

Law360 Quotes Partner John E. Villafranco on the Regulation of Energy Drink Advertisements

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Partner **John E. Villafranco** was quoted in the *Law360* article "FTC's Limited Authority Clips Wings of Energy Drink Crusade." The article discusses scrutiny from four Democratic senators who are rallying against the marketing of energy drinks to children, noting concerns about the levels of caffeine and stimulants in these drinks that may pose a health risk to children. The odds of legislation advancing in the current Congress are long, and the FTC also faces challenges if it were to pursue action against energy drink companies. Any action the FTC decides to take is likely a longshot, as the marketing tactics do not appear to be deceptive and actions under the unfairness prong are very difficult to prove.

Mr. Villafranco, who represented R.J. Reynolds Tobacco Co in a 1997 Joe Camel advertising case brought under the FTC unfairness prong, commented on the likelihood of an FTC case's success: "It's a harder case to prove. How do you link up the act - the sample or the occasional social media advertisement - to an injury? It's exactly the same issue they were confronted with in the late '90s, and that case went nowhere."