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I want to preface my comments by stating that I am speaking on behalf of myself only. Furthermore, much of this testimony is similar and in some instances exact to that which I provided at public hearings of the New York City Department of Health and Mental Hygiene in 2006 and 2007.

At those hearings, I reviewed the two opposing theories of public health:

- 1) Minimal government interference and
- 2) Social justice philosophy. This refers to the fact that society may share in the responsibility for a person's health – namely that “society” is the government.

The mission of public health is to assure conditions in which people can be healthy. To assure this requires public policies that result in government intervention. For example, the closing of food service establishments (hereafter referred to as FSEs) because of unacceptable infestation.

“We want the government to ensure that our food supply is safe, yet we want the freedom to purchase unhealthful food,” as identified in “Nutrition in Public Health” – a text edited by Dr. Sari Edelstein.

In regards to the trans fat ban in FSEs, consumers do not essentially “have the freedom to make unhealthful choices” because many of them are unaware that they are making such a choice. There are manifold ways that trans fats are used in food preparation unbeknownst to the consumer. At a diner in New York City prior to the trans fat ban, I personally witnessed the use of large amounts of partially hydrogenated fat that was

added to the dish in which a frozen half of spring chicken was being broiled. The chicken was indeed being broiled as indicated on the menu but was also being fried as it was being cooked in large amounts of fat at a high temperature. But the innocent consumer has no idea of this and so is unknowingly consuming an unhealthy food ingredient. There is no question regarding the unhealthy effects of trans fats and New York State needs to follow in passing such a ban that New York City paved the way and that many other localities now follow as well as the recent statewide ban in California that was implemented on January 1st.

While it will take time before the positive impact of the trans fat ban can be realized it is something that can be implemented as has been demonstrated here in New York City. And what has been interesting is the “domino effect” that the ban has had – in that not only many other localities have followed suit but that large restaurant chains – addressed by Dr. Susan Okie in an article appearing in the New England Journal of Medicine in May, 2007 – as well as food manufacturers, have begun to eliminate the use of trans fats. But what is KEY in assuring that this ban is going to have maximal impact on public health is that it also include that the fats that will be used to replace trans fats be healthful or neutral fats; not other unhealthy fats such as many saturated fats.

Going back to the concept of “having the freedom to make unhealthy choices”, the residents in Walden, NY have just as much right to know that this munchkin donut from Dunkin Donuts provides 80 calories just like someone purchasing the same product is aware of when going to the Dunkin Donuts in Brooklyn, NY. The posting of caloric information on menus is an outstanding step by the government in helping the public to become an educated consumer yet allowing that consumer the freedom to make what might be an unhealthy food choice if that consumer has a significant weight problem and the particular menu item is especially calorically dense.

But what is of concern to me is if you stop here. There must be a next step so that eventually the majority, if not all, FSEs will be required to display the caloric content of their menu items. For example, in New York City, the first such locality in our nation to

require calorie labeling, the requirement only applies to those restaurants that have at least 15 locations nationwide, it doesn't provide for the multitude of especially fast food restaurants that are individually owned. In East Harlem, which has the highest proportion of obese adults among all neighborhoods in New York City, the number of chain restaurants pales in comparison to the number of individually owned Chinese take-outs and pizzerias. How helpful will the proposed calorie labeling be if it doesn't apply to FSEs in such places as Bloomingburg, NY that doesn't have a restaurant chain within its defined borders but does have a Chinese take-out?

While the current calorie labeling requirement that exists in New York City and that you are proposing for chain restaurants across the state is an excellent first step, there must be a next step so that a larger number of FSEs are posting calories. And while I'm sure that there are many in the food industry that are going to complain that this will be a burden, well....

First, as the current proposal only applies to restaurant chains, let me tell you that the majority, if not all such establishments already have the nutritional information calculated and portion sizes are standardized. Second, regarding the implementation of such a requirement by individually owned FSEs, the state can help to educate such businesses to do their own nutritional analyses of menu items because of tools that are available on the internet. And finally, contrary to what you might think, although small independent FSEs might not have the type of standardization of recipes and portions that an establishment such as McDonald's has and therefore nutritional analyses of their menu items might not be so reliable, let me tell you that there is greater standardization than you think and the task for such establishments to likewise make available the caloric content of their menu items is therefore realistic.

For example, these Chinese egg rolls and rice were purchased at different times from the same establishment. And there is consistency in their portion so a nutrient analysis of these items would be relatively accurate.

Better yet, a number of items for sale in FSEs are purchased as ready-to-serve such as this Jamaican beef patty. This was prepared by a commercial food business and comes with the nutrient analysis!

Before I leave this section of calorie labeling, I want to address your concern of its effectiveness elsewhere thus far. The purpose of posting calorie information is to reduce obesity. That cannot be measured by a study that looks at purchases that are made before and after such a requirement has been implemented. The real evidence will be over time when future data identifying the incidence of obesity is trended. But in the interim, the following should be noted: In a paper by Brian Elbel and colleagues that looked at New York City's calorie labeling requirement and that was just published in October, their "first look" study showed that while the number of calories people purchased at a select group of chain restaurants did not decrease, the study did find "that some subset of consumers used the information to eat more healthfully." And just two weeks ago a group from the Stanford Graduate School of Business released information that was based on transaction data provided by Starbucks which found that since calorie posting was required in New York City in 2008, there was a 6% reduction in calories per transaction.

Lastly, regarding the proposed sugar beverage tax on sodas and sports drinks, Susan Neely, president and CEO for the American Beverage Association was quoted by abcnews.com on September 17th as saying, "A tax will cause real harm to hard-working American families at a time when they are already struggling to stay afloat during a recession." Well, you know what my response to that statement is: all the more reason for the sugar beverage tax. Maybe such a tax will force hard-working American families to better utilize their limited monies – so that, for example, if they are forced to make a choice, they will chose milk for their children over sugar-sweetened cola. In fact, this is one of many concerns regarding the consumption of sugar-sweetened beverages such as sodas, the displacement of adequate consumption of the micronutrients. And with that tax money, I recommend as do others, that this revenue be used to make fresh fruits and vegetables more affordable.

The abcnews.com article in which Ms Neely was quoted was in reference to an early release of an article published in the New England Journal of Medicine on October 15th and whose authorship included Drs. Kelly Brownell, Thomas Farley and Walter Willett. They wrote that “the science base linking the consumption of sugar-sweetened beverages to the risk of chronic disease is clear.”

As the daughter of a dentist – the best man I know and who suffered a heart attack courtesy of cigarettes in 1983 – I conclude with the following statement from that article: “Seat-belt legislation and tobacco taxation do not eliminate traffic accidents and heart disease but are nevertheless sound policies. Similarly, obesity is unlikely to yield to any single policy intervention, so it is important to pursue multiple opportunities to obtain incremental gains.”

Thank You.