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We appreciate the hard work that you are devoting to the complicated task of funding the government for the balance of FY2017 and the importance of doing that to the benefit of the health and good nutrition of the country. We write to ask you to oppose any further attempts to delay or weaken implementation of the national menu labeling law through the FY2017 appropriations process. The FY2016 Omnibus Appropriations Act already provided restaurants and other food service establishments an additional year to implement menu labeling, which is now scheduled to go into effect May 5, 2017, more than seven years after passage of the law.

Attaching policy riders such as the Common Sense Nutrition Disclosure Act (S. 261/HR. 772) will not provide the modest flexibility touted by industry but instead would significantly delay and weaken menu labeling. We do not think it is common sense to deny Americans the ability to make their own, informed choices about how many calories to eat at a time of record high obesity rates and create an uneven playing field for restaurants and other food service establishments that are already complying with the law:

- **The bill would require new rulemaking, holding up the national menu labeling law when it has already been more than seven years since the law was passed.**
- **The bill would allow food establishments to set arbitrary serving sizes.**
 - The FDA already addressed the pizza industry's concern to label calories per slice of pizza. However, unlike the FDA's final regulations, the bill would not require total servings to be listed, which would make it impossible for customers to determine calories for such menu items.
 - Arbitrary serving sizes would make it difficult for customers to determine total calories and to compare calories, such as between appetizers, which could have calories listed for one half, one third or one fourth of the item.
- **The off-premises and primary listing provisions would deny customers calorie information from not only inside pizza chains but inside many fast-food and other chain restaurants.**
 - The bill would exempt food establishments from providing calorie information inside their restaurants even if 49 percent of orders are placed from in-store menus or menu boards. Online menus are unlikely to help a customer ordering in the store.
- **The bill would deny customers calorie information where they need it—at the point of decision making.** At supermarkets and convenience stores, calorie information at the cash register is not as helpful as having it at the point where people choose items.
- **The bill would hamper state and local control, and prevent states and localities from petitioning the FDA for any variations from the federal nutrition labeling approach.** For example, Philadelphia has petitioned the FDA to continue to use their already-in-place menu labeling law, which studies have shown to be effective.

- **The certification provision would hamper enforcement by not requiring restaurants and other food establishments to keep records on nutrition information.** Thus, there would be no way for inspectors to substantiate accuracy of the calorie and other nutrition information for menu items.
- Many public interest and health organizations are concerned about the **bill's limitation on private citizens' ability to take action on noncompliance**, especially given how underfunded FDA enforcement is.

Concerns raised by industry regarding menu labeling have already been addressed through guidance, or can be addressed through technical assistance from the FDA. Further changes to weaken the menu labeling requirements would significantly reduce consumer access to understandable, readily available nutrition information. For example:

- **Labeling salad bars.** According to FDA's guidance, there are several options for the placement of calories: on a sign adjacent to and clearly associated with the food, on a sign attached to the sneeze guard, or on a single sign or placard listing the calories for all items as long as it can be seen while selecting the item. This applies to all self-service foods (e.g., salad bars, buffets, hot bars, grab-and-go, non-packaged foods in coolers, etc.).
- **Labeling different combinations, flavors, or varieties on the menu.** According to the FDA's guidance, calories can be listed as a range for menu items that have several or more options, such as a small pizza with a choice of toppings, "1000-1500 calories."
- **Liability and enforcement concerns.** [Many states and localities have required calorie labeling for years](#) and not one restaurant chain has been sued. Federal, state, and local agencies charged with enforcing the law are likely to work with the restaurant to correct any problems before levying fines. Fines are usually reserved for restaurants that are unwilling to correct problems after multiple attempts to fix them.

Sincerely,

American Association for Justice
 American Cancer Society Cancer Action Network
 American Diabetes Association
 American Heart Association
 American Institute for Cancer Research
 American Public Health Association
 Association of State Public Health Nutritionists
 Center for Science in the Public Interest
 ChangeLab Solutions
 Consumer Federation of America
 Consumers Union
 Eat Smart Move More SC
 Food Policy Action
 MomsRising
 National Association of County and City Health Officials
 Public Health – Seattle & King County
 Public Health Advocates

Public Health Institute
 Trust for America's Health
 Union of Concerned Scientists