

Congress of the United States
Washington, DC 20515

April 7, 2017

The Honorable Thomas E. Price, M.D.
Secretary
United States Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Dear Secretary Price:

As you continue to review and establish priorities for the U.S. Health and Human Services Department, we write for your urgent attention and ask that you delay, withdraw (or stay), and rewrite the Food and Drug Administration (FDA) final “menu labeling” rule (79 FR 71155, et seq.). Executive action is urgently needed to protect food retailers, restaurants, and other businesses from subjective enforcement and legal threats set to begin on **May 5, 2017**.

Over the past several years, Congress has sought common sense flexibility and liability protections for food retailers, restaurants and other businesses like grocery stores, convenience stores, and pizza delivery shops to provide calorie and other nutrition information under the menu-labeling law that is less costly to their businesses and more efficient for their customers. Since FY 2012, Congressional appropriations to FDA have urged agency flexibility and provided more time for FDA to fix problems within the regulation. In the 114th Congress, the House of Representatives passed the *Common Sense Nutrition Disclosure Act* -- with your support -- through regular order and with a strong bipartisan 266-144 vote.

Despite the clear intent of these Congressional actions, FDA established a May 5, 2017 enforcement date for the menu-labeling rule without making these much needed adjustments. According to FDA’s final rule, the estimated cost of compliance will amount to \$1.7 billion coupled with some 14.5 million hours of paperwork. Making matters worse, FDA has been unresponsive to businesses’ questions and concerns, which has created uncertainty and anxiety over subjective enforcement and legal threats that include civil and criminal penalties of up to a \$1,000 fine, one year in prison, or both.

As the 115th Congress continues consideration of the Administration’s top line priorities and to allow time for Congress to enact the *Common Sense Nutrition Disclosure Act*, we request that HHS take immediate action to delay the menu-labeling rule’s effective and compliance dates,

withdraw (or stay) the rule, and rewrite it, making revisions based on comments and enactment of legislative changes by Congress. Without a withdrawal (or stay) during this regulatory review process, states will attempt to interpret and enforce the rule on their own-likely leading to uneven enforcement throughout the country. This regulatory patchwork will substantially harm small business across America.

While we understand you are awaiting confirmation of President Trump's nominee for FDA Commissioner, we respectfully request your immediate and direct attention to this FDA matter and suggest that less costly methods are readily available with proven Congressional support within the framework of the *Common Sense Nutrition Disclosure Act*.

Sincerely,



Cathy McMorris Rodgers
Member of Congress



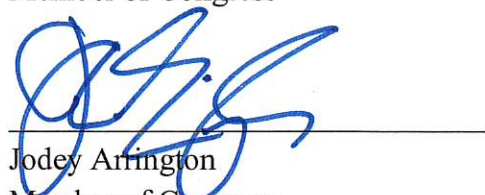
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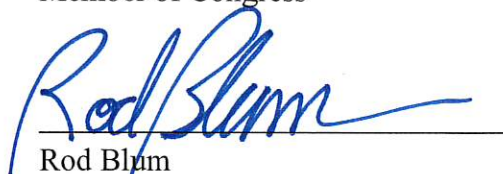
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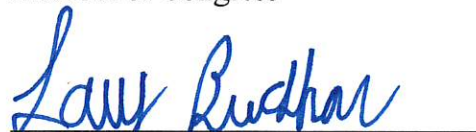
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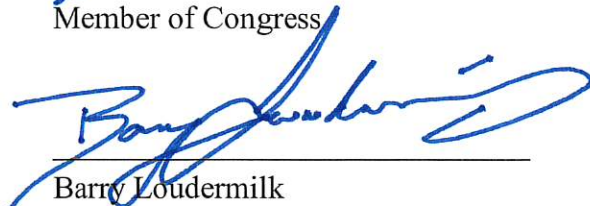
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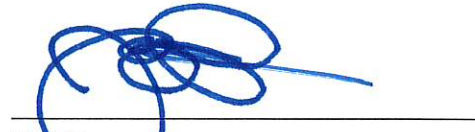

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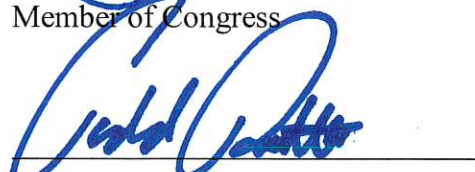

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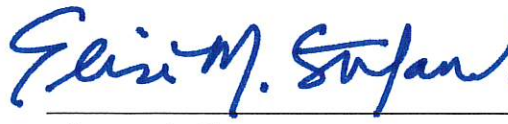

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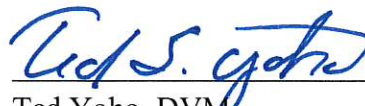
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