

UNESDA Code for the Labelling and Marketing of Energy Shots

Revised by the UNESDA Board, 25 May 2012, Oslo

BACKGROUND AND OBJECTIVE

UNESDA represents a substantial part of the European non-alcoholic beverages industry, uniting all major producers of non-alcoholic beverages (carbonated and non-carbonated drinks, juice drinks, ready-to-drink teas and coffees, bottled water, sports and energy drinks) as well as this industry's trade associations in 25 countries.

This Code relates to the labelling and marketing of *Energy Shots*. Energy Shots are high caffeine, small volume liquid products sold in Europe as 'food supplements' under the Food Supplements Directive 2002/46/EC.¹ They have the purpose to supplement the normal diet and are concentrated sources of nutrients or other substances with a nutritional or physiological effect.

Energy Shots may contain caffeine, taurine, vitamins and other substances with a nutritional or physiological effect. The safety of their key ingredients has been assessed and confirmed by European risk assessment institutions.^{2,3}

UNESDA and its members recognise public discussions about the marketing of Energy Shots and their appropriate consumption. Energy Shots are a new product category and their manufacturers accept their responsibility in playing a constructive role in addressing these discussions in a coordinated approach, above and beyond compliance with applicable laws and regulations. Therefore UNESDA has developed this Code for the Labelling and Marketing of Energy Shots which also complements Section III on Advertising and Commercial Communications of the UNESDA Commitments.⁴

UNESDA and its members recognise in particular the need to educate consumers about the concentrated nature of Energy Shots which may not be immediately apparent.

UNESDA and its members are committed to adhere to these principles in labelling and marketing of Energy Shots which empower consumers to a responsible and moderate consumption of these products above and beyond the compliance with applicable legislation. This Code aims to establish a strict minimum industry standard for the labelling and marketing of Energy Shots. It does not preclude any individual UNESDA member taking an even more stringent approach.

UNESDA encourages its national federations to promote the adoption of this Code by local companies, to facilitate its implementation and to incorporate them into national codes, as appropriate.

These voluntary principles will take effect immediately and be fully implemented in the marketplace by UNESDA members by the end of 2012. The mandatory labelling requirements of Regulation 1169/2011⁵ will be implemented according to the relevant provisions of this Regulation.

PRINCIPLES FOR THE LABELLING OF ENERGY SHOTS

In addition to compliance with:

- Directive 2002/46/EC¹ which requires to include on the label:
 - the names of the categories of nutrients or substances that characterise the product or an indication of the nature of those nutrients or substances,
 - the portion of the product recommended for daily consumption,
 - a warning not to exceed the stated recommended daily dose,
 - a statement to the effect that food supplements should not be used as a substitute for a varied diet,
 - a statement to the effect that the products should be stored out of the reach of young children; and
- Regulation 1169/2011 which requires to include 'Contains caffeine. Not recommended for children or pregnant women' in the same field of vision as the name of the product, followed by a reference in brackets and in accordance with Article 13(1) of this Regulation to the caffeine content expressed in mg per portion as recommended for daily consumption on the labelling.

UNESDA members will adhere to the following guidelines related to the labelling of Energy Shots:

1. Labels of Energy Shots will not promote the mixing with alcohol or make any claims that the consumption of alcohol, together with Energy Shots, counteracts the effects of alcohol.
2. The labelling of Energy Shots will also comply with the principles for the sales and marketing as outlined below.

PRINCIPLES FOR THE SALES AND MARKETING OF ENERGY SHOTS

UNESDA members will adhere to the following guidelines related to the sales and marketing of Energy Shots:

3. Energy Shots are developed to meet the needs of adult consumers. Their composition is designed to appeal to an adult market.
4. The marketing of Energy Shots is targeted to adults. This includes traditional and on-line advertising (TV, press, radio, digital) as well as in-market promotional activities (e.g. sampling, point-of-sale material). The targeting of marketing activities refers to the audience rather than the content, in line with the UNESDA commitments in relation to advertising and commercial communication.
5. Energy shots are sold in packages of not more than 100 ml. 6
6. When promoting the benefits of Energy Shots and their ingredients, no claims will be made on alcohol together with Energy Shots. In addition, the sales of Energy Shots together with alcohol will not be promoted in channels such as clubs, discos and bars where the consumption of alcohol is more likely than in other channels.
7. In the absence of national provisions, Energy Shots are formulated and labelled in such a way that the daily caffeine intake from them will not exceed 160 mg (from all caffeine sources contained in the product). 7 This is achieved by considering the caffeine content per package in combination with stating on the label:
 - a) the portion of the product recommended for daily consumption and

b) the warning not to exceed the stated recommended daily dose.⁸

8. Manufacturers will recommend to retailers that:

- a) Energy Shots should be placed at or near the counter where they can be monitored by store staff,
- b) Energy Shots should not be placed near toys or confectionery that specifically target children,
- c) Energy Shots should not be placed next to Energy Drinks so that the two categories are not confused,
- d) Energy Shots should be placed in the food supplements section, where one exists.

9. Via 'off label' communication (eg through websites or leaflets), the industry will provide comprehensive information to consumers about Energy Shots, their responsible consumption and their characteristic ingredients, such as how their caffeine content relates to other sources of caffeine.

10. Sampling and advertising will not be conducted in the close proximity of primary and secondary schools or other institutions taking care of this age group, or through channels and events specifically targeted at them.

¹ Directive 2002/46/EC of the European Parliament and of the Council of 10 June 2002 on the approximation of the laws of the Member States relating to food supplements.

² SCF (Scientific Committee on Food), 1999. Opinion on caffeine, taurine and D-glucurono-γ-lactone as constituents of so-called "energy" drinks, adopted on 21 January 1999.

³ Scientific Opinion of the [European Food Safety Authority] Panel on Food Additives and Nutrient Sources added to Food on a request from the Commission on the use of taurine and D-glucurono-γ-lactone as constituents of so-called "energy" drinks, adopted on 15 January 2009. *The EFSA Journal* (2009) 935, 1-31.

⁴ Contribution by UNESDA and its corporate members to the EU Platform for Action on Diet, Physical Activity and Health, 20 December 2005.

⁵ Regulation (EU) No 1169/2011 of the European Parliament and of the Council of 25 October 2011 on the provision of food information to consumers

⁶ Energy Shots with a net volume of not more than 100ml will only provide less than 5% of the average daily fluid requirement of an adult. Thus they can be considered as concentrated sources of nutrients or other substances with a nutritional or physiological effect. This clearly distinguishes them from non-alcoholic beverages which are sold in larger quantities and therefore contain larger quantities of water which contribute in a significant amount to the daily fluid requirements of consumers.

⁷ For the general population of healthy adults, health authorities worldwide advise a daily caffeine intake of no more than 300 – 400 mg to be acceptable. Thus the recommendation not to exceed a daily consumption of 160 mg of caffeine from Energy Shots takes into account that energy shots are supplements which provide minimal fluid intake and that caffeine can also be consumed from other sources such as coffee, tea, energy drinks, cola beverages, cocoa drinks or chocolate. Capping the contribution of caffeine from Energy Shots to total caffeine intake is a precautionary and responsible approach for this new product category as it would represent not more than approximately 40 – 50 % of acceptable daily caffeine intake. At the same time it considers that – depending on an individual's sensitivity to caffeine and other factors, such as body weight – the beneficial effects of caffeine intake begin with single doses of 40-60 mg and that side effects of caffeine are reported with single doses of 200 mg caffeine or higher.

⁸ As required by Art. 6 (3) (b) and (c) of Directive 2002/46/EC.