

ConsumersUnion®

POLICY & ACTION FROM CONSUMER REPORTS

March 7, 2018

Hon. Mitch McConnell, Majority Leader
Hon. Charles E. Schumer, Minority Leader
U.S. Senate
Washington, D.C. 20510

Hon. Thad Cochran, Chairman
Hon. Patrick J. Leahy, Vice Chairman
U.S. Senate Committee on Appropriations
Washington, D.C. 20510

Dear Senator McConnell, Senator Schumer, Senator Cochran, and Senator Leahy:

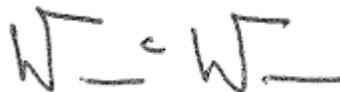
Consumers Union, the advocacy division of Consumer Reports, urges you to oppose any further attempts to weaken or delay implementation of the national menu labeling law, including through appropriations. For the reasons discussed below, Congress should support fully implementing menu labeling requirements in May 2018, as scheduled, to help consumers make their own, informed choices when eating out.

More than 80% of consumers want chains to provide calorie information on menus, and studies have shown that consumers use this information when it is available to them.¹ At Congress' direction, the Food and Drug Administration (FDA) has produced a sensible rule requiring chain food retailers to provide consumers with calorie counts that they can readily use, while also providing significant flexibility for companies. A variety of restaurants, supermarkets, convenience stores, and other chains already are successfully providing this information,² and FDA Commissioner Scott Gottlieb has stated that the agency will not reopen the rule.³ The FDA also recently issued new draft guidance answering industry questions about how to comply.⁴

Despite this progress, some industry groups are pushing for measures that would weaken and delay menu labeling requirements, making it impossible for consumers to compare calorie information across chain restaurants. These proposals would play favorites and undermine the menu labeling rule, such as by carving out particular businesses from in-restaurant labeling, permitting food retailers to use arbitrary and misleading serving sizes, or allowing supermarkets and convenience stores to hide calorie information in less-visible locations than currently required.

Consumers deserve access to information in a clear, standard format that will help them make healthier food and beverage choices when they eat out, especially given that they now consume about one-third of their calories from food prepared away from home.⁵ Whether in appropriations bills or other legislation, we urge you to oppose any attempt to delay or weaken the menu labeling rule.

Sincerely,



William Wallace
Senior Policy Analyst
Consumers Union

cc: Members of the U.S. Senate Committee on Appropriations
Members of the U.S. Senate Committee on Health, Education, Labor, and Pensions

¹ Joint letter from the Center for Science in the Public Interest, Consumers Union, and more than 40 other groups to the FDA supporting required calorie labeling by chain food retailers (Aug. 2, 2017) (online at consumersunion.org/research/joint-letter-to-fda-in-support-of-required-calorie-labeling-by-restaurants-and-other-food-retailers); *see also, e.g.*, Gortmaker SL, Wang YC, Long MW, et al. Three Interventions that Reduce Childhood Obesity Are Projected to Save More Than They Cost to Implement. *Health Aff.* 2015;34:1932-9. doi:10.1377/hlthaff.2015.0631; Crockett RA, King SE, Marteau TM, Prevost AT, Bignardi G, Roberts NW, Stubbs B, Hollands GJ, Jebb SA. Nutritional labelling for healthier food or non-alcoholic drink purchasing and consumption. *Cochrane Database of Systematic Reviews* 2018, Issue 2. Art. No.: CD009315. (online at doi.org/10.1002/14651858.CD009315.pub2).

² “Calorie counts on menus are going to be mandatory in 2018,” Vox (Nov. 20, 2017) (online at www.vox.com/science-and-health/2017/11/10/16623590/calorie-count-menus-mandatory-2018).

³ “Gottlieb's strong focus on food policy,” Politico, Morning Agriculture (Sept. 15, 2017) (online at www.politico.com/tipsheets/morning-agriculture/2017/09/15/gottliebs-strong-focus-on-food-policy-at-fda-222308).

⁴ Food and Drug Administration, “FDA Issues Menu Labeling Guidance, Utilizing Q&A Format and Graphics to Address Concerns, Offer Solutions, and Provide Flexibility,” Constituent Update (Nov. 7, 2017) (online at www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm583494.htm).

⁵ 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 (Dec. 2012) (online at www.ers.usda.gov/webdocs/publications/43698/34514_summaryeib105.pdf?v=41270).

ConsumersUnion®

POLICY & ACTION FROM CONSUMER REPORTS

March 7, 2018

Hon. Paul D. Ryan, Speaker
Hon. Nancy Pelosi, Minority Leader
U.S. House of Representatives
Washington, D.C. 20515

Hon. Rodney P. Frelinghuysen, Chairman
Hon. Nita M. Lowey, Ranking Member
U.S. House Committee on Appropriations
Washington, D.C. 20515

Dear Speaker Ryan, Minority Leader Pelosi, Chairman Frelinghuysen, and Ranking Member Lowey:

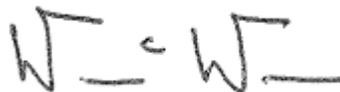
Consumers Union, the advocacy division of Consumer Reports, urges you to oppose any further attempts to weaken or delay implementation of the national menu labeling law, including through appropriations. For the reasons discussed below, Congress should support fully implementing menu labeling requirements in May 2018, as scheduled, to help consumers make their own, informed choices when eating out.

More than 80% of consumers want chains to provide calorie information on menus, and studies have shown that consumers use this information when it is available to them.¹ At Congress' direction, the Food and Drug Administration (FDA) has produced a sensible rule requiring chain food retailers to provide consumers with calorie counts that they can readily use, while also providing significant flexibility for companies. A variety of restaurants, supermarkets, convenience stores, and other chains already are successfully providing this information,² and FDA Commissioner Scott Gottlieb has stated that the agency will not reopen the rule.³ The FDA also recently issued new draft guidance answering industry questions about how to comply.⁴

Despite this progress, some industry groups are pushing for measures that would weaken and delay menu labeling requirements, making it impossible for consumers to compare calorie information across chain restaurants. These proposals would play favorites and undermine the menu labeling rule, such as by carving out particular businesses from in-restaurant labeling, permitting food retailers to use arbitrary and misleading serving sizes, or allowing supermarkets and convenience stores to hide calorie information in less-visible locations than currently required.

Consumers deserve access to information in a clear, standard format that will help them make healthier food and beverage choices when they eat out, especially given that they now consume about one-third of their calories from food prepared away from home.⁵ Whether in appropriations bills or other legislation, we urge you to oppose any attempt to delay or weaken the menu labeling rule.

Sincerely,



William Wallace
Senior Policy Analyst
Consumers Union

cc: Members of the U.S. House Committee on Appropriations
Members of the U.S. House Committee on Energy and Commerce

¹ Joint letter from the Center for Science in the Public Interest, Consumers Union, and more than 40 other groups to the FDA supporting required calorie labeling by chain food retailers (Aug. 2, 2017) (online at consumersunion.org/research/joint-letter-to-fda-in-support-of-required-calorie-labeling-by-restaurants-and-other-food-retailers); *see also, e.g.*, Gortmaker SL, Wang YC, Long MW, et al. Three Interventions that Reduce Childhood Obesity Are Projected to Save More Than They Cost to Implement. *Health Aff.* 2015;34:1932-9. doi:10.1377/hlthaff.2015.0631; Crockett RA, King SE, Marteau TM, Prevost AT, Bignardi G, Roberts NW, Stubbs B, Hollands GJ, Jebb SA. Nutritional labelling for healthier food or non-alcoholic drink purchasing and consumption. *Cochrane Database of Systematic Reviews* 2018, Issue 2. Art. No.: CD009315. (online at doi.org/10.1002/14651858.CD009315.pub2).

² “Calorie counts on menus are going to be mandatory in 2018,” Vox (Nov. 20, 2017) (online at www.vox.com/science-and-health/2017/11/10/16623590/calorie-count-menus-mandatory-2018).

³ “Gottlieb's strong focus on food policy,” Politico, Morning Agriculture (Sept. 15, 2017) (online at www.politico.com/tipsheets/morning-agriculture/2017/09/15/gottliebs-strong-focus-on-food-policy-at-fda-222308).

⁴ Food and Drug Administration, “FDA Issues Menu Labeling Guidance, Utilizing Q&A Format and Graphics to Address Concerns, Offer Solutions, and Provide Flexibility,” Constituent Update (Nov. 7, 2017) (online at www.fda.gov/Food/NewsEvents/ConstituentUpdates/ucm583494.htm).

⁵ 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 (Dec. 2012) (online at www.ers.usda.gov/webdocs/publications/43698/34514_summaryeib105.pdf?v=41270).