United States Senate
WASHINGTON, DC 20510

May 15, 2015

Stephen Ostroff, M.D.
Acting Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Acting Commissioner:

We write to request a one year delay of the compliance date included in the final rule, "Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments" published on December 1, 2014, given the outstanding guidance from the agency that is necessary to provide much needed clarity for small and large businesses impacted by the new requirements. The Food and Drug Administration (FDA) was given authority to require nutrition labeling of standard menu items at chain restaurants and similar retail food establishments in the Patient Protection and Affordable Care Act of 2010 to enable consumers to make informed choices regarding the nutritional value of food offered for sale in restaurants and other settings where Americans eat restaurant-like food.

FDA's final rule requires restaurants and similar retail food establishments that are part of a chain with 20 or more locations and operate under the same name and offer substantially the same menu items provide calorie and other nutrition information for standard menu items, including food on display and self-service food. This final rule is broad in scope with respect to covered entities and types of restaurant food included. Therefore, it is important that FDA provide appropriate and sufficient clarity about the restaurant-type food and menu items covered by the rule for the various types of businesses and other stakeholders who may be impacted.

The agency's final rule sets a compliance date of December 1, 2015, for businesses to comply with the new requirements set forth by the rule. However, FDA has not yet provided guidance for industry or stakeholders on this regulation, including clarifying many of the key components of the final rule. While we recognize the benefit of improved access to nutritional information for consumers, we are concerned that the lack of clear and consistent guidance from the agency will make it difficult, confusing, and burdensome for businesses, particularly smaller businesses, to implement the new requirements by the December 1, 2015, deadline included in the final rule. Businesses, particularly small businesses, will need appropriate time to budget and plan accordingly to meet the rule's requirements to provide nutrition information to consumers that is understandable and clear, and therefore, of the greatest value to consumers.

Ensuring access to nutrition information at restaurants and similar retail food establishments to help consumers better understand the nutritional value of food they consume is a worthy goal.

However, we are concerned that there are still outstanding questions regarding the details of how the final rule will be applied to certain covered entities, specific types of restaurant-type food, standard menu items, menu boards, and other key areas covered by the final rule. Given the short timeframe that businesses will need to begin expending resources to comply with the final rule, it is important that the agency not only provide clear and consistent guidance, but also adequate time to understand and come into compliance with the regulations.

We respectfully request that FDA reconsider the current compliance date of December 1, 2015, included in the final rule and allow businesses, including small businesses, who are impacted by this regulation additional time of one year to understand and appropriately comply with the new requirements in a least burdensome manner.

Sincerely,

Lamar Alexander
Chairman

Patty Murray
Ranking Member

Richard Burr
U.S. Senator

Barbara Mikulski
U.S. Senator

Johnny Isakson
U.S. Senator

Al Franken
U.S. Senator

Rand Paul
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Sherrod Brown
U.S. Senator

Pat Roberts
U.S. Senator

Dianne Feinstein
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Heidi Heitkamp
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U.S. Senator

Tom Cotton
U.S. Senator

Claire McCaskill
U.S. Senator

Deb Fischer
U.S. Senator

Brian Schatz
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James Lankford
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Charles E. Schumer
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David Perdue
U.S. Senator

Tom Udall
U.S. Senator

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Ron Wyden
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John Thune
U.S. Senator

Roger F. Wicker
U.S. Senator