

March 29, 2018

Ambassador Robert Lighthizer
Office of the U.S. Trade Representative
600 17th St., NW
Washington, DC 20006

Dear Ambassador Lighthizer,

We are writing to you to express our grave concerns about the U.S. proposal to add provisions to the North American Free Trade Agreement (NAFTA) that would undermine the rights of the United States and the other signatory countries to require non-discriminatory labels on pre-packaged foods and beverages. The U.S. proposal described in the March 20, 2018 *New York Times* story is explicitly designed to protect the interests of junk food companies at the expense of public health.

That closed-door trade negotiations would be used to “diplomatically legislate” such controversial terms appears to directly contradict your approach to trade policy. For a recent example, your team has defended the sovereign right of the United States to provide non-discriminatory consumer labels in the context of your recent win at the World Trade Organization in defense of the U.S. dolphin-safe tuna labeling program. And you have often spoken about how bipartisan support for trade agreements can only be rebuilt by rebalancing agreements’ terms to generate broader public support.

As a country confronting an obesity epidemic, and cognizant of the growing problem worldwide, the United States should not insert terms into trade agreements that undermine sovereign nations’ rights to address this critical and costly public health problem. Instead, U.S. public health officials should be encouraging international cooperation, including labeling innovations and transparency, to address diet-related disease.

Because the obesity epidemic in the United States and overseas is a complex problem, our governments and others must have latitude to pursue multiple strategies. Yet the U.S. proposal, which reflects demands from companies seeking to shut down effective sources of consumer transparency with regard to the health effects of junk food, could block or inhibit our governments and others from pursuing important front-of-package and other labeling initiatives, even when they apply equally to domestic and foreign products. Such initiatives may include color-coded information and warnings about foods high in sugar, salt or other unhealthy components. Our own Institute of Medicine, among many other governmental and private sector research agencies, has compiled compelling evidence of the efficacy and significance of such programs, particularly for more vulnerable populations.¹

¹ Institute of Medicine of the National Academies, Examination of Front-of-Package Nutrition Rating Systems and Symbols: Phase I Report, 2010, https://www.ncbi.nlm.nih.gov/books/NBK209847/pdf/Bookshelf_NBK209847.pdf.

We understand that the NAFTA renegotiations involve scores of officials from the Office of the U.S. Trade Representative (USTR) and other agencies working on dozens of chapters. That hundreds of official U.S. trade advisors representing industry interests have access to texts while the public lacks any opportunity to review U.S. proposals creates enormous opportunities for provisions that fail to reflect U.S. values and interests. It would certainly be contrary to U.S. values and interests if the U.S. government were to act on behalf of junk food companies to curb non-discriminatory public health policies.

Ambassador Lighthizer, we urge you to withdraw the proposed U.S. Annex on Prepackaged Food and Non-Alcoholic Beverages.

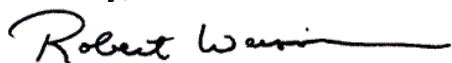
We recognize the concern that you expressed when asked about the *New York Times* story at last week's Ways and Means committee hearing with respect to governments imposing discriminatory trade restrictions in the guise of public health measures. However, our trade agreements, including NAFTA, already include rules that discipline such actions. Indeed, the existing rules are so expansive that they can undermine legitimate consumer information labeling. This is a reality to which your staff and USTR lawyers over the past two decades who have worked to defend U.S. dolphin-safe tuna and country of origin meat labels can attest.

Over the last decades, the Office of the USTR under Democratic and Republican administrations alike has repeatedly elevated narrow corporate interests over public health priorities, notably in the areas of tobacco and medicine prices. These misguided actions have created widespread public hostility to our trade agreements and, more importantly, have caused thousands and thousands of preventable deaths.

We support your initiative to remedy NAFTA's outrageous Investor-State Dispute Settlement provisions, which have also generated broad public opposition to U.S. trade pacts. It would be counter to your efforts to create an improved and more broadly supported NAFTA if you include new constraints on governments' rights to enact and enforce non-discriminatory public health measures.

We would appreciate a response to this letter. If we can provide more information about how the proposal would operate to undermine public health food labeling transparency, we are available to meet with you at your convenience. For follow-up, please contact Robert Weissman, president of Public Citizen, at 202-588-1000 or rweissman@citizen.org.

Sincerely,



Robert Weissman, President
Public Citizen

Dr. Peter Lurie, President
Center for Science in the Public Interest

Josh Golin, Executive Director
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