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United States Senate

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

WASHINGTON, DC 20510–6125

WEB SITE: http://commerce.senate.gov

June 14, 2013

Rodney C. Sacks
Chairman and Chief Executive Officer
Monster Beverage Corporation
550 Monica Circle, #291
Corona, California 92880

Dear Mr. Sacks,

I am writing to request information about your company's marketing practices as they relate to children and teenagers. Recent reports have raised concerns that adverse health issues may be associated with youth consumption of energy drinks. At the same time, research indicates that teens constitute a high percentage of consumers reached by energy drink advertising. I am interested in learning more about whether and how your company markets energy drink products to children and teens.

Energy drinks are a category of products defined by health experts as containing added caffeine and other additives typically not found in sodas and juice drinks.[1] These products have become increasingly pervasive in stores and vending machines across the country, and 35% of teenagers reportedly "regularly consume" energy drinks.[2]

However, health experts have raised concerns about the consumption of energy drinks by children and teens. Researchers at Yale University's Rudd Center for Food Policy and Obesity

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[1] *See, e.g.*, Substance Abuse and Mental Health Services Administration, *Emergency Department Visits Involving Energy Drinks, The Drug Abuse Warning Network Report* (Nov. 22, 2011), (online at http://www.samhsa.gov/data/2k11/WEB_DAWN_089/WEB_DAWN_089.htm) ("Energy drinks are flavored beverages containing high amounts of caffeine and typically other additives, such as vitamins, taurine, herbal supplements, creatine, sugars, and guarana, a plant product containing concentrated caffeine.") (hereinafter "SAMHSA Report"); Letter from Dr. Amelia M. Arria et al. to Hon. Margaret A. Hamburg, Commissioner, Food & Drug Admin. (Mar. 19, 2013) (online at http://graphics8.nytimes.com/packages/pdf/business/BestofScienceLetter_v22.pdf); Jennifer L. Pomereanz et al., *Energy Drinks: An Emerging Public Health Hazard for Youth*, Journal of Public Health Policy (Mar. 14, 2013).

[2] Dr. Kwabena L. Blankson, et al., *Energy Drinks: What Teenagers (And Their Doctors) Should Know*, Pediatrics in Review (Feb. 1, 2013).

state that energy drinks are emerging as "a unique and independent risk for youth."[3] A recent article in *Pediatrics in Review*, a journal published by the American Academy of Pediatrics, found that top-selling energy drinks contain high, unregulated amounts of caffeine, as well as other stimulants, that can produce harmful health effects in adolescents.[4] And this March, a group of 18 researchers, scientists, clinicians, and public health professionals who have studied energy drinks asserted that "the best available scientific evidence demonstrates a robust correlation between the caffeine levels in energy drinks and adverse health and safety consequences, particularly among children, adolescents, and young adults."[5]

Recent reports on emergency room visits associated with energy drinks have raised additional concerns. According to a 2011 SAMHSA report, the number of emergency room visits involving energy drinks rose from 1,128 in 2005 to 13,114 in 2009, more than a tenfold increase.[6] Of all visits between 2004 and 2009, 11% were made by youths aged 12 to 17 and 45% were made by young adults aged 18 to 25.[7] The report also stated, "It is notable that visits involving energy drinks alone often caused adverse reactions, suggesting that energy drink consumption by itself can result in negative health events serious enough to require emergency care."[8]

Amid warnings by public health experts relating to consumption of energy drinks, evidence has been mounting that American youths may be a key demographic target for energy drink marketing. This year, Senators Richard Blumenthal, Richard J. Durbin, and Representative Edward J. Markey examined practices of 14 energy drink companies, and found that "adolescent consumers are frequent targets for the marketing pitches of energy drink companies."[9] Similarly, according to Yale University's Rudd Center for Food Policy and Obesity, "[t]eens viewed 18%

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[3] *Energy Drinks: An Emerging Public Health Hazard for Youth*, *supra* n.1.

[4] American Academy of Pediatrics, *Energy Drinks Pose Health Risks to Adolescents* (Feb. 1, 2013) (online at http://www.aap.org/en-us/about-the-aap/aap-press-room/Pages/Energy-Drinks-Pose-Health-Risks-to-Adolescents.aspx?nfstatus=401&nftoken=00000000-0000-0000-0000-000000000000&nfstatusdescription=ERROR%3a+No+local+token&nfstatus=401&nftoken=00000000-0000-0000-0000-000000000000&nfstatusdescription=ERROR%3a+No+local+token).

[5] *See* Letter from Dr. Amelia M. Arria et al., *supra* n.1, at 1.

[6] SAMHSA Report, *supra* n.1.

[7] *Id.*

[8] *Id.*

[9] Staff of Rep. Edward J. Markey et al., *What's All the Buzz About? A Survey of Popular Energy Drinks Finds Inconsistent Labeling, Questionable Ingredients and Targeted Marketing to Adolescents*, at 3 (Apr. 10, 2013) (online at http://markey.house.gov/sites/markey.house.gov/files/documents/2013-04-10_EnergyDrink_Report_0.pdf).

more energy drink ads than adults viewed" and "were also disproportionately exposed to websites for energy drinks."[10]

As health issues relating to consumption of energy drinks continue to emerge, it is important to understand the extent to which energy drink marketing is targeted to American youth, and how major energy drink companies are taking into account the concerns that health experts have raised regarding risks associated with youth consumption of their products.

In order to inform the Committee's understanding of your company's practices, I ask that you provide responses to the following requests by Friday, July 5, 2013. In each of the requests below, "children" means individuals aged 2-12 and "teenagers" means individuals aged 13-17.

1. Please provide copies of all marketing plans prepared by or on behalf of the company since January 1, 2011.
2. Has the company sponsored, conducted, or commissioned any marketing research regarding the appeal to individuals under the age of 18 of any particular types of advertising or promotional techniques, including the effectiveness of any particular types of advertising or promotional techniques in increasing interest in or consumption of any energy drinks among individuals under the age of 18? If yes, provide copies of such studies and describe whether and how the resulting data have been incorporated into the company's marketing practices.
3. Identify and describe all company policies, plans, and directives, whether formally adopted or informally issued, in place on or after January 1, 2011, pertaining to advertising or promotional activities targeted to or otherwise involving children or teenagers, including policies regarding use or non-use of any advertising and promotional activities. Provide copies of all such policies and directions to any employees of the company or affiliated company, or any contractors (*e.g.*, formal or informational guidance documents, training materials, or instructions on implementing a policy).
4. For each of the advertising and promotional activity categories that follow, state whether any of your company's marketing plans targeted that activity toward children or teenagers during the calendar years 2011 and 2012:
    a. Television advertising;
    b. Radio advertising;
    c. Print advertising;

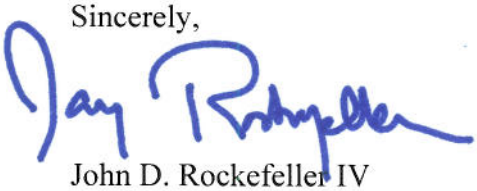
[10] Rudd Center for Food Policy & Obesity, *Sugary Drink Marketing 360° Briefs* at 2, 4 (online at http://www.sugarydrinkfacts.org/resources/SugaryDrinkFACTS_360MarketingBriefs.pdf) (accessed June 7, 2013). In addition, a recent Federal Trade Commission report on food and beverage industry marketing expenditures and activities directed to children and teens identified examples where energy drink makers are specifically targeting teenagers. Federal Trade Commission, *A Review of Food Marketing to Children and Adolescents: Follow-Up Report* (Dec. 2012) (online at http://www.ftc.gov/os/2012/12/121221foodmarketingreport.pdf).

d. Company-sponsored Internet sites;
e. Other Internet and digital advertising;
f. Packaging and labeling;
g. Movie theater/video/video game advertising;
h. In-store advertising and promotions;
i. Specialty item or premium distribution;
j. Promotion or sponsorship of public entertainment events;
k. Product placements;
l. Character licensing, toy co-branding, and cross-promotions;
m. Sponsorship of sports teams or individual athletes;
n. Word-of-mouth and viral marketing;
o. Celebrity endorsements;
p. In-school marketing;
q. Advertising in conjunction with philanthropic endeavors;
r. Other promotional activities.

5. Since January 1, 2011, for each advertising and promotional activity category listed in request 4, state what percentage of the total audience children constitute, and what percentage of the total audience teenagers constitute.
6. Since January 1, 2011, for each advertising and promotional activity category listed in request 4, state what percentage of total advertising and promotional expenditures by your company was expended for that category.
7. Please provide a copy of any information you have submitted to the Federal Trade Commission (FTC) in response to the FTC's *Order to File Special Report* made pursuant to the FTC *Resolution Directing Use of Compulsory Process to Collect Information for Use in Preparing a Report Regarding the Marketing of Food and Beverages to Children and Adolescents*; Order available at http://www.ftc.gov/os/2012/12/121221foodmarketingreport.pdf (see Appendix).

The Committee is conducting this investigation under the authority of Senate Rules XXV and XXVI. An attachment to this letter provides additional information about how to respond to the Committee's request. If you have any questions, please contact Melanie Tiano or Molly Crawford with the Committee staff at (202) 224-1300.

Sincerely,



John D. Rockefeller IV