



October 14, 2013

**BY COURIER**

The Honorable Edward J. Markey  
218 Russell Senate Office Building  
Washington, DC 20510

The Honorable John D. Rockefeller IV  
531 Hart Senate Office Building  
Washington, DC 20510

The Honorable Richard J. Durbin  
711 Hart Senate Office Building  
Washington, DC 20510

The Honorable Richard Blumenthal  
724 Hart Senate Office Building  
Washington, DC 20510

Re: September 25, 2013 Letter

Dear Senators Markey, Rockefeller, Durbin, and Blumenthal:

I write in response to your September 25, 2013 letter (September 25 letter) asking Red Bull North America, Inc. (RBNA) to voluntarily commit to certain marketing and promotional practices in connection with its energy drink products.

Since Red Bull's inception, our energy drink products always have been and remain today, premium products positioned for and marketed to adults. On July 30, 2013, RBNA publicly confirmed this focus in a letter to the United States Senate Commerce, Science, and Transportation Committee (the Committee), announcing voluntary commitments related to the labeling, formulation, and marketing of its products in the United States (July 30 letter). (See Tab A.) Many of the commitments announced in that letter are similar or in some cases identical to those identified in your September 25 letter. In other respects, RBNA's already announced voluntary commitments go above and beyond what you now ask of the industry.

We agree in principle with the vast majority of the commitments you propose in your September 25 letter. There are limited instances, however, where the commitments proposed in your letter differ either in language or in meaning from those commitments we previously

The Honorable Edward J. Markey  
The Honorable John D. Rockefeller IV  
The Honorable Richard J. Durbin  
The Honorable Richard Blumenthal

October 14, 2013  
Page 2

announced in our July 30 letter to the Committee. In that letter, we were very careful in wording our commitments as we believe it is important to create bright-line rules that can be implemented rather than aspirational standards that would be more difficult to commit to or enforce.

In response to your specific requests, RBNA has made or is prepared to make the following commitments:

- With respect to Request 1, RBNA commits that we will not market our energy drink products to children, defined as individuals under the age of 12. Our marketing activities focus on individuals 18 to 34 years of age, which always has been our primary target demographic. Additionally, RBNA commits that our labeling and marketing will not make claims using language specifically targeted to those under 18. By “target,” we mean the population for whom communications/products are designed and broadcast. Marketing communications are developed to appeal specifically to a target, and are broadcast through channels most likely to reach that target. We made this commitment in our July 30 letter to the Committee, effective immediately.
- With respect to Request 2, RBNA commits that our marketing will not encourage or condone excessive or rapid consumption of energy drinks. We made this commitment in our July 30 letter to the Committee, effective immediately.
- With respect to Request 3, RBNA commits that we will go through existing images on our social media platforms to erase any images that encourage or condone excessive or rapid consumption of energy drinks. We made this commitment at the July 31 hearing, Tr. 113:14-20, and began this process shortly thereafter. That process is still under way.
- With respect to Request 4, RBNA commits that our marketing will not say that larger sizes, more caffeine, or higher concentrations of caffeine are better or have a better/stronger effect. We made this commitment in our July 30 letter to the Committee, effective immediately.
- With respect to Request 5, RBNA commits that our product labels and marketing will not make any claims that the consumption of alcohol together with energy drinks counteracts the effects of alcohol. This commitment is effective immediately.
- With respect to Request 6, RBNA commits that we will not promote, encourage, or condone the mixing of energy drinks with sleeping pills or other drugs. We will not make any claim that the consumption of an energy drink counteracts or

The Honorable Edward J. Markey  
The Honorable John D. Rockefeller IV  
The Honorable Richard J. Durbin  
The Honorable Richard Blumenthal

October 14, 2013  
Page 3

otherwise positively impacts the effect of sleeping pills or other drugs. This commitment is effective immediately.

- With respect to Request 7, RBNA commits that we will not market our energy drink products in K-12 schools or other institutions responsible for this age group. This commitment includes school-related events or activities. We made this commitment in our July 30 letter to the Committee, effective immediately.
- With respect to Request 8, RBNA commits that we will not sell (including in automated vending machines) our energy drink products in K-12 schools or other institutions responsible for this age group. This commitment includes school-related events or activities. We made this commitment in our July 30 letter to the Committee, effective immediately.
- With respect to Request 9, RBNA commits that we will not sample energy drink products in or within the immediate vicinity of K-12 schools or other institutions responsible for this age group. We made this commitment in our July 30 letter to the Committee, effective immediately.
- With respect to Request 10, RBNA commits that we will include language in future contracts specifically prohibiting distributors and any third-party entity from promoting, marketing, or sampling to children. We made this commitment at the July 31 hearing, Tr. 115:14-17, 116:1-4, and began this process shortly thereafter. That process is still under way.
- With respect to Request 11, RBNA commits that our energy drink products will declare the total caffeine content per can on the product label. We made this commitment in our July 30 letter to the Committee, and began this process shortly thereafter. That process is still under way.
- With respect to Request 12, RBNA commits that we are willing to report to FDA any serious adverse events (reported to RBNA by consumers) that are alleged to be associated with consumption of our energy drink products, provided that other producers of caffeine-containing beverages do the same. We believe that any analysis of serious adverse events suspected to be linked to caffeine, should contain a review of all caffeine-containing beverages. If other makers of caffeine-containing beverages report adverse events, we too will provide the reports in a manner consistent with the serious adverse event reporting requirements applicable to dietary supplements pursuant to the Dietary Supplement and Nonprescription Drug Consumer Protection Act. We made this commitment in our July 30 letter to the Committee.

The Honorable Edward J. Markey  
The Honorable John D. Rockefeller IV  
The Honorable Richard J. Durbin  
The Honorable Richard Blumenthal

October 14, 2013

Page 4

- With respect to Request 14, RBNA commits that we will not buy advertising directly targeted at audiences that are more than 35% under 18 years of age. This applies to TV, radio, print, and where data is available, to the Internet and mobile devices. The media buying target age for all RBNA advertising media will be 18-34. We made this commitment in our July 30 letter to the Committee, effective immediately.
- With respect to Request 15, we do not believe that it would be appropriate to label our energy drinks as not intended for individuals under 18 years of age because our energy drinks contain the same amount or less caffeine than a cup of coffee and are safe for teen consumption. Currently, our labels state: "Not recommended for children, pregnant or nursing women, or people sensitive to caffeine."
- With respect to Request 17, RBNA commits that we will not market our energy drinks as "sports drinks," meaning electrolyte-containing beverages designed to rehydrate. We made this commitment at the July 31 hearing, Tr. 123:19-23, effective immediately.

At this time, RBNA is not prepared to adopt the commitments discussed in Requests 13 and 16 of your letter.

Finally, as we noted in our July 30 letter to the Committee, RBNA is committed to honoring the commitments we have made, and we will regularly monitor our marketing and promotional practices to ensure that we do so. We also plan to establish and conduct a recurring training program for employees and third-party contractors and consultants involved in the marketing of our energy drink products to ensure awareness of and compliance with these commitments. Our commitments shall not constitute nor be construed as an admission of any kind regarding RBNA's prior practices.

Sincerely yours,



Stefan Kozak  
Chief Executive Officer  
Red Bull North America, Inc.





July 30, 2013

**BY HAND DELIVERY**

The Honorable John D. Rockefeller IV  
Chairman  
Committee on Commerce, Science and Transportation  
United States Senate  
Dirksen Senate Office Building, Room 516  
Washington, DC 20510

The Honorable John R. Thune  
Ranking Member  
Committee on Commerce, Science and Transportation  
United States Senate  
Dirksen Senate Office Building, Room 560  
Washington, DC 20510

Re: Voluntary Commitments Regarding Labeling and Marketing

Dear Chairman Rockefeller and Ranking Member Thune:

Red Bull North America, Inc. (RBNA) welcomes the opportunity to participate in the Committee's investigation of the marketing and promotional practices of energy drink manufacturers. RBNA and its parent company, Red Bull GmbH (Fuschl am See, Austria), have a long history of cooperation with legislative and regulatory authorities in order to ensure the lawful marketing and safe consumption of our products. In addition, we recognize the particular concerns of the Committee and hope to be a partner in crafting a solution that sufficiently and appropriately addresses these concerns. In that spirit, RBNA is pleased to announce that it is undertaking a number of voluntary commitments relating to the labeling and marketing of its products in the United States.

Red Bull GmbH created the "modern" energy drink category, first in Europe in 1987, and then launched in the United States in 1997 through its U.S. subsidiary RBNA. Today, Red Bull® products are sold in more than 165 countries. Health authorities around the world, including Food Standards Australia New Zealand (FSANZ), Health Canada, and European Food Safety Authority (EFSA), have concluded that Red Bull® Energy Drink is safe to consume. Indeed, since 1987,

The Honorable John D. Rockefeller IV  
The Honorable John R. Thune  
July 30, 2013  
Page 2

over 40 billion cans of Red Bull® products have been safely consumed and enjoyed worldwide.

We cite these facts and statistics to show that Red Bull® products are safe. An 8.4 fl. oz. can of Red Bull® Energy Drink contains about the same amount of caffeine as a cup of home-brewed coffee, and about half as much caffeine as contained in many coffee house coffees. Caffeine, a key ingredient in Red Bull® products, has been safely consumed for hundreds of years. In fact, caffeine is one of the most researched and widely consumed food ingredients throughout the world.

The vast body of science and historical use of caffeine supports the conclusion that when a teenager begins to drink coffee, tea, and caffeine-containing sodas, he/she also can consume equivalent amounts of caffeine through energy drinks. However, as a general proposition, children (12 and under) should consume less caffeine than adults and teenagers due to their lower body weight, which is why the Company does not market its products to children and does not recommend its products for consumption by children. In fact, Red Bull® product labels specifically state that the product is not intended for consumption by children.

As you may know, the Food and Drug Administration (FDA) is in the process of considering current safety data on caffeine, including data relating to caffeine-containing energy drinks. We are confident that the FDA will agree that the data support the safe use of caffeine. RBNA is supporting the FDA's evaluation by providing the FDA with Red Bull® product safety information. Beyond the FDA review, and as explained further below, in order to support public confidence in our products and the public's consumption decisions, RBNA will include additional information on its label.

Despite the safety of Red Bull® products, we recognize the public health debate surrounding caffeinated soft drink consumption. Recent public health discussions have focused on sugar- and caffeine-containing beverages and possible links to childhood and teen obesity rates, as well as excessive consumption of caffeine by teenagers. Teaching children and teenagers moderation in their consumption habits and the importance of proper exercise is an important public health goal. Finding the ideal balance is not easy, but it is the responsibility of parents to set those limits. We respect parents' choices about their children's diets and do not interfere with that control.

Since its inception in 1987 and launch in the United States in 1997, Red Bull® has always been and remains an aspirational, adult brand and a premium product positioned for and marketed to adults. This is reflected through our can design, pricing, core marketing messages, as well as the content, timing, and

placement of our advertising. Over time, RBNA's marketing strategy evolved and its investments became more focused. In 2011, the Company made a strategic decision to refine its marketing activities even further to focus on adults 18-34 years of age, which always has been the Company's primary target demographic. This allowed us to leverage our positioning – our premium package design, package sizes, and pricing – and play to our strengths via differentiation from our competition within the energy drink category. Since 2012, RBNA has continued to sharpen our marketing communications and investments to reach this target demographic, recognizing, however, that no company can ensure that its marketing materials will only reach a particular audience, as people of all ages and demographics may be attracted to them.

We recognize our responsibility, along with other food and beverage companies, to play a positive role in the public health debate surrounding consumption of calories and caffeine. RBNA is committed to promoting active and healthy lifestyle choices. RBNA has supported various industry anti-obesity initiatives. Notably, Red Bull® Energy Drink contains 110 calories/8.4 fl. oz. In addition, we also are focused on supporting consumers by offering beverage choices that provide low/no sugar and low/no calorie options. Following the launch of Red Bull® Energy Drink in the United States in 1997, we introduced Red Bull® Sugarfree and Red Bull® Total Zero. Moreover, as a member of the American Beverage Association (ABA), RBNA led the energy drink sector in adopting the *ABA's Guidance for the Labeling and Marketing of Energy Drinks*, as well as similar industry codes in other parts of the world.

In this spirit of providing adequate consumer information and in light of our focus on adult marketing, RBNA undertakes the following voluntary commitments and urges all producers of caffeine- and sugar-containing beverages to make the same commitments.\*

#### PRODUCT LABELING AND FORMULATION:

- Red Bull® energy drink products will be labeled as conventional foods/beverages and not as dietary supplements.
- Red Bull® energy drink products will declare the total caffeine content per can on the product label.

---

\* As used herein, "target" is defined as the population for whom communications/products are designed and broadcast. Marketing communications are developed to appeal specifically to the target, and are broadcast through channels most likely to reach the target.



- RBNA will not sell energy drinks with a caffeine concentration in excess of 80 mg/ 8.4 fl. oz.
- RBNA will not sell energy drinks with a calorie content in excess of 110 calories/ 8.4 fl. oz.

**CLAIMS AND PROMOTION:**

- RBNA's marketing will not encourage or condone excessive or rapid consumption of energy drinks.
- RBNA's marketing will not say that larger sizes, more caffeine, or higher concentrations of caffeine are better or have a better/stronger effect.
- RBNA's labeling and marketing will not make claims using language specifically targeted to those under 18.
- RBNA will not buy advertising directly targeted at audiences that are more than 35% under 18 years of age. This applies to TV, radio, print, and where data is available, to the Internet and mobile devices. The media buying target age for all RBNA advertising media will be 18-34.
- RBNA will not feature child- or teen-oriented animated or licensed characters in advertising or any other promotional activities.
- RBNA will not market its energy drink products in K-12 schools or any other institutions responsible for this age group. This commitment includes school-related events or activities.
- RBNA will not sell (including in automated vending machines) its energy drink products in K-12 schools or any other institutions responsible for this age group. This commitment includes school-related events or activities.
- RBNA will not sample energy drink products in or within the immediate vicinity of K-12 schools or other institutions responsible for this age group. The RBNA sampling target will continue to be 18-34 year olds, with a focus on college, military, and members of the work force.

To further promote balanced nutrition and consumer awareness, we remain open to discussing changes for the entire beverage industry. We believe that any comprehensive effort regarding child and teen nutrition should include all sugar- and caffeine-containing beverages (e.g., caffeinated soft drinks, coffee, and tea). A recent caffeine consumption survey shows that within each age group (including

children and teenagers), 90% or more do not consume energy drinks at all, and more than 93% of the caffeine consumption within each age group comes from sources other than energy drinks, such as caffeinated soda, coffee, and tea. This survey is consistent with an FDA-sponsored consumption survey and demonstrates that the majority of caffeine intake comes from coffee, soft drinks, and tea. Soft drinks contain about the same amount of sugar as energy drinks, but are consumed more frequently and in larger volumes. In addition, energy drinks represent only 2% of the total soft drink market. RBNA is ready to further advance discussions about this topic, and believes the entire industry should be engaged to make meaningful progress.

Therefore, RBNA puts forth the following voluntary commitments that it will adopt, provided other producers of sugar- and caffeine-containing beverages do the same:

**CONTAINER SIZE:**

- RBNA will not sell products in containers larger than 12 fl. oz. if other producers of sugar- and caffeine-containing beverages agree to abide by the same limitation.

**ADVERSE EVENT REPORTING:**

- RBNA is willing to report to FDA any serious adverse events (reported to the Company by consumers) that are alleged to be associated with consumption of Red Bull® energy drink products, provided that other producers of caffeine-containing beverages do the same. The Company believes that any analysis of serious adverse events suspected to be linked to caffeine, should contain a review of all caffeine-containing beverages. The Company would provide the reports in a manner consistent with the serious adverse event reporting requirements applicable to dietary supplements pursuant to the Dietary Supplement and Nonprescription Drug Consumer Protection Act.

\*\*\*\*\*

These commitments are separate from (and do not affect) RBNA's long standing support of developing athletic talent. In "giving wings to people and ideas," RBNA supports up and coming and top potential athletes under the age of 18. Additionally, RBNA hosts and sponsors various events that are typically open to the public, and that provide a platform for skilled individuals, some under 18 years of age, to compete or perform. Finally, separate Red Bull affiliates operate independent businesses, including professional motorsports and athletic sports teams, which maintain their own marketing practices.

The Honorable John D. Rockefeller IV  
The Honorable John R. Thune  
July 30, 2013  
Page 6

RBNA will regularly monitor its marketing practices to ensure it honors the commitments contained herein. Further, RBNA shall establish and conduct a recurring training program for employees and third-party contractors and consultants involved in the marketing of Red Bull® products to ensure awareness of and compliance with these commitments. These voluntary commitments shall not constitute nor be construed as an admission of any kind regarding RBNA's prior practices.

Sincerely yours,



Stefan Kozak  
Chief Executive Officer  
Red Bull North America, Inc.

cc: The Honorable Barbara Boxer  
The Honorable Bill Nelson  
The Honorable Maria Cantwell  
The Honorable Mark Pryor  
The Honorable Claire McCaskill  
The Honorable Amy Klobuchar  
The Honorable Mark Warner  
The Honorable Mark Begich  
The Honorable Richard Blumenthal  
The Honorable Brian Schatz  
The Honorable Martin Heinrich  
The Honorable Edward Markey  
The Honorable Roger Wicker  
The Honorable Roy Blunt  
The Honorable Marco Rubio  
The Honorable Kelly Ayotte  
The Honorable Dean Heller  
The Honorable Daniel Coats  
The Honorable Timothy Scott  
The Honorable Ted Cruz  
The Honorable Debra Fischer  
The Honorable Ronald H. Johnson  
The Honorable Jeff Chiesa  
The Honorable Richard Durbin