

**Congress of the United States**  
Washington, DC 20510

August 1, 2014

The Honorable Margaret Hamburg  
Commissioner  
U.S. Food and Drug Administration  
5600 Fishers Lane  
Rockville, MD 20852-1750

Dear Commissioner Hamburg:

We write pursuant to the Food and Drug Administration's (FDA, or the Agency) request for comment on the two notices of proposed rulemaking (NPRMs) published in the Federal Register on March 3, 2014 (79 FR 11880) regarding the revision of the Nutrition and Supplement Facts labels.

We have long been committed to making sure consumers have the information they need to make informed decisions and that this information is readily available and easily understandable. Last year, we introduced S. 1653 and H.R. 3147, the Food Labeling Modernization Act, to empower consumers with the accurate, truthful, and concise information they need to identify foods of nutritional value. While we are pleased that the Nutrition Facts label has been redesigned and updated to reflect the latest nutrition science, we are disappointed that FDA has remained silent on many critical features that could help consumers make healthier choices and combat the dangerous obesity and diabetes epidemics our country faces. We submit to you below the following recommendations to further strengthen the regulations so that they will confer even greater benefit for public health.

I. Daily Value for added sugars

As is required in the Food Labeling Modernization Act, the NPRM proposes that added sugars be listed in the Nutrition Facts label. However, we recommend that the Agency also define a Daily Value for added sugars so that consumers can understand added sugars in context and the degree to which consumption of added sugars must be limited. As a guideline, the American Heart Association suggests that added sugars be limited to no more than 6 teaspoons (24 grams) of sugar for most women and 9 teaspoons (36 grams) of sugar for most men. Added sugars, which contribute no nutrients but many added calories, has been shown to contribute to tooth decay, weight gain, obesity, lower levels of healthful cholesterol, and heart disease.

II. Front-of-package (FOP) labeling

The Nutrition Facts label located on the back of a food package has long been the primary tool for consumers to make informed food decisions and maintain healthy dietary

practices. However, food manufacturers today also use a plethora of marketing techniques on the FOP to attract consumers and convince them to buy a particular food product. In 2011, the Institute of Medicine (IOM) issued a report recommending the FDA and USDA implement a single, standard FOP labeling system to appear on all products, replacing any existing system. As you correctly noted in the NPRM, this IOM report recommended added sugars be included on a FOP labeling system, which should be integrated with the Nutrition Facts label so that the two are mutually reinforcing.

We are pleased the inclusion of added sugars in the Nutrition Facts label lays the groundwork for such a mutually reinforcing FOP and Nutrition Facts labeling system, but we urge you to take notice of the need for uniform standard in FOP labeling now. We recommend that FDA take swift action in proposing rulemaking for a standardized FOP labeling system. This is necessary to protect consumers from the dizzying array of FOP labels, and the current industry-led voluntary FOP standardization effort that can easily be used to conceal the poor nutritional quality of many products.

### III. Definitions

Food packaging today also contains too many unregulated claims that serve to only further confuse consumers. To help consumers make informed food choices, we recommend the FDA establish definitions for the following common terms—sometimes used in good faith, but also oftentimes used to mislead and deceive consumers.

#### *A. Whole wheat*

FDA should require manufacturers that make claims such as “made with whole grains” or “whole wheat” to disclose what percentage of those grains is actually whole grain or whole wheat.

#### *B. Natural, healthy*

The term “natural” should not be allowed to be used on packaging if the product contains any artificial or synthetic ingredients. The conditions for the use of the term “healthy” also need to be updated. For example, foods containing grains should not be considered healthy unless at least half of the grains are whole grains.

#### *C. Artificial colors, sweeteners*

Currently, artificial flavorings must be disclosed on the front of package, according to FDA regulations. FDA should also require artificial colors, artificial sweeteners, and natural non-caloric sweeteners be disclosed on the front of package.

### IV. Ingredients List

The ingredients list provides essential information to consumers regarding the contents of a food product. Unfortunately, the proposed rule failed to include a revamp of the ingredients list in its redesign of the Nutrition Facts label. In order for consumers to be able to use the information from the ingredients list to make informed decisions regarding their diet, the ingredients list must be made more readable. In addition to new font specifications, the

ingredients list should group sugars together (e.g., “Sugars (sugar, high-fructose corn syrup, agave syrup)”) so that consumers can more accurately discern the contribution of sugar to their diet.

V. Caffeine

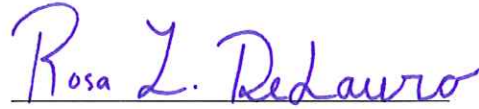
Currently, there is no requirement for any category of food products to declare the total amount of caffeine. In recognition of the increasing number of conventional foods with added caffeine, the difficulty for an average consumer to keep track of added caffeine, and the well-documented health concerns regarding excessive caffeine consumption by children and pregnant women, we recommend that FDA require that the amount of caffeine in products to be disclosed.

Thank you for the opportunity to submit comments on this important matter. We would appreciate a written response outlining the Agency’s plans to take action in the aforementioned areas and we look forward to continuing to work with you on the subject of accurate and clear food labeling. We have high hopes that with these additional recommendations, the new Nutrition Facts label will help steer consumers towards a healthier diet, and will do much to increase the health and well-being of the American public.

Sincerely,



RICHARD BLUMENTHAL  
United States Senate



ROSA L. DELAURO  
Member of Congress