United States Senate

WASHINGTON, DC 20510

May 12, 2015

The Honorable Sylvia Matthews Burwell
Secretary, U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, D.C. 20201

Dear Secretary Burwell:

We write regarding the Food and Drug Administration's (FDA) final rule entitled, "Food Labeling; Nutrition Labeling of Standard Menu Items in Restaurants and Similar Retail Food Establishments." Specifically, we request that the agency formally delay the implementation and compliance date for menu labeling regulations at supermarkets, grocery stores and similar retail food establishments by at least one-year and not earlier than December 1, 2016.

Since FDA published the final menu labeling regulations on December 1, 2014, to include chain restaurants as well as thousands of supermarkets and grocery stores, the agency has not provided adequate answers to questions or guidance for stakeholders impacted, especially supermarkets and grocery stores, to comply with the final rule's current December 1, 2015, effective date. Given that supermarkets and grocery stores were not previously regulated under any federal, state, or municipal menu labeling laws, the supermarket and grocery store industry has sought clarification from FDA regarding the scope and variety of items potentially categorized as "restaurant-type" foods, as well as answers to many technical issues, in order for compliance work to begin.

In March, former FDA Commissioner Margaret Hamburg acknowledged that application of menu labeling to "restaurant-like" establishments is the most complicated aspect of the regulations, and acknowledged that additional stakeholder guidance is warranted. To that point, FDA has yet to provide this guidance to stakeholders, which has further compressed compliance time for stakeholders to review the rules, address outstanding issues, and comply with enforcement of the regulation by federal, state, and local health officials.

We urge the FDA to further engage with the entire industry of stakeholders impacted by the menu labeling regulations to address outstanding issues and concerns. In addition, we request that you formally delay the effective implementation and compliance date for the menu labeling regulations by at least one year from the current date of December 1, 2015.

Thank you in advance. We look forward to your positive reply.

Sincerely,

Roy Blunt
United States Senator

Heidi Heitkamp
United States Senator

Thad Cochran
United States Senator

Claire McCaskill
United States Senator

Susan M. Collins
United States Senator

Angus S. King, Jr.
United States Senator