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Hearing Examining H.R. 2017, the Common Sense Nutrition Disclosure Act of 2015

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Away-from-home foods negatively affect Americans' diets and health. At least three dozen studies show that eating out is associated with obesity (see literature review on the link between eating out and obesity at http://cspinet.org/new/pdf/lit_rev-eating_out_and_obesity.pdf). For example, children eat almost twice as many calories when they eat a meal at a restaurant compared to at home (770 calories versus 420 calories). Women who eat out more than five times a week eat 300 more calories on average each day compared to women who out less often. People also eat more saturated fat and less calcium, fiber, fruits, and vegetables when they eat out compared to when they eat at home.

Food choices for away-from-home foods matter more than in the past because families are eating out twice as often as in the 1970s. Americans spend half their food dollars on eating out and take out foods and consume about one-third of their calories from food-service establishments.

While two-thirds of people believe they know how to make healthy choices when eating out, studies show that people have a difficult time identifying lower calorie options at restaurants. Without nutrition information, it is not easy to make informed choices. At Starbucks, a White Chocolate Mocha has six times as many calories as a nonfat Cappuccino. At TGI Fridays, the mashed potatoes have half the calories of the rice pilaf side dish.

Menu labeling **allows people to exercise personal responsibility and make informed choices** for a growing part of their diets. The law provides a reasonable small business exemption; chains with fewer than 20 outlets are exempt.

Giving blanket exemptions to chain supermarkets and convenience stores from providing their customers with calorie information is not what most would call providing flexibility, nor would it accomplish the goal of providing nutrition information to the overwhelming majority of Americans who want it. According to a national survey commissioned by the Center for Science in the Public Interest, 81 percent of Americans favor having supermarkets provide calorie information for their prepared restaurant-type foods, such as fried chicken, sandwiches, and soups, and 77 percent want calorie labeling for the hot dogs, pizza slices, and burritos sold at convenience stores.

The restaurant industry and public health groups agree that all chain establishments that serve ready-to-eat prepared foods should post calories, including supermarkets, convenience stores, and movie theaters. There should be a level playing field and the law should be fair to all chain establishments that sell ready-to-eat prepared foods. Importantly, it is what consumers want and need in order to manage their calorie intake and weight.

Supermarkets are similar to chain restaurants in a number of ways: both are often operated by local owners (franchises or in cooperatives); they have standard recipes for prepared foods, but allow for variation between locations; they have bakeries, buffets, hot bars, and salad bars; and many supermarkets have tables for eating. Increasingly, supermarkets and convenience stores are competing with restaurants to attract customers who want prepared entrees and convenient, prepared meals. Convenience stores sell a wide range of standardized hot and cold prepared foods, including sandwiches, pizza, nachos, and burritos.

According to the research firm Packaged Facts, in 2010, 64 percent of respondents said they had purchased a prepared meal from a supermarket within the last month. A Technomic, Inc. poll revealed that 82 percent of respondents buy prepared foods or beverages from a convenience store once a month, with 52 percent doing so once a week. Many convenience

stores are among the top 100 chain food-service establishments in the United States, including 7-Eleven, Circle K, Wawa, Casey's General Stores, and Sheetz.

Providing nutrition information is practically and financially feasible. Another growing trend within supermarkets is hiring registered dietitians at the store and corporate levels. For example, the Hy-Vee supermarket chain has a dietitian in 195 out of its 235 supermarkets. Having registered dietitians on staff means that the supermarket chain could inexpensively provide calorie information because a corporate dietitian could run computerized nutrition analyses of a supermarket's prepared foods.

Nutrition information is available for at least some prepared foods in 81 percent of the 35 top supermarkets that carry prepared foods (see study at http://cspinet.org/new/pdf/supermarket-labeling-report.pdf). However, few provide nutrition information for all their prepared foods and they generally provide the information through in-store booklets, binders behind the bakery or deli counters, on websites, in-store by request, or through customer service phone lines, which are hard for customers to find and use when shopping.

The costs associated with labeling calories for prepared foods are modest. Most supermarkets are already doing some nutrition analyses, so they seem to have the software and ability to analyze the rest of their prepared food items. In addition, most have dietitians on staff, who could conduct the analyses. For those chains that do not, the cost of menu analysis software can be as low as $200. For those that do not have a registered dietitian, nutrition analysis is available for as low as $49 for ten items. Once analyzed, supermarkets could inexpensively post the calorie information on display tags placed adjacent to the food items to ensure customers could readily see and use the information.

Chain convenience stores also should be able to provide calorie information. Convenience stores have relatively few prepared foods. They do little to no outside cooking; most everything is processed and shipped to them. They could ask their suppliers to provide the

necessary nutrition information or could hire an outside dietitian to analyze their recipes for a modest cost.

Pizza. It is hard to understand why pizza restaurants deserve a special exemption from listing calories on their in-store menus. While many people order pizza by phone or computer for delivery or carry out, similarly, many people do not enter fast-food restaurants and instead order through the drive-thru. Just as fast-food restaurants are not opposing having to provide their customers with nutrition information from more than one menu, pizza restaurants should not deny nutrition information to their in-store customers.

Pizza has become an American staple, and a key problem in Americans' diets. Pizza is the fifth largest source of calories in diets of adults and children. It is the third biggest source of sodium and second biggest source of saturated fat, which is a type of dietary fat that raises blood cholesterol and contributes to heart disease.

Movie theaters. H.R. 2017's provision to exempt any food service establishment which makes less than 50 percent of its revenue from the sale of prepared food would mean that movie theaters would not have to provide calorie information to their customers. Though people go to a movie theater primarily to see a movie, movie theaters also are food-service establishments, selling many (often surprisingly) high-calorie foods and beverages through their concession stands. Movie theaters are diversifying their concessions and adding more menu options, such as ice cream, fresh baked goods, nachos, pizza, hot dogs, and coffees, and a growing number have full service menus with seat-side ordering.

Calorie labeling is required only for standard menu items. The menu labeling regulations address the issue of variable menu items that come in different varieties by requiring that information be posted only for standard menu items, as they are usually offered for sale. Custom orders and daily specials are exempt. If the standard build for a small meat lovers pizza comes with pepperoni, sausage, ham, and meatballs on a hand-tossed crust, 1,680 calories would be listed for the complete pizza or 280 calories per slice. If a person orders that pizza without sausage, she may not know exactly how many calories she is saving, but she will

be able compare the meat lovers to the cheese pizza, and generally know that adding the meat toppings adds about 80 extra calories per slice. Such comparisons between items is how most people use nutrition information on packaged foods.

Arbitrary serving sizes would lead to confusion. H.R. 2017's provision to allow restaurants and other food establishments to arbitrarily choose to label items for only a fraction of a menu item is a recipe for consumer confusion. This is the case for serving size information on packaged foods that are labeled as multiple servings but viewed by consumers as single serve items. In one study, two-thirds of people could not correctly calculate the nutrition information in a 20-ounce bottle of soda that was labeled as 2.5 servings. People are likely to have similar difficulties understanding the calorie information for menu items if they are labeled as having more than one serving. For example, it would be hard to compare the calories in an order of nachos listed as three servings with an order of chicken wings listed as two servings.

Portion sizes at restaurants are often two to three times more than what food labels list as a serving. It would be deceptive to label muffins, pastries, desserts, entrees, and other menu items as multiple servings, since they are often consumed by one person. Menu items should be labeled as it is listed on the menu to make it easier for customers to compare options and make informed decisions with minimal amounts of math.

Thank you for the opportunity to testify today, and I would be happy to answer questions.

Appendix

Joint statement in opposition to H.R. 2017 "Common Sense Nutrition Disclosure Act of 2015"

We, the undersigned organizations and researchers, oppose the "Common Sense Nutrition Disclosure Act of 2015." We do not think that it is common sense to weaken a policy that would allow people to make their own, informed choices about how many calories to eat at a time when obesity rates are at a record high. The bill would undercut the Food and Drug Administration's (FDA) menu labeling regulations and undermine congressional intent to provide access to calorie labeling in a broad range of chain food service establishments.

The national menu labeling law requires chain restaurants and similar food establishments to provide consumers with calorie information for standard food and beverage items on menus and menu boards. Studies show that providing nutrition information at restaurants can help people make lower calorie choices, and a national poll found that 80 percent of Americans support calorie labeling at supermarkets and restaurants. H.R. 2017 would undermine the benefits of the national menu labeling law and confuse and mislead consumers.

Supermarkets and convenience stores should not be exempt from calorie labeling. Congress did not just require labeling in restaurants, but also at similar food service establishments that sell restaurant-type food (such as supermarkets, convenience stores, and superstores). People are increasingly picking up prepared dinners, salads, sandwiches, and bakery items at grocery or convenience stores, in place of take out at restaurants. Keeping them covered is fair to business and best for consumers.

Pizza chains and other establishments that offer delivery service should post calories on their menu boards just like other chain restaurants, as Congress intended. While some consumers use online menus, others use paper menus at home or menus and menu boards in a restaurant. All menus should list calorie so consumers can see the information when and where they are deciding what to order. Also, pizza chains need only post calories for the standard menu items they list on their menu boards — not every possible pizza combination — just as delis, ice cream shops, burrito stands, and other chains with variable menu items will do. Pizza chains in Vermont, California, Seattle, and other states/municipalities are already posting calorie information on menus—demonstrating it can be done in a reasonable space and at a reasonable cost.

It is important for calories to be listed on a menu in a standard format as an item is offered for sale. Without standardization, people will have more difficulty understanding and using the nutrition information for menu items. Posting the total calories per menu item enables consumers to more easily compare different types of

food items, such as nachos, chicken wings, or pizza, and leaves it up to the individual – not the restaurant – to determine how many people will share the item. It would be deceptive to label muffins, entrees, desserts, and most menu items as multiple servings, since items are most often consumed by one person.

The national menu labeling law was a bipartisan compromise supported by public health organizations and the restaurant industry, and it built on the momentum of more than 20 state and local policies. H.R. 2017 undermines the consensus and compromise worked out between a wide diversity of interests to pass the national menu labeling law. The bill would weaken an important tool intended to help Americans make informed food choices at a time when obesity and other nutrition-related health problems are at crisis levels, adding significant fiscal and public health burdens on the American public, businesses, and federal, state, and local budgets.

We ask you to support consumer choice and American's health and join us in opposing H.R. 2017.

Academy of Nutrition and Dietetics

Advocates for Better Children's Diets

American Academy of Sports Dietitians and Nutritionists

American Association for Health Education

American Cancer Society Cancer Action Network

American Council on Exercise

American Diabetes Association

American Heart Association

American Institute for Cancer Research

American Nurses Association

American Public Health Association

American School Health Association

American Society of Bariatric Physicians

Arizona in ACTION

Association of State and Territorial Health Officials

Association of State Public Health Nutritionists

B. Komplete

Berkeley Media Studies Group

Boston Public Health Commission

California Center for Public Health Advocacy

Campaign for a Commercial-Free Childhood

Center for Behavioral Epidemiology and Community Health (CA)

Center for Communications, Health & the Environment

Center for Science in the Public Interest

ChangeLab Solutions
Childhood Obesity Prevention Coalition (WA)

Consortium to Lower Obesity in Chicago Children, a program of Ann and Robert H. Lurie Children's Hospital of Chicago

Corporate Accountability International

City University of New York (CUNY) School of Public Health at Hunter College, Program in Nutrition

Day One (CA)

Defeat Diabetes Foundation

D'fine Sculpting & Nutrition LLC

Directors of Health Promotion and Education

Earth Day Network

Eat Drink Politics

Eat Smart, Move More South Carolina

Ehrens Consulting (ND)

Energy Up!

Food Policy Action

Food Sleuth, LLC

Illinois Public Health Institute

Integrated Medical Weight Loss (RI)

Iowa Public Health Association

Jump IN for Healthy Kids (IN)

Laurie M. Tisch Center for Food, Education & Policy, Teachers College, Columbia University

LiveWell Colorado

Louisiana Public Health Institute

MomsRising.org

National Action Against Obesity

National Association of County and City Health Officials

National Center for Health Research

National Congress of Black Women

National Consumers League

National Physicians Alliance

National WIC Association

Nemours Children's Health System

New York City Department of Health and Mental Hygiene

New York State Department of Health

Nutrition First (WA)

Ohio Public Health Association

Oral Health America

Oregon Public Health Institute

Parents Educators & Advocates Connection for Healthy School Food (CA)

Piedmont Dialysis Center (NC)

Project Bread- The Walk for Hunger

Public Health Advocacy Institute

Public Health Institute

Real Food For Kids – Montgomery (MD)

Recipe for Success Foundation
Shape Up America!

Society for Nutrition Education and Behavior

SuperKids Nutrition

Trust for America's Health

University of Arkansas for Medical Sciences, Fay W. Boozman College of Public Health

Voices for America's Children

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Youth Empowered Solutions (YES!)

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