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By Chris Mercer

8/25/2006 - **Two soft drink firms accused of using ingredients that could mix to form a cancer-causing chemical in drinks plan to sign a settlement with lawyers today, agreeing to change formulas and offer refunds.**

In Zone Brands, which makes kids soft drink Bellywashers, and the TalkingRain group denied their drinks could contain [benzene](#), but have agreed to change their formulas and refund consumers who bought drinks containing the old one.

In another development, **BeverageDaily.com** can reveal independent lab tests have found benzene in Coca-Cola Vault Zero above the maximum level considered safe in drinking water by the World Health Organisation.

Vault Zero, launched in the US less than a year ago, will now be added to the current benzene [lawsuit](#) against Coca-Cola. Benzene is listed as a carcinogen by health authorities around the world, although is not thought to pose a health risk in the levels found in drinks.

The legal wrangling over benzene in [soft drinks](#) comes six months after a US Food and Drug Administration (FDA) scientist first revealed to **BeverageDaily.com** that benzene was still appearing in some drinks above the US safety limit for drinking water.

The suspected source of the benzene was a reaction between two common ingredients in the drinks, benzoate preservatives and citric or ascorbic acid (vitamin C).

An investigation by this website confirmed that both the FDA and US Soft Drinks Association have known about this problem for 15 years. Yet, no public announcement was ever made.

The FDA and soft drinks firms have assured there is no risk to consumers' health.

Lawyers sued In Zone and TalkingRain on behalf of concerned parents earlier this year, after independent tests found drinks samples containing benzene above America's legal limit for drinking water.

The settlement will go before a court in the District of Columbia Friday.

Under the deal, In Zone has agreed to cut all benzoates out of Bellywashers. If they are used alongside ascorbic acid, the company has agreed to test its drinks for two weeks at 43°C. Benzene is more likely form when a drink is exposed to heat.

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TalkingRain said it had replaced potassium benzoate in its Ice drinks with potassium sorbate.

Both firms will offer refunds or replacements via their websites to consumers who bought drinks using the old formulas, although written evidence of purchase must be supplied. The refund will be available for four months.

The groups will also pay \$35,000 (€27,000) each to cover the complainants' legal costs.

Andrew Rainer, one of the lawyers suing the firms, said: *"This settlement shows the companies' willingness to address customer satisfaction, and recognises consumers might have concerns. I think the eventual way cases like this are solved is when something is given back to consumers."*

In Zone and TalkingRain still denied their drinks could have been in any way harmful. *"Consumer safety is paramount. We're pleased this issue has been resolved and that consumers can be confident in our products,"* they said in a joint statement.

Benzene lawsuits against several other food and drink firms, including PepsiCo, Coca-Cola, Kraft Foods, Cadbury Schweppes and Polar Beverages still hang in the balance.

It is thought the settlement with In Zone and TalkingRain could inspire similar deals with other firms.

The new test results on Coke's Vault Zero will now, however, be added to the lawsuit against the group. Vault Zero, said to 'drink like a soda and kick like an energy drink', was launched in the US last year.

Lab tests showed one Vault Zero sample containing 13 parts per billion (ppb) benzene, with others between five and 10ppb. The US has a five ppb safety limit for benzene in drinking water, while the World Health Organisation (WHO) has a 10ppb water limit.

Rainer warned that *"more would be required of the larger companies"* for a settlement. PepsiCo, Coca-Cola and Cadbury Schweppes were all part of the soft drinks association when the benzene issue first arose in 1990.

*"Before we can resolve things with them, we want to understand how it could happen that they may have again sold products that could contain benzene."*

An FDA chemist who tested for benzene in 1990 told this website that the industry had agreed to *"get the word out and reformulate"*.

Glen Lawrence, a scientist who helped the FDA understand how benzene could form in drinks at the time, said vitamin C and benzoate preservatives should not be used together. *"So it is really very easy to avoid the problem,"* he said.

Since **Beveragedaily.com** published the first story on benzene in soft drinks this February, food safety watchdogs in several countries around the world have found the potential carcinogen during tests on drinks. Four drinks were recalled in the UK for containing benzene above the WHO limit.

It was US lawyer Ross Getman and an industry whistleblower who first raised concerns about the continued benzene in some soft drinks in the US. Their work prompted the FDA to re-start its investigation last autumn.

Food safety authorities and soft drinks firms have re-iterated there was no health risk for consumers in the small levels of benzene found.

The American Beverage Association said: *"Repeated reviews by the FDA over the years continue to turn up the same answer: there is no threat to the health of consumers."*

An FDA spokesperson said this week that it was still testing drinks for benzene.

A guidance document telling soft drink firms how to avoid and minimise benzene formation in drinks has been published by the International Council of Beverages Associations. [Click here](#) for the Council homepage.

**BeverageDaily.com** was the first news publication to break the current story on benzene in soft drinks that has now attracted attention from major media organisations around the world.

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