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## United States Senate

COMMITTEE ON HEALTH, EDUCATION, LABOR,  
AND PENSIONS

WASHINGTON, DC 20510-6300

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February 15, 2024

The Honorable Robert Califf, M.D.  
Commissioner  
U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, Maryland 20903

Dear Commissioner Califf:

I am writing to urge the Food and Drug Administration (FDA) to require corporations in the food and beverage industry to put strong warning labels on the products they sell that are high in sugar, salt and saturated fats.

In December, the Senate Committee on Health, Education, Labor and Pensions held a hearing on the diabetes epidemic in America and what we learned was startling. Not only do we have a type-2 diabetes crisis in America we have an obesity crisis in our country and the two are directly related.

According to the Centers for Disease Control and Prevention (CDC), the rate of childhood obesity in America has tripled since the 1970s. Today, one out of every five children and over 40 percent of adults in our country are obese.

The skyrocketing increase in Americans with type-2 diabetes has been equally as alarming. Today, over 35 million Americans have type-2 diabetes (more than 10 percent of our population) and about 90 percent of them are obese. If we do not change course, the number of children with type-2 diabetes is estimated to increase by 700 percent over the next 40 years. This would not only result in a massive amount of human suffering, but would greatly increase our health care expenditures.

We have a responsibility to make sure that does not happen and that we do everything that we can to address this public health emergency.

For far too long, the food and beverage industry has been allowed to use deceptive and misleading tactics to entice children to eat foods and consume beverages loaded up with sugar, salt and saturated fats that are purposely designed to be overeaten.

The situation has gotten so bad that most of what children in America eat today consist of unhealthy, ultra-processed foods that doctors have told us lead to a higher risk of type-2 diabetes. Those unhealthy foods now make up 73 percent of our nation's food supply<sup>1</sup> and 58 percent of the calories that U.S. adults and children consume every day.<sup>2</sup> According to a National Institutes of Health study, consuming ultra-processed foods leads to overeating by an average of 500 calories per day. Research has shown that these products can be as addictive as alcohol and nearly as addictive as cigarettes.<sup>3</sup>

The FDA can and must do more to ensure that Americans, especially children, teens and their parents, understand the health risks associated with the consumption of these unhealthy and ultra-processed foods. Other major countries around the world have moved forward aggressively in this area and there is no reason as to why the United States is lagging so far behind.

I am encouraged that the FDA has begun the process of issuing a proposed front-of-package label rule that would better inform consumers about products high in added sugars, sodium, and saturated fats. However, from what I have seen thus far, these efforts do not go nearly far enough.

In my view, we need strong front-of-package labels so that all consumers, especially children, can understand which products are harmful to their health. Tobacco labels in the United States do not say “high in tar, high in nicotine, high in carcinogens.” They say “cigarettes cause cancer.” The front-of-package label in Mexico includes a stop sign and additional disclosures stating which products contain caffeine and other harmful ingredients that should be avoided in children. We need similarly strong health warning labels and disclosures in the United States.

In addition, we also need strong nutrient warnings for these products. This is not a controversial idea. Countries like Chile, Colombia, Uruguay, Peru, and others have successfully implemented strong front-of-package nutrient warning labels. In Chile, calories purchased from unhealthy products declined by 24 percent following the implementation of their front-of-package nutrient warnings.<sup>4</sup>

As you know, the FDA recently conducted two focus groups and an experimental study of front-of-package labels. Unfortunately, this study did not consider some of the best international practices like the inclusion of an octagon symbol or health warnings (e.g., contains sweeteners, avoid in children). The study tested consumer understanding of specific nutrients, not purchasing preferences, which is insufficient to make progress on the important job of combatting the increasing rate of type-2 diabetes and other diet-related chronic diseases in our country.

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<sup>1</sup> Price, J. T. (2022). Has your food been chemically altered? new database of 50,000 products provides answers. *Northeastern Global News*. <https://news.northeastern.edu/2022/05/25/ultra-processed-food-database/>

<sup>2</sup> Petersen, A. (2023). Ultra-processed food: What we know about the potential health risks. *Wall Street Journal* <https://www.wsj.com/health/wellness/ultra-processed-foods-dietary-guidelines-de00ccaa>

<sup>3</sup> Hall, K. D., Ayuketah, A., Brychta, R., Cai, H., ... & Zhou, M. . (2019). Ultra-processed diets cause excess calorie intake and weight gain: an inpatient randomized controlled trial of ad libitum food intake. *Cell Metabolism*, 30(1), 67-77.e3. <https://doi.org/10.1016/j.cmet.2019.05.008>

<sup>4</sup> Taillie, L. S., Bercholz, M., Popkin, B., Reyes, M., ... & Corvalán, C. (2021). Changes in food purchases after the Chilean policies on food labelling, marketing, and sales in schools: A before and after study. *The Lancet Planetary Health*, 5(8). [https://doi.org/10.1016/s2542-5196\(21\)00172-8](https://doi.org/10.1016/s2542-5196(21)00172-8)

The HELP Committee will be holding a hearing in the near future to discuss what the FDA can do to fulfill its mission to protect and advance the public health by ensuring that the food and beverages Americans are consuming are not harming them. I look forward to your testimony at this hearing.

In order to help the committee better understand what the FDA has been doing on this subject, I request that the FDA answer the following questions as soon as possible:

1. What was the process for developing and selecting the front-of-package labels used in the FDA's experimental study? Why did the FDA not test nutrient warning front-of-package labels? What previous examples informed this process? Please describe how other countries, content experts, researchers, and additional stakeholders were engaged throughout the development and selection process.
2. What steps did the FDA take to review the scientific evidence of health warning front-of-package labels and how were these findings incorporated into the labels that the FDA selected for testing?
3. How did the FDA ensure that the most optimal visual design is being used for the front-of-package labels? Why were certain design elements tested such as numbers or color codes, while other design elements, like exclamation points or marker words were not tested?
4. How did the FDA select the experimental study design for the front-of-package label? Why did the study not include purchasing behavior of the tested labels in addition to label comprehension?
5. Research has shown some teenagers spend an average of \$580 dollars a year on food products.<sup>5</sup> How will the FDA elicit feedback from secondary purchasers, like teenagers, who were excluded from the experimental study?

Sincerely,



Bernard Sanders

Chair

U.S. Senate Committee on Health, Education, Labor, and Pensions

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<sup>5</sup> Barker, K., Farrell, M., Fish, J., & Yruma, E. (2023). Semi-annual taking stock with teens survey. *Piper Sandler & Co.* <https://www.businesswire.com/news/home/20230404005387/en/>