

January 26, 2010

Senator Tom Duane  
New York Senate Standing Committee on Health  
430 State Capitol Building  
Albany, NY 12247

Dear Senator Duane:

We respectfully offer comments on matters discussed by the Senate Standing Committee on Health on January 22, 2010, regarding food policy in the State of New York.

Wendy's/Arby's Group, Inc. is the third largest quick service restaurant company in the U.S., and the franchisor of Wendy's® and Arby's® restaurant systems. The combined brands include more than 10,000 restaurants in the United States and 24 countries and territories worldwide, with \$12 billion in system-wide sales. Nearly 80% of all stores are owned and operated by independent franchisees, many of whom are small businesses.

In the State of New York, there are approximately 314 Wendy's® and Arby's® restaurants employing nearly 8,700 workers. In New York, about 80% of our stores are owned independently by franchisees.

#### Mandatory Calorie Labeling

For decades, Wendy's® and Arby's® brands have provided customers with nutrition and ingredient information for standard menu items.

Arby's® restaurants have in-store tear-sheets with complete nutrition information. At Wendy's®, a comprehensive nutrition poster is required to be posted in every restaurant. Both contain complete nutrition and potential allergen information. Both brands have an on-staff Registered Dietician who receives inquiries and makes available very detailed nutrition information. Our brand websites are designed so customers can easily access information about our food.

Currently, federal efforts are underway to require consistent nutrition information in chain restaurants nationwide. Earlier this session, members of Congress, restaurant and food industries and health and consumer groups came to an historic agreement to establish a national menu labeling mandate. Upon enactment, it will contain a local pre-emption provision prohibiting state and local governments from regulating nutrition labeling in restaurants in direct contravention of the federal legislation. The legislation passed both the House of Representatives and Senate as part of health care reform. Regardless of the outcome of the federal health care bill, proponents continue to work to pass the legislation which will pre-empt any state or local legislation.

Wendy's/Arby's Group, Inc. already provides nutrition information to customers. However, as is the case for packaged food, we support one uniform national standard over a mix of state and local regulations which can only confuse consumers.

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State and local mandates will require new expenditures of public resources to create standards, enforce new laws, and hire additional staff. The infrastructure needed to regulate restaurant labeling laws is highly technical. Specialized resources are required to administer, inspect and enforce labeling laws. We do not believe scarce public health dollars are best spent on restaurant labeling when we already provide the information in the store and on our websites. This is especially true with the very real potential for federal standards that would preempt states and cities.

#### Trans Fat Ban

Naturally occurring trans fats should be expressly exempt from any ban of trans fat. Approved menu items at Wendy's® and Arby's® already contain 0 grams of artificial trans fat. Any bans should permit the use of milk, beef and other products that contain naturally occurring trans fats. State and local regulation of trans fats should be consistent with the regulations of the United States Food and Drug Administration which permit nutrition fact labels to list the trans fat content of a food as "0 grams" if it contains less than 0.5 grams per serving.

#### Sweetened Beverage Tax

Wendy's/Arby's Group, Inc. opposes regressive and discriminatory food and beverage taxes that will have a negative impact on families and employers struggling in the current economy.

Only West Virginia and Arkansas have excise taxes on soda in place. Yet, according to the Center for Disease Control and Prevention (CDC) National Center for Chronic Disease Prevention & Health Promotion, West Virginia and Arkansas also have among the ten highest rates of obesity in the nation.

We thank the committee for the opportunity to provide comments and respectfully request your consideration of our statement.

Sincerely,

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