

November 16, 2012

Mr. Michael Roosevelt
Acting Director, Office of Compliance
Center for Food Safety and Applied Nutrition
U.S. Food and Drug Administration
CPK-1 Bldg. Room 3B-065
5100 Paint Branch Parkway
College Park, MD 20740

Dear Mr. Roosevelt:

I would like to alert the FDA to what might be the beginning of a new craze in which food manufacturers add caffeine (as a pure chemical or as a component of coffee) to a wide range of products. Some of the products appear to violate the Food and Drug Administration's determination (21 CFR 182.1180) that caffeine is generally recognized as safe only in cola-type beverages at concentrations of 0.02 percent or less (about 48 mg per 8 fl. oz.). The products are:

- Kraft Foods Global's is marketing caffeinated versions of its MiO "water enhancer," a product that is packaged in a squirt bottle that is likely to be attractive to young children. Each squirt contains 60 mg of added caffeine. We suspect that many children would add several squirts of the colorful liquid to a glass of water. (See enclosed letter to Kraft and http://www.kraftbrands.com/mio/energy_mio.html.)
- Kraft also is marketing Crystal Light Energy, an artificially sweetened and flavored powder intended to be added to water. Each single-serving packet contains 60 mg of added caffeine.
- The Jelly Belly Candy Company markets "Extreme Sport Beans." Each 1-ounce packet contains 50 mg of added caffeine (<http://www.jellybelly.com/candies/Caffeine%20Beans>).
- PepsiCo's Frito-Lay division is expected to market Cracker Jack'D with caffeine (a line extension of the children's snack food Cracker Jack). Each two-ounce package will contain about 70 mg of caffeine derived from the coffee ingredient. Frito-Lay says the product will only be marketed to adults, we suspect that it will be attractive to young children. (See enclosed letter to PepsiCo and <http://www.nationwidecandy.com/items.asp?Bc=CrackerJackD>.)
- Arma Energy Snx, Inc. is marketing a line of snack foods, including, potato chips, granola, F-Bomb fruit and nut mix, T-Bomb trail mix, and other products, that contain caffeine (<http://www.armaenergysnx.com>). The potato chips contain 70 mg

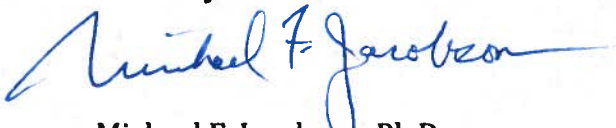
of caffeine in a two-ounce serving (http://www.cbsnews.com/8301-504763_162-57415299-10391704/caffeinated-potato-chips-aim-to-boost-snack-time/).

- Bing! Bang! Boom! Ice Cream Company markets ice cream with 125mg caffeine/4 fl. oz. (<http://www.bangicecream.com/index.html>)
- Wired Waffles markets waffles with 200 mg caffeine/waffle
- QC Partners markets popcorn with added caffeine (about 28 mg/1 oz.) (<http://www.biofuelfoods.com/The-Big-Bag-5-Pounds-of-BioFuel-Caffeinated-Popcorn-X505L.htm>)
- Thinkgeek.com (http://www.thinkgeek.com/caffeine/candy/?icpg=gy_ed40) markets:
 - Energy Gummi Bears (32 mg caffeine from guarana per ounce)
 - Highly Caffeinated Brownies and Cookies (200 mg/2 oz. serving)
 - Jolt gum (90 mg caffeine from caffeine and guarana per two-piece serving)
 - Froosh Energy Mints (100 mg/mint)
 - ChocoMallows chocolate-marshmallow squares (100 mg caffeine/ ½-oz. square)
 - Wired All-Natural Caffeinated Maple Syrup (168 mg/2 tablespoon serving [the Nutrition Facts label claims a 1-tablespoon serving])
 - Caffeinated Classic Candy Sampler (150 mg/1 oz. tube).

Clearly, companies large and small have incorporated caffeine into a range of products that traditionally have not contained caffeine. We fear that many other companies will begin adding caffeine to all manner of foods and beverages. Some companies may choose to add coffee, rather than caffeine. Whatever the source, the proliferation of caffeinated foods and beverages could lead to troublesome or serious health problems for children and adults who consume those products—especially when they consume multiple products over the day. That is especially significant in light of the deaths reported in connection with energy drinks, including 5-hour Energy. FDA's failure to enforce its regulations also may lead to cynicism among the public and industry about the FDA's effectiveness in protecting the public's health.

Thank you for considering those concerns.

Sincerely,

A handwritten signature in blue ink that reads "Michael F. Jacobson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Michael F. Jacobson, Ph.D.
Executive Director