

Chris Clarke
Pure Growth
SK Energy
575 Madison Avenue
Floor 24
New York, NY 10022

October 11, 2013

United States Senate
Washington, D.C. 20510
Attn: Senators Markey, Rockefeller, Durbin, and Blumenthal.
c/o: Dr. A. Joseph, Ms. J. Epperson, Dr. B. Beard, and Mr. J. Kelsey.

Dear Sirs:

It is with great pleasure that I write to formally reinforce SK Energy's commitment to providing clean, healthy energy to appropriate consumers. I am so pleased to learn of your efforts to mitigate the inappropriate consumption of energy shots and drinks. We absolutely agree with you that promotion of energy products should strictly address those for whom the product is intended and beneficial, and that all such products should make readily available clear and relevant information for the consumer's benefit.

Our mission at SK is to provide health-conscious consumers over the age of 16 with premium, natural energy entirely devoid of harmful ingredients. Since inception, we have measured our success entirely by this principle of "good energy." Our product is fundamentally different from other products on the market. FDA representatives confirmed this claim on a recent tour of our factory (in the US, as are all of our operations), and found our ingredients to be not only satisfactory, but superior in quality and health standards to alternatives on the market.

Most notably, SK has never given cause to warrant an FDA investigation, because we have never and will never include harmful, controversial ingredients so prevalent in the marketplace, such as: Taurine, Guarana, Ginseng, L-Carnatine, artificial flavors or synthetic caffeine. No matter the age of the consumer, these aforementioned ingredients are harmful to the human body, and we at SK are not in the business of harming our consumers.

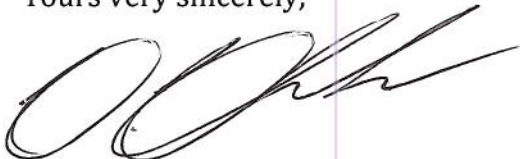
We applaud you for your efforts to curtail the proliferation of such products to the American people. Product integrity and consumer safety are paramount to us at SK. In addition to being the only major energy product that is certified by Informed Choice for approved use in sports, we at SK are also creating the first mainstream all-natural energy product, currently in development.

Hand in hand with providing the healthiest, safest energy boost available to appropriate consumers and ensuring our children's well-being, we at SK are dedicated to helping children across the world: SK was founded for the purpose of providing one billion meals to children in need. Through a partnership with the UN World Food Programme, we have provided 3.5 million meals to-date to such children. Now we are looking to partner with leading US charities to feed needy children in America with every bottle of SK sold.

We recognize and agree that our product is not intended for use by every person in every circumstance, and that there are certain guidelines that should be followed and clearly communicated for appropriate consumption of our product, as with any product. To that end, we clearly label our product with recommended consumption levels that are more strict than the FDA's current GRAS guidelines for caffeine consumption; we also clearly label that the product is not intended for use by children under the age of 16, or by pregnant or nursing women. We go to great lengths in our communications with customers via phone, email, at trade shows, in stores, and via social media to consistently provide clear instruction on how best to use our product and how to avoid inappropriate consumption.

Our commitment to our consumers' well-being, and to clearly informing consumers so they can make better decisions, is integral to our values as a company; we are happy to have the opportunity to illuminate and reaffirm our commitment to healthy energy and consumer clarity using your guidelines. And we are grateful to have your support in the important endeavor of safeguarding American consumers.

Yours very sincerely,

A handwritten signature in black ink, appearing to read 'Chris Clarke', with a stylized, flowing script.

Chris Clarke

CEO of PureGrowth
Chairman, SK Energy

Per your precedent, we use "energy drinks" and "energy products" as a term inclusive of "energy shots," which is the only product SK Energy currently manufactures.

Additionally, I am enclosing some of our SK Energy product in its actual packaging so that you and your colleagues can see the labeling and ingredient standards we continue to uphold.

1. *Will your company agree not to market your energy drink products to (a) children defined in the ABA's Guidance for the Responsible Labeling and Marketing of Energy Drinks as individuals under the age of 12 or (b) children or minors, under the age of 18? If so, on what date will that commitment take effect?*

Yes, SK Energy agrees not to market our products to individuals under the age of 12. We will go one step further and commit to never market our energy products to individuals under the age of 16. This commitment has been in effect since our inception in September of 2011.

2. *Will your company agree that in the future, you will not promote, encourage, or condone rapid or excessive consumption of energy drink products? If so, on what date will that change take effect?*

Yes, SK Energy agrees never to promote, encourage, or condone rapid or excessive consumption of our energy products. This commitment has been in effect since our inception in September of 2011. As evidence of our commitment, our marketing campaigns are carefully tailored to never show more than two "consumption events" by an endorser or representative within a 24-hour period.

Additionally, we clearly state on our packaging that no more than two shots should be consumed within a 24-hour period. And where appropriate, we actively encourage our consumers to spread out the consumption of our energy products for a smoother ingestion of caffeine.

Finally, each bottle also contains the recommendation: "Do not consume with other caffeinated products...Limit caffeine products to avoid nervousness, sleeplessness, or an occasional rapid heartbeat."

3. *Will your company commit to removing any past social media posts or other promotional messages or images that promote, encourage, or condone excessive or rapid consumption of your energy drink products, and, if so, by what date? Will your company commit to regularly monitoring your social media sites to ensure that in the future such messages and images are not posted?*

Yes, SK Energy commits to remove any past social media posts or other promotional message or images that promote, encourage, or condone excessive or rapid consumption of our energy products. This commitment has been in effect since our inception in September 2011. SK Energy commits to continue to regularly monitor our social media sites to ensure that such messages and images are not posted.

4. *Will your company agree that in all future marketing and promotional messages, you will not use language implying that consumption of larger volumes of energy drinks or energy drink with higher concentration of caffeine produces a more desirable effect? If so, on what date will that commitment take effect?*

Yes, SK Energy agrees that in all future marketing and promotional messages, we will not use language implying that consumption of larger volumes of energy drinks or that an energy drink with higher concentrations of caffeine produce a more desirable effect, effective immediately.

It is imperative, however, to distinguish for our consumers that difference between “Regular Strength” (250mg caffeine) and “Extra Strength” (280mg caffeine) energy shots, so that they can make an appropriate choice for their energy needs. For a consumer desiring a larger dose of natural caffeine, it is important they understand that an “Extra Strength” product will more closely meet their needs, and such a consumer may see this product as more desirable.

As evidence of our commitment to discourage excessive caffeine consumption (that is, consumption that is in excess of a consumer’s needs or in excess of the recommended FDA thresholds), SK Energy has priced its “Regular Strength” and “Extra Strength” products equally, and will continue to do so. This equal pricing serves to indicate to the consumer that neither is “better” than the other, or more preferable simply based on the caffeine content. That is, more caffeine does not equal “better” caffeine.

5. *Will your company agree to not promote, encourage, or condone mixing energy drinks with alcohol? Similarly, will your company agree to not make any claim that the consumption of alcohol together with an energy drink counteracts or otherwise positively impacts the effect of alcohol consumption? If so, on what date will that commitment take effect?*

Yes, SK Energy agrees to continue its commitment to not promote, encourage, or condone mixing energy drinks with alcohol, nor will we ever claim that consumption of alcohol together with our product counteracts or otherwise positively impacts the effect of alcohol consumption.

It has been our policy since December of 2012 to refrain from providing or encouraging any recommended combinations of our product with alcoholic beverages. Additionally, while many of our competitors are widely available and co-marketed in establishments serving alcohol such as bars and liquor stores, SK Energy has actively avoided proliferation in bars and liquor stores, and actively discourages consumers from mixing our product with alcohol because of the known detrimental effects. Finally, each bottle contains the recommendation: “Do not consume with alcohol.”

6. *Will your company agree not to promote, encourage, or condone the mixing of energy drinks with sleeping pills or other drugs? Similarly, will your company agree not to make any claim that the consumption of an energy drink in any way counteracts or otherwise positively impacts the effect of sleeping pills or other drugs? If so, on what date will that commitment take effect?*

Yes, SK Energy agrees to not promote, encourage, or condone the mixing of our energy products with sleeping pills or other drugs, nor will we ever claim that the consumption of an energy product in any way counteracts or otherwise positively impacts the effect of sleeping pills or other drugs. This commitment has been in effect since our inception in September 2011.

7. *Will your company agree not to market your energy drink products in K-12 schools, including at any school-related events or activities? If so, on what date will that commitment take effect?*

Yes, SK Energy agrees to continue our commitment to never market our energy products in K-12 schools, including at any school-related events or activities. This commitment has been in effect since our inception in September 2011.

8. *Will your company ensure that its energy drink products are not sold in K-12 schools, including in automated vending machine and concession stands? If so, on what date will that change take effect?*

Yes, SK Energy commits to continue to ensure that our energy products are not sold in K-12 schools, including in automated vending machine and concession stands. This commitment has been in effect since our inception in September 2011.

9. *Will your company agree to not provide samples of your energy drink products in or within the immediate vicinity of K-12 schools? If so, on what date will that change take effect?*

Yes, SK Energy will continue its commitment to never provide samples of our energy products in or within the immediate vicinity of K-12 schools. This commitment has been in effect since our inception in September 2011.

10. Will your company include binding contractual language in future contracts with distributors, promoters, or other third party entities prohibiting them from marketing, promoting, selling, or sampling to children and teenagers in K-12 schools? If so, on what date [will] such language be inserted into new contracts?

Yes, SK Energy will include binding contractual language in future contracts with distributors, promoters, and other third party entities prohibiting them from marketing, promoting, selling, or sampling to children and teenagers in K-12 schools.

While SK Energy has never included explicit language against the marketing, promotion, sale, or sampling of our energy products to children and teenagers physically in K-12 schools, we have never had the *occasion* to do so, as we have never before marketed, promoted, sold, or sampled in a K-12 school, nor have we commissioned any partner or collaborator to do so on our behalf. We intend to formally insert such language into new contracts as of October 14, 2013.

11. Will your company commit to including on the product label of your energy drinks a clear declaration of the total amount of caffeine present by serving and per container, and, if so, by what date will those labels be included?

Yes, SK Energy will continue to label clearly the total amount of caffeine present by serving and by container. This commitment has been in effect since our inception in September 2011.

12. Will your company commit to voluntarily report to the FDA any serious adverse events associated with the consumption of your energy drink products of which you become aware? If so, on what date will that commitment take effect?

Yes, SK Energy continues its commitment to voluntarily report to the FDA any serious adverse events associated with the consumption of our energy products of which we become aware. This commitment has been in effect since our inception in September 2011.

Though we have had little use for such reporting given a total lack of serious adverse events associated with the consumption of SK Energy products, we maintain strict policies and procedures for the fulfillment of such reporting should it ever be needed.

13. Will your company commit to putting restrictions in place for any social media site owned, managed, or operated by your energy drink product lines or managers that would restrict access for users under the age of 18, if such social media site has the capability to impose age restrictions? If not, is there an age under 18 for which you would commit to such restrictions? If so, what age and on what date would the restriction take effect?

Yes, SK Energy commits to impose age restrictions for persons under the age of 16 on any social media site that has the capability to impose such age restrictions, effective November 1, 2013.

14. Will your company restrict any advertising buys or purchases for TV, radio, print, internet, or mobile devices that directly targets audience that are more than 35% under the age of 18, and, if so, by what date will this restriction be adopted?

Yes, SK Energy will continue to restrict its direct advertising buys and purchases for TV, radio, print, internet, or mobile devices that directly targets audiences that are more than 35% under the age of 16 to the extent contractually available to us. None of our direct advertising has ever or will ever directly target audiences under the age of 16, and none of our direct advertising has ever or will ever directly target programs whose audiences are comprised of 35% or greater under the age of 16.

It should be noted that SK Energy has executed media agreements in the past that have given the discretion to the media outlet to allocate the buy across programs. These agreements did not explicitly contractually prohibit these media companies from serving SK Energy advertisements during programming with a majority under-16 audience reach; however, to our knowledge, no such media partner of ours has ever directly targeted an under 16 audience on SK Energy's behalf. And we commit to instructing our partners effective immediately, to restrict such targeting in the future, as we continue our conversations with them.

SK Energy commits that in contracts going forward, it will restrict its advertising to the appropriate over 16 audiences, and it will where contractually possible, insist that its media partners enforce this restriction when the allocation of media is under their discretionary control.

15. Will your company agree to label any of your products that include caffeine in excess of the FDA's approved GRAS standard for caffeine in cola with the following statement:

"The product is not intended for individuals under 18 years of age, pregnant or nursing women, or for those sensitive to caffeine."

If you will agree to include this statement on your energy drink product(s), by what date will such statement be included?

SK Energy agrees to continue to label all of our products that include caffeine, regardless of the level of caffeine, with the statement:

"Do not take if you are under 16 years of age, pregnant or nursing. If you are taking a medication or have a medical condition, consult your doctor before use."

16. Will your company commit to not feature, recruit, or sponsor children under the age of 18 in energy drink marketing campaigns, including promotion on social media? If not, is there an age under 18 for which you would commit to not feature, recruit, or sponsor in energy drink marketing campaigns? If so, what age and on what date will such commitment take effect?

Yes, SK Energy will commit to not feature, recruit, or sponsor children under the age of 16 in our energy product marketing campaigns, including promotion on social media, effective immediately.

17. *The National Collegiate Athletic Association and the National Federation of State High School Associations has advised student athletes to avoid energy drinks and other stimulants because they may be detrimental and are not effective forms of fuel or hydration. The American Beverage Association has drawn a functional difference between energy drinks and sports drinks. Does your company commit to not market its energy drinks as sports drinks or in a manner that could confuse its energy drink products with that of a typical sports drink, which contains electrolytes and other ingredients intending to hydrate the body, and if so by what date will that commitment take effect?*

Yes, SK Energy commits to not misrepresent our product as being “hydrating” or containing “hydrating” elements. Our energy shot products are not marketed in this way, and in fact, are often marketed the opposite way, for those who do not wish to overhydrate (for example, during long travel). For consumers wishing to hydrate their bodies in relation to sports or other such activities, we have informally advised that they drink plain water.

It is important to distinguish the use cases for SK Energy products as they relate to sports or other such activities. It is our belief that SK Energy’s energy products are beneficial for certain consumers wishing to energize before or during a physically demanding task or activity. Many athletes, professional and nonprofessional, have given unsolicited feedback that our energy products *do* in fact increase their ability to take on challenging physical activities, whether by:

- a) Counteracting fatigue that may discourage one from working out
- b) Delivering the fat-burning capabilities of natural caffeine (which also contains naturally occurring antioxidants and has been documented to be an effective fat burner in several published medical studies)
- c) Enhancing focus on the physical task or activity at hand (a result of the vaso-constricting properties naturally occurring in caffeine, which focus the brain’s attention on a given task)

While we do include these corroborated usage occasions in our messaging to better instruct users on how appropriately use our product, we do not and will not seek to misrepresent our energy products as hydrating, or “fueling” in the sense of providing calories or sugar. In fact, we directly label and actively market all of our energy products with variations of the phrasing: “no calories and no sugar.”

Additionally, as mentioned earlier, SK Energy products do not contain the harmful ingredients that could be detrimental to a student athlete’s health, such as: taurine, guarana, ginseng, l-carnatine, sugar, artificial flavors, or synthetic caffeine.

Finally, SK Energy is the only major energy drink that is certified by Informed Choice for use in sport. Informed Choice¹ is an independent testing program.

¹ From www.informed-choice.org: “Informed-Choice is a quality assurance program for sports nutrition products, suppliers to the sports nutrition industry, and supplement manufacturing facilities. The program certifies that all nutritional supplements and/or ingredients that bear the

Should you have additional questions or need for clarification, please do not hesitate to reach out to us via mail, telephone, or email.

It is our pleasure and privilege to be of service to you in the shared mission of educating consumers and ensuring appropriate usage of energy products. If there is any other manner in which we can assist you in your efforts, we will be proud to be your partner.

Informed-Choice logo have been tested for banned substances by the world class sports anti-doping lab, HFL Sport Science. Athletes choosing to use supplements can use the search function above to find products that have been through this rigorous certification process.