



Consumer Federation of America

Calorie Cover-Up

by Chris Waldrop

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The public has until July 5 to tell the Food and Drug Administration (FDA) to require chain restaurants to disclose the amount of calories in beer, wine, and spirits, beverages that play a significant factor in America's battle of the bulge.

In an effort to help consumers maintain a healthy weight and reduce health care costs associated with obesity, Congress passed legislation last year instructing the FDA to require chain restaurants to disclose calorie content for standardized menu items. Alcoholic beverages are a significant source of calories in many Americans' diets. A bottle of beer, glass of wine, or a cocktail can have as many or more [calories](#) as a soft drink.

Two-thirds of Americans are obese or overweight, conditions associated with increases in Type II diabetes, as well as heart attacks and strokes. It is true that no single public health initiative like disclosing calories for standardized menu items will solve the nation's obesity crisis. But giving consumers basic nutrition information can at least allow those who care about their health to make informed choices about foods and beverages they consume away from home, which now account for as much as 50% of the average American's food budget.

Congress instructed FDA to issue compliance guidelines for restaurants, and then publish a formal regulatory proposal. FDA issued guidelines several months after the legislation was enacted which plainly stated that alcoholic beverages served at chain restaurants were covered by the new law. FDA's position made good sense.

But then FDA flip-flopped -- the agency issued a formal regulatory proposal exempting alcoholic beverages from calorie disclosure requirements. (FDA also exempted movie theater popcorn which was originally covered by the agency's guidelines).

The agency's excuse for excluding alcoholic beverages is that it lacks authority to require calorie disclosures next to listings of beer, wine, and liquor on chain restaurant menus. FDA claims another government agency within the Treasury Department has been working on a proposed regulation that would require disclosing the amount of calories on beer wine, and liquor labels. But the Treasury Department has been moving at a turtle's pace, pondering the issue for more than seven years. While Treasury retains general authority over what is printed on alcoholic beverage labels, it never even considered requiring calorie disclosures for restaurant menus. Congress gave that responsibility to the FDA.

CFA and other consumer groups hope that FDA ultimately covers alcoholic beverages in the agency's rules for menu labeling at chain restaurants and that Treasury requires calorie, alcohol per serving and other disclosures on bottles and cans. The two steps would be complimentary, and would benefit consumers. If Treasury finalized its proposed rule requiring calories and other important information on alcoholic beverage labels, restaurants would have a much easier job complying with any FDA requirement to disclose calories on menus, as the information would be readily available. However, that doesn't mean one agency should wait for the other. Both agencies need to act.

Congress clearly intended FDA to require menu labeling for alcoholic beverages, a requirement that is no different than calorie disclosure for meat and poultry dishes served at restaurants, as is intended in the menu labeling law. Like alcoholic beverages, the labels of meat and poultry sold in stores are regulated by a different agency, the U.S. Department of Agriculture. But when it comes to calorie disclosure for burgers and chicken on chain restaurant menus FDA has not questioned its own authority and has assumed responsibility as Congress intended.

The FDA needs to stop punting and should require calorie information for alcoholic beverages on chain restaurant menus. Interested parties can submit their own comments to the FDA at www.regulations.gov (Docket No. FDA-2011-F-0172) by July 5.

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