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October 23, 2013

BY E-MAIL/CONFIRMATION BY MAIL

The Honorable Edward J. Markey
Attn: Dr. Avenel Joseph
2108 Rayburn House Office Building
United States House of Representatives
Washington, DC 20515

Dear Representative Markey:

Pursuant to your letter dated September 25, 2013, we are responding on behalf of AriZona Beverages USA LLC ("AriZona") to your questions regarding the company's marketing and promoting of energy products.

Your questions and the company's answers to each question are as follows:

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?

As AriZona has previously stated in response to your January 17, 2013 letter, AriZona has not marketed its energy drink products to children and will continue not to do so.

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?

AriZona has not promoted, encouraged, or condoned rapid or excessive consumption of energy drink products and will continue not to do so.

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?

AriZona has not had any past social media posts or other promotional messages or images that promote, encourage, or condone excessive or rapid consumption of its energy drink products. AriZona will continue to monitor its social media sites to ensure that such messages and images are not posted in the future.

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 drinks with high concentration of caffeine produces a more desirable effect? If so, on what date will that commitment take effect?

AriZona has not used language in any marketing or promotional messages implying that consumption of larger volumes of energy drinks or energy drinks with higher concentration of caffeine produces a more desirable effect and will continue not to do so.

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?

AriZona has not promoted, encouraged, or condoned mixing energy drinks with alcohol and will continue not to do so. AriZona has not made any claim that the consumption of alcohol together with an energy drink counteracts or otherwise positively impacts the effect of alcohol consumption and will continue not to do so.

6. Will your company agree to not 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?

AriZona has not promoted, encouraged, or condoned mixing energy drinks with sleeping pills or other drugs and will continue not to do so. AriZona has not made 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 and will continue not to do so.

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?

AriZona has not marketed its energy drink products in K-12 schools, including at any school-related events or activities, and will continue not do so.

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

AriZona's energy drink products are rarely, if ever, sold in K-12 schools, including in automated vending machines and concession stands. AriZona will discourage any distributors who may be selling AriZona energy drink products in K-12 schools from selling in those channels of trade effective immediately.

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?

AriZona does not provide samples of its energy drink products in or within the immediate vicinity of K-12 schools. AriZona will request that those distributors who may sell to retailers in the vicinity of K-12 schools refrain from providing samples at those stores to children and teenagers in K-12 schools.

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?

AriZona will include contractual language in future agreements with its distributors asking them to refrain from marketing, promoting, selling, or sampling of AriZona energy drink products to children and teenagers in K-12 schools. The language will be inserted into new agreements immediately.

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?

AriZona currently includes on its labels the amount of caffeine per serving in its energy drink products (containing at least 100 mg of caffeine per 8 oz. serving). AriZona will include the total amount of caffeine per container on those products that contain more than one serving per container. AriZona will revise these energy drink product labels when it

exhausts its current label supply inventory which is expected for some of these products in 3 to 6 months and others as late as October 2014.

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?

No serious adverse events associated with the consumption of AriZona energy drink products have been reported to AriZona nor is AriZona aware of any having been reported to the FDA. Consistent with FDA Guidelines, AriZona will voluntarily report to the FDA any reports of such events in the future.

13. Will your company commit to putting restrictions in place for any social media sites 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?

AriZona is primarily an iced tea beverage company and sells only a minimal amount of energy drink products. AriZona does not have the capability to impose age restrictions on its website or on any social media sites managed by AriZona at this time.

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

AriZona rarely buys or purchases advertising for TV, radio, print, internet, or mobile devices. AriZona will restrict future buys or purchases of advertising for its energy drink products that it is aware directly target audiences that are more than 35% under the age of 18.

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 either the following statements: *"This 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 either statement on your energy drink product(s), by what date will such statement be included?

AriZona has warning language on several of its energy drink products. For those energy drink products that include caffeine in excess of the FDA's approved GRAS standard for caffeine in cola, AriZona will include a statement similar or the same as: *"This product is not intended for individuals under 18 years of age, pregnant or nursing women, or for those*

sensitive to caffeine.” AriZona will revise these energy drink product labels to include such a statement when it exhausts its current label supply inventory which is expected for some of these products in 3 to 6 months and others as late as October 2014.

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?

AriZona has not featured, recruited, or sponsored children under the age of 18 in energy drink marketing campaigns, including promotion on social media, and will continue not to do so.


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 to hydrate the body, and if so, by what date will that commitment take effect?

AriZona has not marketed its energy drinks (containing at least 100 mg of caffeine per 8 oz. serving) as sports drinks or in a manner that could cause a consumer to confuse its energy drink products with that of a typical sports drink and will continue not to do so.

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Please let me know if you have any questions concerning this response.

Respectfully,



A. Wes Siegner, Jr.