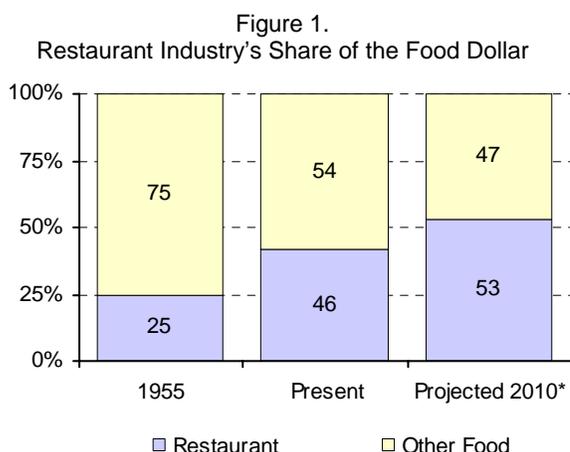


NUTRITION LABELING AT FAST-FOOD AND OTHER CHAIN RESTAURANTS

Background

Over the past few decades, one of the most notable changes in Americans' eating habits has been the increased popularity of eating out. Today, Americans spend nearly half (46 percent) of their food dollars on away-from-home foods, compared with one-fourth (25 percent) in 1955 (Figure 1).¹ The National Restaurant Association predicts that consumers will spend \$440.1 billion on restaurant foods in 2004.²



*Estimate.

Source: National Restaurant Association (2004).

According to the 2001 Consumer Expenditure Survey (CES), “boomer” households comprised 42 percent of families, yet accounted for 51 percent of the nation’s spending on away-from-home foods.³ The CES also reported that, on average, boomer households spent approximately \$2,500 annually on food away from home, or 43 percent of total household

¹ National Restaurant Association, *2004 Industry at a Glance*, April 15, 2004, p. 2 (available at <http://www.restaurant.org/>). Away-from-home foods include items prepared and eaten at restaurants as well as “take-out” foods. They also encompass foods that are offered for sale at other food retail establishments, including convenience stores, kiosks, sidewalk carts, and vending machines.

² Ibid.

³ Bureau of Labor Statistics, U.S. Department of Labor. *2001 Consumer Expenditure Survey*. “Baby-boomer” households were defined as households in which the head of the household was 35–44 or 45–54 years old.

food dollars. In addition, analyses of the CES found that the average older consumer household (age 45 and older) spent \$1,245 annually on restaurant foods, which constituted more than one-third (35 percent) of total household food dollars.⁴

Impact of Diet on HealthDiet-Related Diseases

Scientific evidence shows that unhealthy diets are a significant cause of four of the six leading causes of death—heart disease, cancer, stroke, and diabetes.⁵ Older Americans suffer disproportionately from these conditions.⁶ According to the U.S. Department of Agriculture (USDA), healthier diets could prevent at least \$7.1 billion a year in medical costs, lost productivity, and deaths associated with diet-related diseases.⁷

Consumers who suffer from these diseases need information about the nutrient content of foods to manage their conditions. Appropriate changes in diet can ameliorate conditions such as heart disease and diabetes. Moreover, healthy people want nutrition information to reduce their risk of developing these diseases.

Overweight and Obesity

Overweight and obesity are serious public health problems affecting all ages, races, and income

⁴ The CES defines an “older household” as one in which the head of the household was at least 65 years old.

⁵ Anderson R., and Smith, B. “Deaths: Leading Causes for 2001.” *National Vital Statistics Report 52* (9). National Center for Health Statistics, 2003, p. 13.

⁶ Pleis, J., and Coles, R. “Summary Health Statistics for U.S. Adults: National Health Interview Survey, 1999.” *Vital Health Statistics Report 10* (212), National Center for Health Statistics, 2003.

⁷ Frazao, E. “High Costs of Poor Eating Patterns in the United States.” *America’s Eating Habits: Changes and Consequences*. Economic Research Service, USDA. Washington, DC: USDA, 1999; Agriculture Information Bulletin No. 750, p. 23. For osteoporosis-related hip fractures, USDA has estimated that improved diets might save \$5.1 to \$10.6 billion each year in medical care costs, missed work, and premature deaths.

levels. Currently, two-thirds of American adults are seriously overweight or obese⁸, and an estimated 400,000 deaths per year may be attributable to obesity.⁹ According to the U.S. Department of Health and Human Services (DHHS), obesity costs the nation an estimated \$117 billion in health care and related costs.¹⁰ Most of the cost associated with obesity is due to type 2 diabetes, coronary heart disease, and hypertension.¹¹

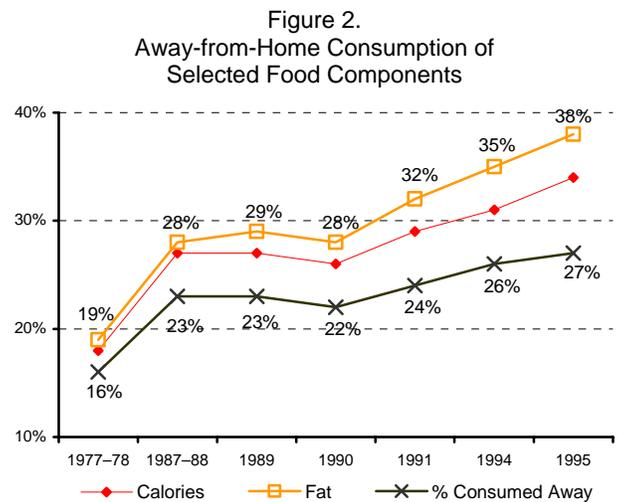
Obesity is a complex problem linked to many factors, including physical inactivity and increased caloric consumption. Some experts assert that the increase in Americans' caloric intake may be due, in part, to an increase in eating out.¹²

Impact of Eating Out More Often

Nutritional Profile of Restaurant Foods

While many restaurants are responding to customers' requests for more healthful menu options, studies reveal that foods served at restaurants and other food-service establishments are generally higher in unhealthy nutrients (such as saturated fat) and lower in healthy nutrients (such as calcium and fiber), compared to home-prepared foods.¹³ While the proportion of food consumed away-from-home increased from 16 to 27 percent between 1978

and 1995, away-from-home caloric intake increased from 18 to 34 percent, and fat intake from away-from-home foods increased from 19 to 38 percent (Figure 2).¹⁴



Source: USDA; prepared by AARP Public Policy Institute.

One study found that women who reported eating out six to 13 times a week consumed a poorer-quality diet (higher in sodium and fat) than those who ate out less often (five or fewer times a week).¹⁵ Fast-food meals, in particular, often involve higher calorie consumption, greater consumption of saturated fat, and decreased consumption of fruits, vegetables, and milk.¹⁶

Moreover, in recent years, improvements in the nutritional quality of home-prepared foods have been greater than those of away-from-home foods.¹⁷ For example, Americans' average saturated fat intake from home foods decreased from 13.5 percent of calories in 1987-88 to 10.9

⁸ National Center for Chronic Disease Prevention and Health Promotion, Nutrition & Physical Activity Centers for Disease Control and Prevention. *Overweight and Obesity: Defining Overweight and Obesity* (available at <http://www.cdc.gov/nccdphp/dnpa/obesity/defining.htm>). A person is considered "overweight" if he or she has a body mass index (BMI) of 25.0-29.9, and "obese" with a BMI equal to or greater than 30.0).

⁹ U.S. Department of Health and Human Services. *The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity 2001* at XIII (available at http://www.surgeongeneral.gov/topics/obesity/calltoaction/fact_consequences.htm).

¹⁰ *Ibid.*, p. 10.

¹¹ *Ibid.*

¹² Lin, B-H, et al. *Away-From-Home Foods Increasingly Important to Quality of American Diet*. Washington, DC:USDA, Economic Research Service. *Agricultural Information Bulletin* (749) (1999): 7; Binkley, J., et al. "The Relation between Dietary Change and Rising U.S. Obesity." *International Journal of Obesity* (24) (2000): 1032-1039.

¹³ Lin et al., 1999, pp. 13, 16, 20.

¹⁴ Lin, B-H, et al. (1999). *Nutrient Contribution of Food Away From Home*. In E. Frazao (Ed.), *Americans Eating Habits: Changes and Consequences*. Washington, DC: USDA/ERS, AIB-750. p. 213.

¹⁵ Clemens, L., et al. "The Effect of Eating Out on Quality of Diet in Premenopausal Women." *Journal of the American Dietetic Association* 99 (1999): 442-444.

¹⁶ See, e.g., French, S., et al. "Fast Food Restaurant Use among Adolescents: Associations with Nutrient Intake, Food Choices and Behavioral and Psychosocial Variables." *International Journal of Obesity* 25 (2001): 1823-1833; Paeratakul, S., et al. "Fast-food Consumption among U.S. Adults and Children: Dietary and Nutrient Intake Profile." *Journal of the American Dietetic Association* 103 (10) (2003): 1332-1338.

¹⁷ Lin, B-H., et al., 1999, p. 20.

percent in 1995, while during the same period the percentage of calories from saturated fat decreased from 15.4 percent to 13.8 percent for items eaten from fast-food restaurants.¹⁸

Higher Calorie Consumption at Restaurants

In addition to eating fewer healthy foods when eating away from home, consumers often eat substantially more calories. Portion sizes at restaurants began to increase in the 1970s, grew sharply in the 1980s, and have continued to increase since then.¹⁹ Especially in today's world of "super-sizing," a single restaurant meal can provide 50 to 100 percent of a day's recommended caloric intake.²⁰

Experts note that the trend in larger restaurant portion sizes has occurred at the same time as increases in the consumption of calories and in the prevalence of overweight and obesity.²¹

Additional studies support the view that caloric intake is higher in restaurants. Findings include the following:

- Women who ate out more often (more than five times a week) consumed 288 more calories each day than women who ate out less often.²²
- Women who ate out more frequently at fast-food restaurants consumed more calories and gained more weight than those who eat less frequently at such restaurants.²³
- People who ate fast food more than twice a week increased their risk of obesity by approximately 50 percent.²⁴

¹⁸ Lin, et al., 1999, p. 9.

¹⁹ Young, L., and Nestle, M. "The Contribution of Expanding Portion Sizes to the US Obesity Epidemic." *American Journal of Public Health* 92 (2002): 246; "Cut the Fat." *Consumer Reports* (January 2004): 12.

²⁰ Center for Science in the Public Interest. *Anyone's Guess: The Need for Nutrition Labeling at Fast-Food and Other Chain Restaurants*. Washington, DC: CSPI, 2003, p. 7.

²¹ Young and Nestle, p. 248.

²² Clemens, et al., 1999, pp. 442-444.

²³ French, S., et al. "Fast Food Restaurant Use among Women in the Pound of Prevention Study: Dietary, Behavioral and Demographic Correlates." *International Journal of Obesity* 24 (10) (2000): 1353-1359.

²⁴ *Cut the Fat*, p. 13 (citing forthcoming Harvard Medical School study). This study involved more than 3,700 young adults

Nutritional Labeling

Labeling of Processed Foods

After years of operating with an unsuccessful voluntary program for providing nutrition labeling for processed foods, Congress passed The Nutrition Labeling and Education Act (NLEA) of 1990.²⁵ The NLEA requires nutrition labels for most processed foods regulated by the U.S. Food and Drug Administration (FDA).²⁶ Following enactment of the NLEA, the USDA required nutrition labels on processed meat and poultry product packages.²⁷

According to the Department of Health and Human Services (DHHS), more than three-fourths of consumers use food labels.²⁸ Other research reveals that use of the labels is associated with eating more healthful diets.²⁹ Moreover, persons suffering from diet-related diseases use nutrition labels as a means of identifying appropriate foods for managing their conditions.³⁰ According to the International Food Information Council, one-fourth (28 percent) of consumers have changed their eating habits based on what they learned from food labels.³¹ Studies support the view that using food

from across the country, and while it found that eating fast food more than twice a week increased the risk of obesity by about 50 percent for white participants, it did not have the same effect on black participants.

²⁵ P.L. 101-535, codified at 21 U.S.C. Sec. 343(q). The regulations implementing the law are found at 21 C.F.R. Sec. 101.8-101.9.

²⁶ The law established a voluntary nutrition labeling program for fresh fruits, vegetables, and fish: 21 U.S.C. Sec. 343(q)(4).

²⁷ 9 C.F.R. Sec. 317.300 and Sec. 381.400. In January 2001, USDA proposed extending the nutrition labeling requirement to raw meat and poultry products, but it has yet to finalize this requirement.

²⁸ U.S. Department of Health and Human Services, Center for Disease Control and Prevention, National Center for Health Statistics. *Healthy People 2000 Final Review*. DHSS Publication No. 01-0256, at 85.

²⁹ See Kreuter M., et al., "Do Nutrition Label Readers Eat Healthier Diet? Behavioral Correlates of Adults' Use of Food Labels." *American Journal of Preventive Medicine* 13 (4) (1997): 277-283; Neuhauser, M., et al. "Use of Food Nutrition Labels is Associated with Lower Fat Intake." *Journal of the American Dietetic Association* 99 (1) (1999): 1, pp. 45, 50, 53.

³⁰ Kreuter, p. 281.

³¹ Martin, A. "Nutritionists and Restaurant Owners Argue over Menu Food Labels" *Chicago Tribune* (November 21, 2003) (quoting S. Borra, Director of Nutrition at the International

labels has a positive effect on consumers' diets.³²

Labeling of Restaurant Foods

While it may be relatively easy to estimate the nutritional content (in particular, the caloric content) of some menu options offered in restaurants, this may not be the case for many others. For example, one study found that even well-trained nutrition professionals underestimated the calorie content of typical restaurant meals by 30–50 percent.³³ Other research has shown that lay consumers' expectations of calorie and nutrient levels often are not consistent with objective levels. One study showed that consumers underestimate some commonly consumed restaurant food items by more than six hundred calories, and expect these items to contain only half of the levels of fat and saturated fat as they actually contain.³⁴

There are no state or federal laws that require nutrition labeling of restaurant foods; the NLEA specifies that, in general, restaurant foods are exempt from nutrition labeling requirements.³⁵ According to the National Restaurant Association, "many" restaurants provide some nutritional information voluntarily.³⁶ However, a nutrition advocacy group claims that most restaurants do not provide any nutrition information about their foods.³⁷

Food Information Council [available at www.healthy.net/asp/templates/news].

³² Kim, S-Y., et al. "Food Label Use, Self-Selectivity, and Diet Quality." *Journal of Consumer Affairs* 35 (2): 347.

³³ Backstrand, J., et al. *Fat Chance*. Washington, DC: CSPI, 1997.

³⁴ Burton, S. et al. "The Nutritional Content of Restaurant Foods: How Much Do Consumers Know and Does It Matter?," M&PP Conference Proceedings (2004).

³⁵ 21 U.S.C. Sec. 343(q)(5); FDA regulations require that some nutrition information be made available upon request for any restaurant food or meal for which a nutrient content or health claim is made. See 21 C.F.R. Sec. 101.10.

³⁶ Letter to Dr. Lester Crawford, FDA Deputy Commissioner, from the National Restaurant Association, December 12, 2003, p. 1. For example, Ruby Tuesday, a table-service restaurant chain, recently announced that it is putting comprehensive nutrition information about every item it serves on the menu. See <http://www.rubytuesday.com/hotstuff/default.htm>

³⁷ CSPI, 2003, p. 15.

Because of the impact of diet on health and the difficulty in determining the nutritional profile of restaurant foods—especially menu offerings from different ethnic cuisines—many public health officials and consumer advocacy groups support wider availability of nutrition information for these foods. Both the Surgeon General and the U.S. Department of Health and Human Services have called for increased availability of nutrition information for foods prepared and eaten away from home,³⁸ although they have not called for mandatory labeling.

The restaurant industry advocates for an expanded voluntary program as an alternative to a mandatory requirement. It proposes that the industry undertake a more coordinated effort to provide information about selected nutrients, or that it provide nutrition information in context for selected menu items.³⁹

Supporters of a mandatory program point to a number of recent opinion polls indicating that two-thirds of Americans support requiring calorie labeling on menus and menu boards in fast-food restaurants.⁴⁰ These polls suggest that without better nutrition information, consumers will have difficulty making nutritionally smart restaurant choices. Furthermore, research has shown that the provision of nutrition information on menus can lower consumer's evaluations and choice preferences for nutritionally unfavorable food items when they are shown the objective nutritional information of these items.⁴¹

Issues Relating to Nutrition Labeling of Restaurant Foods

Accuracy and Creativity

According to the National Restaurant Association, 70 percent of consumers customize

³⁸ USDHHS, p. 17.

³⁹ Crawford letter, p. 6.

⁴⁰ See Harvard Forums on Health. "Obesity as a Public Health Issue: A Look at Solutions." National poll by Lake Snell Perry & Associates, June 2003; Global Strategy Group. Nationally representative poll commissioned by Center for Science in the Public Interest. Washington, DC, September 4–8, 2003.

⁴¹ Burton et al. (2004).

their meals when eating at restaurants,⁴² so standardized nutrition information would be inaccurate and misleading. There is also concern that creativity and diversity in meal preparation would suffer as a result of mandatory labeling. However, even with customization, nutrition information for standardized offerings would provide a valuable benchmark. Moreover, recognizing the importance of creativity and diversity to restaurants, advocates of labeling agree that daily specials and nonstandard menu options generally should be exempt from any labeling requirement.

Cost

Concern has been raised about the additional costs that restaurants will incur to perform the necessary nutrition analyses for labeling purposes. Many large, chain restaurants, however, currently provide nutrition information (on websites, and printed brochures), so they have already conducted the necessary nutritional analyses. The costs of these analyses are relatively small.⁴³ While supporters of labeling acknowledge that additional costs would be incurred to prepare and maintain accurate nutritional information on menus and menu boards, they note that restaurants frequently revise and reprint menus, so these costs would be part of the normal course of doing business.

Health Impact

The restaurant industry questions the impact that nutrition labeling of restaurant foods would have on public health. It argues that away-from-home foods are not a significant part of the diet, by noting that for persons over the age of 8, only 4.2 meals each week are prepared outside of the home.⁴⁴ The industry also points to the fact that small and single-unit operators comprise nearly

70 percent of the restaurant industry.⁴⁵

Moreover, the restaurant industry asserts that increased physical activity, not nutrition labeling, is the single most important measure that could effectively reduce the incidence of obesity and overweight.

Supporters of labeling maintain that the critical issue is not the number of *meals* but, rather, the total number of *calories* (and nutrients) provided by away-from-home foods. They also focus their efforts on large chain and fast-food restaurants, because, while they only represent a portion of the industry, they do serve a significant percentage of away-from-home foods. Finally, advocates of nutrition labeling of restaurant foods do not view it as the sole solution to the obesity problem in this country, only one part of a larger plan to address this pressing public health problem. Moreover, older consumers are interested not only in the caloric content of foods to help them achieve and maintain a health weight, but also the nutrient content in order to manage or reduce the risks of diet-related diseases.

Policy Options

Legislation

Numerous bills have been introduced at the federal and state levels that would establish a nutrition labeling requirement for restaurant foods. “The Menu Labeling and Education Act” (MEAL)⁴⁶ would establish a nationwide requirement for nutrition labeling of chain restaurant foods. Restaurants would be required to include on their menus key nutrition information (the total number of calories, grams of saturated plus trans fat, and milligrams of sodium per menu item, as offered for sale) clearly and conspicuously. This requirement would apply only to restaurants that are “part of

⁴² Crawford letter, p. 2.

⁴³ CSPI, 2003, p. 17. According to CSPI, the estimated cost of a nutrient analysis of a food ranges from \$50 (for just a caloric analysis) to \$220 for complete nutrition information.

⁴⁴ National Restaurant Association, *Restaurant Industry Pocket Factbook 2002*. Washington, D.C.: National Restaurant Association. For those over age 18, the number increases to 5.4 meals each week.

⁴⁵ Crawford letter, p. 2.

⁴⁶ H.R. 3444. (108th Cong., 1st Session). The MEAL Act, introduced on November 5, 2003, by Rep. Rosa deLauro (D-CT), has seven cosponsors: Rep. Henry WAXMAN, (D-CA), Rep. Sherrrod Brown (D- OH), Anna Eshoo (D- CA), Rahm Emanuel (D-IL), Bernie Thompson (D-MS), Stephanie Tubbs Jones (D- OH), and Major Owens (D-NY). It has been referred to the Committee on Energy and Commerce.

a chain with 20 or more outlets.” The legislation also specifies that for foods sold in vending machines or in restaurants that use only menu boards, only the total number of calories per serving would need to be posted.

In 2003, five states⁴⁷ and the District of Columbia⁴⁸ introduced similar legislation. In general, these bills include provisions that would:

- apply only to restaurants and other retail food establishments with 10–20 locations;
- require disclosure of key nutrients (calories, saturated plus trans fat, carbohydrates, and sodium per serving)⁴⁹ for standard menu items; and
- require disclosure of nutrition information on menus or, if menus are not used, on menu boards.⁵⁰

None of these legislative proposals would apply the nutrition labeling requirement to small restaurants (“mom and pop” establishments as well as those below the threshold number of outlets), nor would they apply to daily “specials” and other short-term menu offerings.

FDA Response

In March 2004, the FDA’s Obesity Working Group (OWG) issued a report, which included recommendations directed to the restaurant industry. The Group concluded that food consumed away-from-home is an important part of American diets and that more informed dietary choices away-from-home could help reduce calorie over-consumption and the risk of obesity and its associated health problems.

The OWG stopped short at recommending that federal law be amended to require mandatory

nutrition labeling of restaurant foods and relied, instead, on voluntary efforts. It recommended that FDA urge the restaurant industry to launch a nation-wide, voluntary, and point-of-sale nutrition information campaign for customers. The Group also recommended that FDA encourage consumers to routinely request nutrition information in restaurants, noting that such demand may help create an impetus for more restaurants to provide information.

The OWG further recommended that FDA seek participating restaurants for a pilot program to study the effectiveness of various options to provide consumers with nutritional information in restaurants.

Conclusions

Americans eat an estimated 218 restaurant meals per year;⁵¹ nearly one-half (44 percent) of all adults eat at a restaurant on any given day.⁵² For many older persons, especially those living alone, eating out is an important source of nutrition and socialization. Many older consumers rely on restaurant foods because they may not have the ability or inclination to cook for themselves.

For the many older Americans who suffer from diet-related diseases, having information about the saturated fat, trans fat, sodium and caloric content of the foods they eat—both in and away from home—is imperative.

⁴⁷ California (SB 679); Maine (M RSA Sec. 2502); New Hampshire (HB 1267); New York (A05520); and Pennsylvania (HB No. 1520).

⁴⁸ See “The Nutritional Information at Restaurants Act of 2003 (Leg. # B15-0387).

⁴⁹ The Pennsylvania legislation would require disclosure of calorie information only.

⁵⁰ The bill introduced in New Hampshire would require only that complete nutritional information be made available to customers upon request.

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⁵¹ *Restaurant Industry Pocket Factbook*.

⁵² Advertising Age. *Ad Age Almanac*, 2001.