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BEVERAGES

Beverages: Dietary Panel Provides Insight on 2015 Industry Risk

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- An advisory committee that will inform USDA and HHS's updated 2016 dietary guidelines wrapped up this week, where members appeared to zero in on recommendations for "economic incentives" to reduce sugar consumption, caffeine consumption, and energy drinks. We expect the committee report to be completed by the middle of next year, and final dietary guidelines will be issued in late 2015.
- Although the panel does not specifically mention a sugar-sweetened beverage tax as an "economic incentive," it is our understanding that it is likely to recommend such a policy as a means to help reduce obesity in its full report. The panel is also likely to recommend that USDA should limit supplemental nutrition program coverage of sugar-sweetened beverages, and it appears to align with medical society recommendations regarding energy drink consumption for children.
- We doubt panel recommendations on these topics would have much material effect for investors. However, they would produce headline risk, and such "official" guidance from a federal advisory panel could embolden advocacy groups that have pushed for energy drink and soda restrictions. Please see our full note for more discussion on how the dietary guidelines process will play into the outlook for beverages in 2015.

The 2015 Dietary Guidelines Advisory Committee conducted meeting this week and will begin work on a set of recommendations that will help inform the USDA and HHS's updated dietary guidelines that will be issued in late 2016. The committee's report should be issued sometime in mid-2015 (the 2010 report was released in May). While committee recommendations are non-binding, USDA and HHS have followed them fairly closely in the past, and the beverage topics provide a useful preview of the policy issues the beverage industry will face in 2015.

Soda Tax Recommendations Likely: It is our understanding that the panel's report to the USDA will likely recommend a soda/sugar-sweetened beverage tax in some form. We continue to see little to no chance that a soda tax will be approved at the federal level, particularly with the incoming Republican Congressional majorities. We also have not detected a credible threat at the state level, which overall Republican gains

in the state legislatures should help solidify, and the USDA and HHS have no authority over tax policy.

That said, advocacy groups who support soda taxes would be sure to claim that any advisory panel's endorsement of the taxes as a means to reduce obesity and sugar consumption legitimizes their position. And it could embolden politicians who've supported soda taxes in the past to pursue them more aggressively, which could improve their prospects at the local level.

However, as we covered here on the eve of the successful Berkeley, California soda tax ballot initiative, we don't see much risk of a wave of new city and/or county taxes beyond a handful of similarly liberal locations. Nevertheless, we think headline risk around beverage taxes will likely be more threatening in 2015 than the relatively benign environment manufacturers have enjoyed over the past several years.

SNAP Restrictions: Public health advocates have long-pushed to remove sodas and other sugar-sweetened beverages from the list of eligible items under the USDA's Supplemental Nutrition Assistance Program (SNAP). For example, New York City applied for a waiver from USDA to remove the products from its program, which the agency rejected. Unfortunately, the topic has picked up some interest among conservative members of Congress who think the restrictions would help advance their larger goal of reducing SNAP spending.

SNAP benefits may be on the chopping block in Congress next year, as Capital Alpha's Loren Smith covers here, but we think an advisory committee recommendation on the issue will have little effect. We think the beverage industry has done an effective job convincing members pushing for the cuts that product limits would not affect SNAP spending, so the fight over the program will likely be limited to overall spending rather than items it covers. And USDA's rejection of the New York application indicates that the agency may be unlikely to accept a panel recommendation on soda/beverage restrictions.

Energy Drinks and Caffeine: Materials from this week's meeting indicate the advisory panel will roughly follow the American Academy of Pediatrics (AAP) and American Medical Association (AMA) recommendations that "until safety has been demonstrated, limited or no consumption of high-caffeine drinks, or other products with high amounts of caffeine, is advised for vulnerable populations, including children, adolescents, and young adults."

The meeting slides also state that safety studies on high caffeine intake are limited and that "some evidence links high caffeine intake in the form of energy drinks to certain adverse outcomes, such as caffeine toxicity and cardiovascular events." Elsewhere in the presentation under a section regarding coffee, the advisory group defines high caffeine intake as 3 to 5 cups of coffee or over 400mg/day.

We think it is unfortunate that the panel differentiates between coffee and energy drink caffeine consumption, but that's fairly consistent with how the IOM and other advisory groups have approached the issue, so it isn't a new development. We also don't think a final panel recommendation following the already stated AAP and AMA positions would any materially additional headline or policy risk given the high level of scrutiny energy drinks have faced in the past.

We don't have strong insights into how the USDA may approach energy drinks in its final guidelines, but it's notable that mainstream products fall well within the panel's 400mg/day "high caffeine" standard. Regardless, we think it matters more for energy drinks how FDA approaches the products' safety and labeling, and we continue to

believe the agency will not issue caffeine limits or energy drink-specific labeling requirements, as we discuss extensively here. We also note that mainstream companies already advise in labeling that children and individuals sensitive to caffeine shouldn't consume their products.

That said, as with beverage taxes, advocacy groups would highlight any USDA recommendations on energy drink consumption and attempt to use them to push the legislative and regulatory restrictions they've pushed at the federal, state and local levels. But also like beverage taxes, we continue to see little material risk for energy drinks beyond some limited local action.

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