recognise the desire of 16 and 17 year olds to take on more personal and adult responsibility, and make their own choices, and to set the ban at the level that has already been adopted on a voluntary basis by major retailers, and simply reinforce action already taken by a section of the industry. However, we believe that under-18 is the right age at which to regulate for many more reasons:

- Setting the ban at 18 would drive greatest impact given the highest level of consumption of energy drinks by children is at age 16-17. It would also increase the coverage of existing voluntary restrictions by retailers to include those whose consumption is highest, and thus impact on a much greater number of young people than the voluntary measure, or limiting the regulation to under-16, could have.
- Setting the ban at 18 is easier to enforce than 16, as there are not many reliable forms of verified ID, children currently carry to show proof of age at 15 or below, whereas it is normal for young people to show ID proving they are an adult.
- Placing the regulation at under-18 is consistent with the definition of a child by the UK, as consistent with our ratification of the United Nations Convention on the Rights

of the Child, including Article 24 on the right to the best health care possible, including nutritious food. The UK could reinforce its ambition to demonstrate global leadership on tackling childhood obesity by adopting a Child-Rights Based Approach to Food Marketing, as advocated by UNICEF and by Professor Amandine Garde at the University of Liverpool's Law and NCD Unit.¹⁵

- Setting the regulation at under-18 is consistent with legislation already introduced by other European countries such as Latvia or Lithuania, and reinforce rather than potentially undermine the case for other countries (eg. Norway) currently debating similar regulations to align across Europe, or globally. It is consistent with the UK wishing to position itself as a leader on tackling childhood obesity, rather than falling behind other countries in the boldness of its measures.
- Setting the regulation at under-18 would make it easier for schools with sixth forms and 16-17 year old pupils to enforce their own bans, as these pupils would no longer be able to purchase drinks on their way to or from schools. This could also act to prevent potential illicit purchasing by students aged 16 for younger pupils.
- Setting the regulation at under-18 is consistent with restrictions on sale of tobacco and alcohol, and could make use of or adapt existing in-store mechanisms such as Challenge 25, and be easier to implement both in terms of ease of message for shop staff, programming of online shopping for consumers aged 16-17.
- Setting a ban at 18 would have the most overall impact in creating a level playing field – given most major supermarkets have already introduced voluntary restrictions and therefore would ostensibly be unaffected by a ban at 16. Introducing a government ban only for under-16s could be seen therefore to be disproportionately targeted at independent, convenience and out-of-home sectors, whereas a ban at 18 would require the whole food retail sector to go further, and create equal competition conditions between all types of shop and the out-of-home sector.

¹⁵ A Child Rights-Based Approach to Food Marketing: A Guide for Policy Makers, April 2018
https://www.unicef.org/csr/files/A_Child_Rights-Based_Approach_to_Food_Marketing_Report.pdf

“Children are individuals below 18, and energy drinks are consumed by children of 16 and 17 too, who should also be protected.”

Parent of 4 year old, North West

“Under 18 it is still up to adults to decide what is best and by 18 hopefully they would have more of an informed choice.”

Parent of 1, 3 and 4 year olds, North West

“Any way we can reduce our children starting on sugary drink especially energy drinks is a good thing. Making the upper age limit 18 sends out a clear message.”

Parent of two 3 year olds and 6 year old, South East

“I feel it would be beneficial to all students under the age of 18 as that is the age range at my school. In fact why not ban them all together, does anyone actually NEED them? Not in my opinion!”

Secondary school teacher, West Midlands

“A 15 year old can look like a 16 year old so banning to under 18s would make it easier for shop keepers to spot.”

Secondary teacher, South East

“Children do not need access to this drink and a ban at age 16 is very hard to implement because ID isn’t needed at 16 so my bigger, older looking kids are still able to buy it”

Key Stage 3 & 4 Teacher, East Midlands

These are not suitable for sale to children and a child is under 18

Key Stage 3 & 4 Teacher, West Midlands

Not all parents and teachers agreed:

“Children over 16 are mature enough to make their own decisions, there should be clear limits on the energy drinks, just as you wouldn’t let children purchase alcohol, plus there is an epidemic of carbonated, high sugar drinks everywhere in the UK and it is completely out of control.”

Parent of 5 and 9 year olds, location not stated

“By the age of 16 students should be able to make informed decisions

Key Stage 3 & 4 Teacher, East Midlands

“Whilst I don’t believe in energy drinks for children, I believe a government ban will make them more desirable. Better to highly tax them and make them prohibitively expensive.”

Key Stage 2 Teacher, East of England

4. Should a prohibition on sales of energy drinks to children apply to any drink that contains over 150mg of caffeine per litre, except coffee and tea?

The Children's Food Campaign supports the ban on sales of energy drinks to children applying to any soft drink containing over 150mg of caffeine per litre, based on the weight of evidence and concern regarding the concentrated levels of caffeine (often in combination with other ingredient stimulants such as taurine, guarana) in these products, increased overconsumption and growth in purchasing by young people alongside and often in place of other sugary drinks, especially given the low prices at which many of these products are increasingly sold, making them even more attractive to children. We do not support any exemptions for low or no-sugar variants of these products, given the definition of an energy drink by the EU relates to the levels of caffeine and impact of excessive or concentrated caffeine intake.

We believe the government should move to immediately introduce a ban on the above energy drinks products, based on the evidence of their negative impact, the public support and industry commitments already in favour of a ban, and widespread agreement that these are #NotforChildren, to the extent they are labelled as such by EU Regulations.

We are aware that there will remain other sources of caffeine available to young people, which will remain unregulated. These include concentrated caffeine-based food supplements or out of home coffee and coffee-based sugary drinks containing two or more equivalent shots of espresso. It is worth noting that these drinks are not usually sold at the very low prices as energy drinks are now found in high street retailers, and are therefore less affordable for young people. Sales of energy drinks and consumption by under-18s have been growing more rapidly than sales of these other products. However, we would welcome continued monitoring and evidence gathering regarding children and young people's consumption of alternative heavily caffeinated or high sugar products, as part of any impact assessment on a ban on energy drinks. We would support the government remaining open to any extension of any regulations on high-caffeine products, should evidence suggest this is required.

5. Should a prohibition on sales of energy drinks to children apply to all retailers who operate in England, including online businesses and the out-of-home sector (cafes, restaurants, takeaways and so on)?

Yes. We believe for a ban to be effective, it must be comprehensive, and create a level playing ground for all retailers, online businesses and out-of-home sector, who are already implementing similar regulations for other restricted products such as tobacco and alcohol, using Challenge 25 or equivalent verification mechanisms. The British Soft Drinks Association has argued for a level playing field.

6. Should children be prevented from buying energy drinks from vending machines?

Yes – see below.

7. If children are prevented from buying energy drinks from vending machines, how should this be done?

We support a prohibition of energy drinks sales from all vending machines. We believe that energy drinks should not be sold in any location where age verification measures are not actively enforced, and a total ban on vending machine sales appears to be the simplest,

most effective method of achieving this outcome. At very least, we believe vending machine sales should only be permitted in venues catering solely for 18+ adults, with clear age verification mechanisms to ensure compliance. We oppose an audience threshold approach to limiting vending machine sales, as setting an appropriate maximum child footfall threshold is problematic in the context of a sales ban, and could also effectively undermine enforcement of the legislation, encouraging teenagers to seek out illicit sales in these locations.

In our surveys, 46% (n=59) of parents and 45% of teachers (n=337) support a ban on all vending machine sales of energy drinks, believing this to be the simplest, clearest message and difficulties in managing age verification for vending machines. 34% of parents (n=44) and 30% of teachers (n=224) supported an option whereby energy drinks can only be sold in venues able to verify age restrictions. Therefore a total of 80% of parents and 74% of teachers would support either a total ban on vending machines or such machines restricted to adult-only venues with age verification actively enforced.

“I would be minded to ban energy drinks sold in vending machines. However, one could imagine adult-only places such as certain clubs where the ban would not need to apply. If vending machines selling energy drinks are not completely banned, it will be necessary to ensure that the ban is properly enforced.” Parent of 4 year old, North West

“I think not having energy drinks in any vending machines will also help adults consume less of these high sugar drinks.” Parent of 1 & 7 year olds, London

“Vending machines are too easy to access unnoticed even where there are age restrictions. Staff can’t have eyes everywhere.” Parent of 15 year old, London

“I think it would be tricky to enforce checking age restrictions for vending machines so an outright ban would be easier. Alcohol-like rules should apply.”

*“Young people can buy drinks from vending machines. More vulnerable children may be less likely to be accompanied by an adult who will prevent this.”
A Level/FE Teacher, London*

*“Age restricted products shouldn’t be sold in vending machines.”
Secondary school teacher, South East*

*“If they are sold in vending machines there is no control over who is buying or consuming them.”
Key Stage 3 & 4 Teacher, North East*

8. If the sale of energy drinks to children is prohibited, would 12 months be an appropriate implementation period for all businesses?

No. We do not believe that such a long implementation period is necessary. We believe that with commitment from government and industry it is perfectly possible to achieve implementation in no more than 3 months. When new labelling rules were brought in for tobacco products, the industry achieved the change within a similar timespan. There is no requirement to change the formulation of products or their packaging purely as part of restricting sales to under-18s. Businesses have been aware of the potential introduction of a

sales ban since the publication of Childhood Obesity Plan Chapter Two in June 2018, and the start of consultations in August 2018, therefore have already had time to prepare scenario plans. Therefore this should be more than sufficient for rolling out the necessary restrictions, introducing legislation to business and preparing a government public awareness or advertising campaign, and to make adults and young people alike aware of the new laws. Ideally, we would like to see the ban enforced in time for the 2019/20 fiscal year. Should additional labelling regulations be required, these could be given a slightly longer implementation beyond the introduction of a sales ban. This would also allow a ban on sales to young people to take effect during the summer 2018 GCSE and A Level examination period, and be well established by the start of the 2019/20 academic year.

9. If you have any suggestions for how this measure could be enforced in a way that is fair and not overly burdensome, please provide details below:

No comment.

10. Are there any other potential impacts of restricting the sale of energy drinks to children that you think we should consider?

In addition to positive impacts on reduction of consumption of energy drinks by children, we would encourage government to monitor for any unintended impacts, for example potential substitution of energy drinks for other highly caffeinated products, or conversely increased consumption of healthier alternatives including water. It may wish to explore the case for implementing similar restrictions in future to coffee or tea-based drinks as well as the new generation of concentrated caffeine 'shots' or supplements (often also sold in health stores) that also fall above the 150mg caffeine per litre category, and consider potential expansion of any sales ban to such products, should the evidence indicate growing levels of consumption by children and young people under 18.

11. Do you think that this proposal would be likely to have an impact on people on the basis of any of the following characteristics?

We believe that this proposal would have a positive impact in relation to age, given the age-specific nature of the proposal.

12. Do you think that this proposal would help achieve any of the following aims?

No comment

13. Do you think that this proposal would be likely to have any impact on people from lower socio-economic backgrounds?

Children from the most economically disadvantaged backgrounds are more likely to become overweight or obese, according to the most recent National Child Measurement Programme. However, energy drinks consumption does not appear closely linked to socio-economic status – consumption is fairly mainstream amongst young people across the demographic spectrum. However, a 2015 report by the University of Hertfordshire on Health Behaviour in School-aged Children (HBSC) for the Department of Health found that students reporting that they drink at least one energy drink a day, 23% were in receipt of Free School Meals, whilst 16% of children who regularly consume energy drinks also receive Free School Meals, whilst the average uptake of Free School Meals is around 13% of young people. We note the low prices of energy drinks (especially in comparison to other healthier options including mineral water and natural fruit juice), which make them affordable and attractive for all

children even from disadvantaged backgrounds. Therefore, young people from lower socio-economic backgrounds, who are also more likely to be at risk of being overweight or obese, are consuming energy drinks alongside those with more disposable income, and a ban on sales to under-18s would support reduction in consumption of this category of sugar-sweetened fizzy drinks known to be linked to both childhood obesity and tooth decay.

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About the Children's Food Campaign: Children's Food Campaign (CFC) aims to improve children and young people's health by campaigning for policy changes in our schools, in our communities and throughout our society that would promote healthy and sustainable food environments. It is a project of charity Sustain: the alliance for better food and farming. Children's Food Campaign is supported by over 100 UK-wide and national organisations, including children's and health charities and professional bodies, trade unions, school food experts and environmental organisations.

About Sustain: Written evidence submitted by Sustain: the alliance for better food and farming. Sustain advocates food and agriculture policies and practices that enhance the health and welfare of people and animals, improve the working and living environment, enrich society and culture and promote equity. We represent around 100 national public interest organisations working at international, national, regional and local level. Sustain coordinates the Children's Food Campaign and the Sugar Smart campaign. We work with our members and others to promote integrated healthy and sustainable policies and practices for food, farming and fishing.