

August 2, 2017

Scott Gottlieb, M.D.  
Commissioner  
Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

Dear Commissioner Gottlieb:

The undersigned organizations which represent consumers, patients, and nutrition, public health, and health care professionals, support immediate implementation of the Food and Drug Administration's (FDA) 2014 menu labeling final rule. The final rule was the result of a deliberate multi-year process that included input from a range of stakeholders across industry, government, and public health. Chain food service establishments had more than two years to prepare to comply with the requirements and many have already changed their menus in anticipation of the May 5, 2017 compliance deadline (which itself was the result of two previous delays from the original compliance deadline of December 1, 2016).

Customers deserve access to information that will help them make healthier food and beverage choices when they eat away from home. More than two-thirds of American adults and one-third of children and teenagers are overweight or obese,<sup>1</sup> increasing their risk for many of the nation's leading chronic diseases, including cardiovascular disease, several types of cancer, and type 2 diabetes, which cost more than \$147 billion annually in health care expenditures.<sup>2</sup> With Americans consuming about one-third of their calories from food prepared away from home,<sup>3</sup> menu labeling is an important tool that helps people to make informed decisions. National surveys show that 80 percent of consumers want menu labeling<sup>4,5</sup> and studies show many use labeling when it is available.<sup>6,7</sup> A variety of restaurants, supermarkets, convenience stores, and other chains already are successfully providing calorie information.

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<sup>1</sup> Fryar CD, Carroll MD, and Ogden CL. Prevalence of Overweight and Obesity Among Children and Adolescents Aged 2-19 Years: United States, 1963-1965 Through 2013-2014. Centers for Disease Control and Prevention, National Center for Health Statistics. July 18, 2016. Available at [https://www.cdc.gov/nchs/data/hestat/obesity\\_child\\_13\\_14/obesity\\_child\\_13\\_14.htm](https://www.cdc.gov/nchs/data/hestat/obesity_child_13_14/obesity_child_13_14.htm).

<sup>2</sup> Finkelstein EA, Trogon JG, Cohen JW, and Dietz W. Annual Medical Spending Attributable to Obesity: Payer-and Service-Specific Estimates. *Health Aff* 2009;28(5):w822-831.

<sup>3</sup> Lin B-H and Guthrie J. Nutritional Quality of Food Prepared at Home and Away from Home, 1977-2008. U.S. Department of Agriculture Economic Research Service. December 2012. Available at [https://www.ers.usda.gov/webdocs/publications/43698/34514\\_summaryeib105.pdf?v=41270](https://www.ers.usda.gov/webdocs/publications/43698/34514_summaryeib105.pdf?v=41270).

<sup>4</sup> Caravan ORC International. *Restaurant Calorie Content: ORC Study 721210*, May 2012. Conducted for the Center for Science in the Public Interest. Accessed at: <http://cspinet.org/new/pdf/restaurant-calorie-content.pdf>.

<sup>5</sup> AP-GfK Poll: Americans Support Menu Labeling in Restaurants, Grocery Stores. December 31, 2014. Available at <http://ap-gfkipoll.com/featured/findings-from-our-latest-poll-11>.

<sup>6</sup> Lee-Kwan, SH, Pan L, Maynard, L, et al. Restaurant Menu Labeling Use among Adults – 17 States, 2012. *MMWR* 2014;63:581-584.

<sup>7</sup> Healthy Eating Research. Impact of Menu Labeling on Consumer Behavior: A 2008-2012 Update. Research Review. June 2013. Available at <http://healthyeatingresearch.org/wp-content/uploads/2013/12/HER-RR-Menu-Labeling-FINAL-6-2013.pdf>.

We oppose any changes to the menu labeling requirements that would make it more difficult for consumers to access and use menu labeling information when they purchase ready-to-eat foods away from home. Specifically, we urge the FDA to maintain the following requirements as established in the 2014 final rule and subsequent guidance documents:

- Menu labeling should apply to ready-to-eat foods and beverages purchased at all chain food service establishments, including restaurants, supermarkets, convenience stores, movie theaters, and stadiums.
- Calorie information for each menu item in its entirety should be presented in a consistent format. Consumers should be able to easily compare menu items. The FDA already provided the pizza industry with additional flexibility to label calories per slice of pizza, as long as the number of slices is also indicated.
- Calorie labeling should be required on all menus from which customers make food selections. This should include in-store, drive-through, printed takeout and delivery, and online menus.
- Calorie disclosures must be at the point of decision-making to be useful; the information should be located on or adjacent to the name of the food and price on a menu, menu board, or food label for self-service foods or foods on display and not in a separate location in the establishment.

Many of our organizations will be submitting more detailed comments in response to FDA's interim final rule. We urge the FDA revoke the extension and ensure that menu labeling not be further delayed or the approach for labeling calories be changed in ways that make the information less accessible or useful to consumers.

We would welcome an opportunity to discuss our recommendations in more detail with you or your staff.

Sincerely,

Academy of Nutrition and Dietetics  
American Academy of Pediatrics  
American Cancer Society Cancer Action Network  
American Diabetes Association  
American Heart Association  
American Institute for Cancer Research  
American Public Health Association  
American School Health Association  
B. Complete, LLC  
Berkeley Media Studies Group  
Center for Communications, Health & the Environment (CECHE)  
Center for Science in the Public Interest (CSPI)  
ChangeLab Solutions  
Chicago Hispanic Health Coalition  
Consortium to Lower Obesity in Chicago Children (CLOCC)  
Consumer Federation of America  
Consumers Union  
Foodstand  
Healthier Colorado

Interfaith Center on Corporate Responsibility  
Kalusugan + Kalakasan Center for Health & Wellness  
Kansas Action for Children  
Laurie M. Tisch Center for Food, Education, & Policy at Teachers College Columbia University  
League of United Latin American Citizens  
MomsRising  
National Association for Health and Fitness  
National Association of County and City Health Officials  
National Center for Health Research (NCHR)  
National Consumers League  
National Physicians Alliance  
National WIC Association  
New York State Public Health Association  
Oral Health America  
Orange County Food Access Coalition  
Philadelphia Department of Public Health  
Physicians Committee for Responsible Medicine  
Pinnacle Prevention  
Preventive Cardiovascular Nurses Association  
Public Health Advocates  
Public Health Institute  
Real Food for Kids  
Reality Meets Science® LLC  
Society for Public Health Education  
SuperKids Nutrition Inc.  
Sustainable Food Center  
Trust for America's Health  
University of Connecticut Rudd Center for Food Policy and Obesity

cc Anna Abram, FDA Deputy Commissioner for Policy, Planning, Legislation, and Analysis