

# Enacting Menu Labeling Policy The New York City Experience

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# NYC Approaches to Battling Obesity

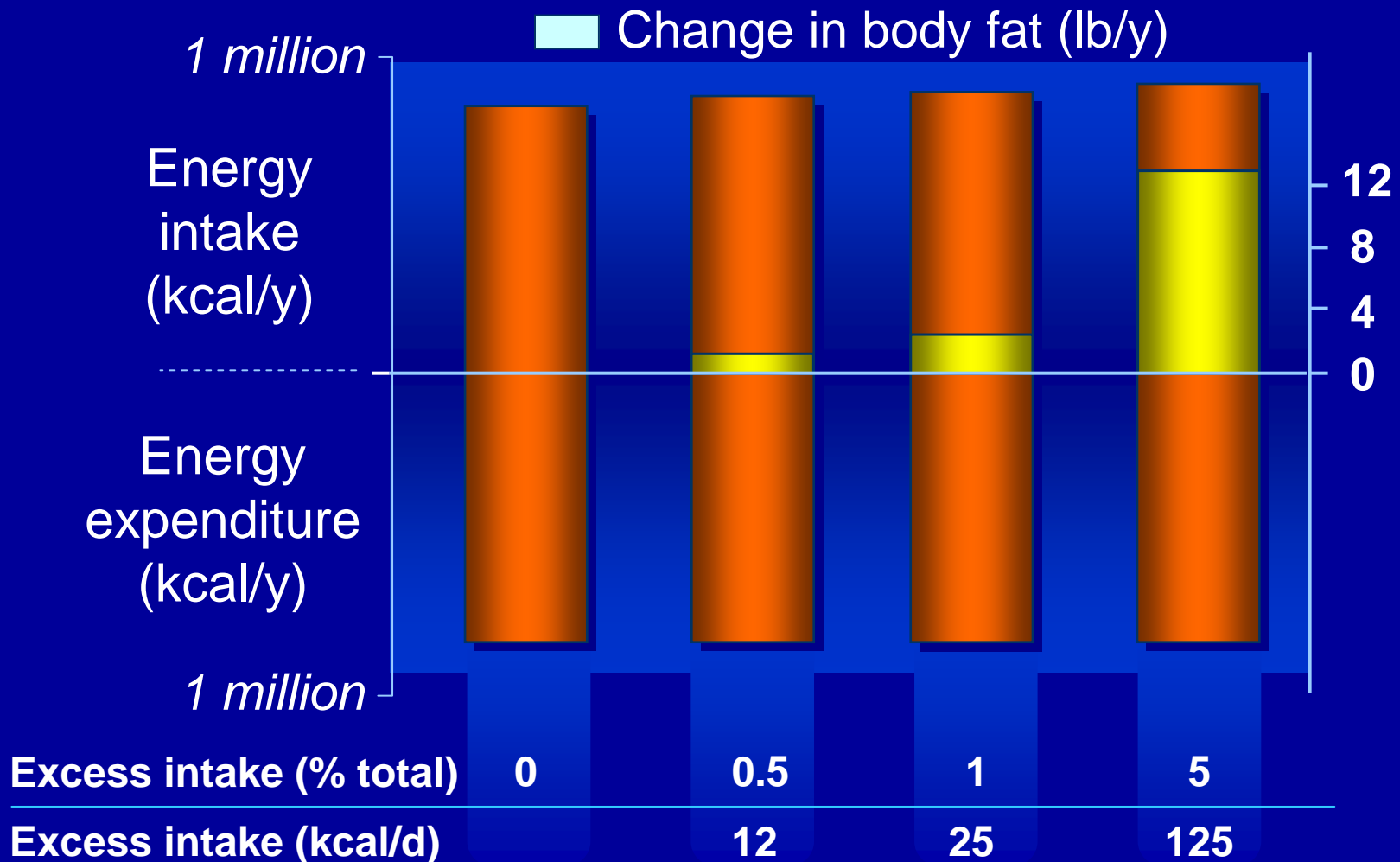
- **Policy**
  - Daycare Regulations
  - Trans Fat Ban
  - Calorie Labeling
  - No junk food in government buildings
  - Public Procurement
- **Environmental**
  - Built Environment  
(Stairwells, Water Access, Construction)
  - Parks
- **Community Programs**
  - SPARK, Shape Up, School PE
  - Healthy Bodegas, Health Bucks
  - Food & Fitness Partnership
  - Fruit & Vegetable Access
  - Shelf Labeling

# Government's Role

- To remove obstacles to taking the healthier route.
- Act with only moderate expectations for self-responsibility. *Today there are two generations who grew up eating fast food in front of television.*

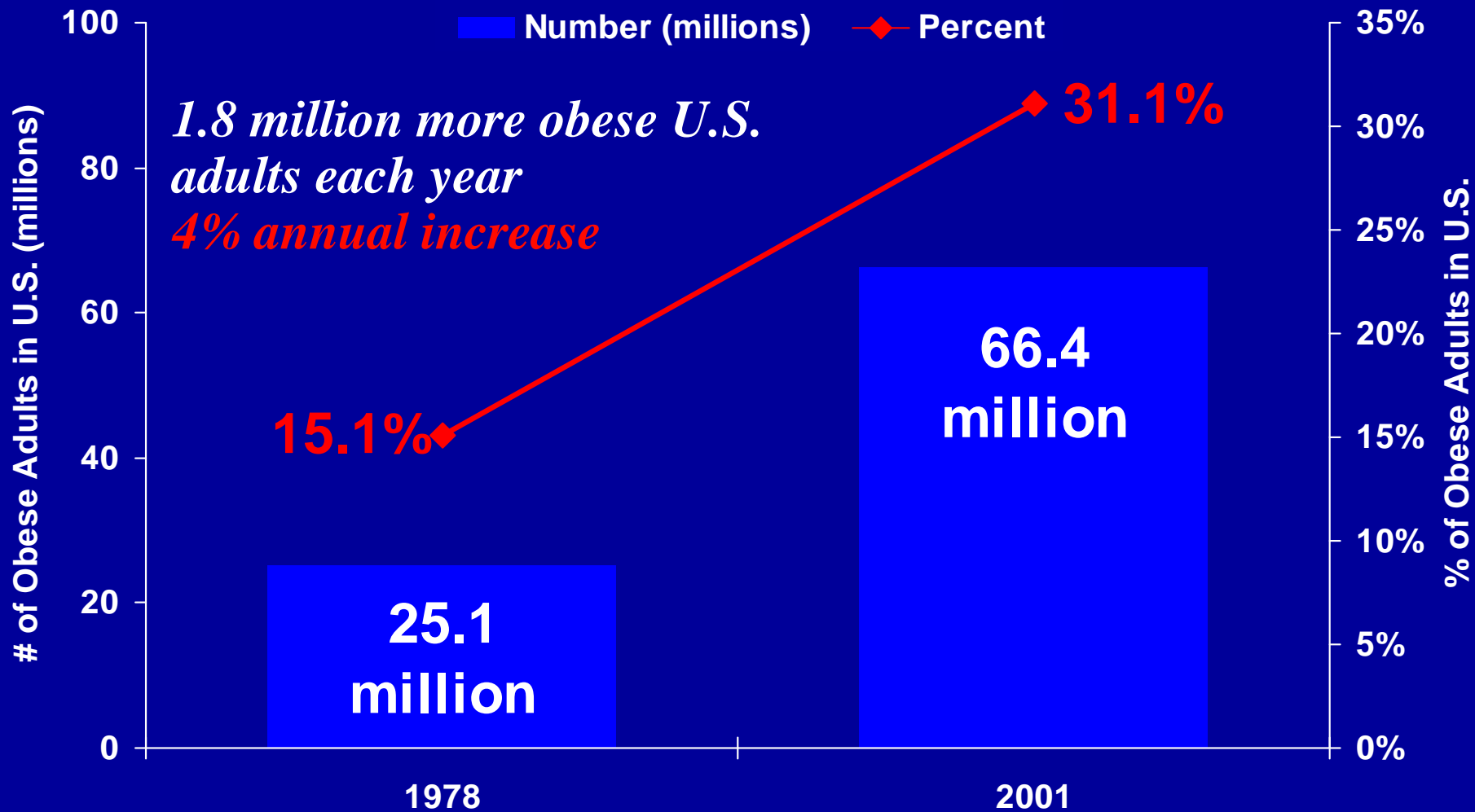


# Cumulative Effect of Small Daily Imbalances in Energy Intake on Body Fat Mass



Rosenbaum M et al. *N Engl J Med.* 1997;337:396-408.

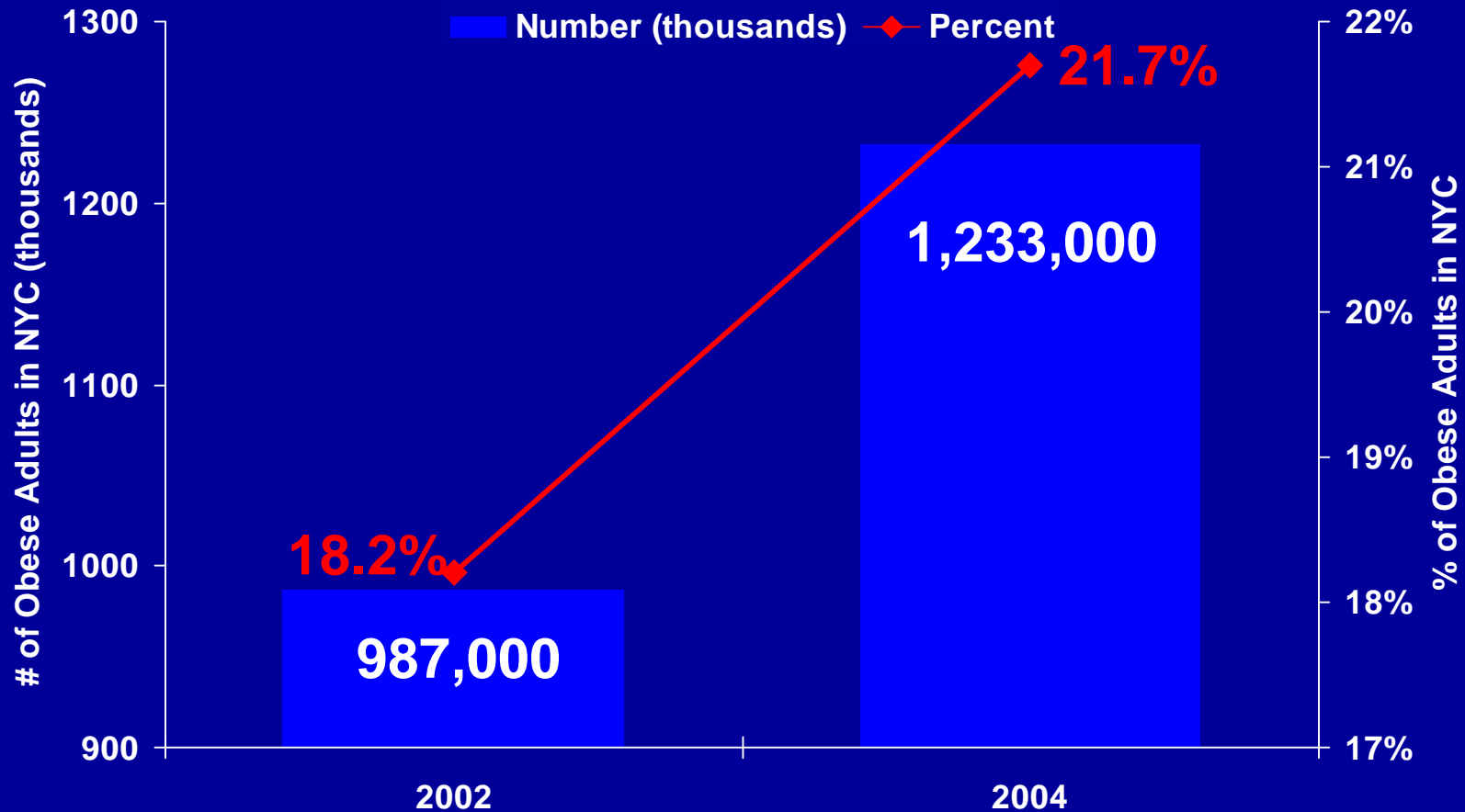
# Obesity is increasing at Epidemic rates



Data from CDC.

# NYC Gains 20 Million Pounds

## 2002-2004!

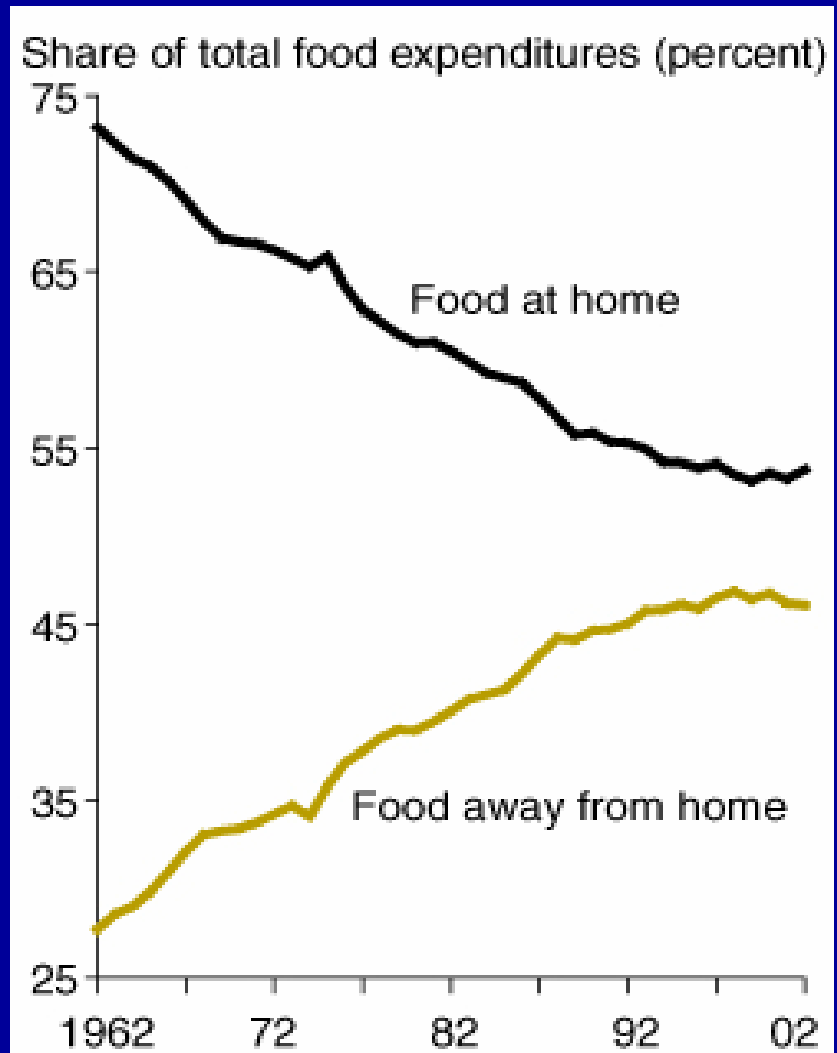


*Data from Community Health Surveys, 2002 & 2004.*



# People Are Eating Out More

Since the 1960s, expenditures for food eaten outside the home have steadily increased.



Source: Food Consumption (Per Capita) Data System, USDA, Economic Research Service.

# “Large size” Meals Lead to “Supersized” Waistlines

*Increasing portion sizes increase caloric intake*

Food item	Calories	Food item	Calories	Calorie difference	Item larger by
Cheeseburger	360 18%	Triple Whopper w/cheese	1,230 61.5%	870	242%
Chocolate shake	440 22%	Chocolate shake	1,160 58%	720	164%
Big Breakfast	720 36%	Deluxe Breakfast	1,400 70%	680	94%

\* Based on recommended 2,000 daily calorie intake



# Chicken Sandwiches – Which has more calories?



Crispy  
Classic



Premium  
Grilled



Southern  
Style Crispy

**You can't tell calories by reading or looking.**

# Local Government Authority

- State or local government traditionally regulates food service
- This authority can be used to address chronic disease risks
- This can be done through either the Health Code or local laws – depending on the jurisdiction

# NYC: Lots of Places to Eat

- New York City has 23,000 licensed food service establishments
- About 6,000 mobile vendors
- These are inspected at least once a year by over a 100 full-time food inspectors
- Plus other bodegas, markets and producers licensed by the state
- In other jurisdictions state/local split may be different

# Effectiveness & justification for only regulating chain restaurants

- 1 in 4 adults report eating fast food on a typical day
- Fast casual restaurants are increasingly popular
- In 2007 major chain restaurants in NYC metro area accounted for more than 1/3 of all restaurant traffic – 34.7%.
- They all have highly standardized food

Bowman S, Vinyard B. J Am Coll Nutr 2004;  
NPD data

# Important Considerations NYC faced when drafting §81.50

1. Which restaurants would be subject to the rule?

- Restaurants that are part of chain with  $\geq 15$  locations nationwide

2. What nutritional information should they be required to post?

- Calories ONLY
- BUT restaurants are free to post any additional information

# Reducing Calories will reduce Sodium and Fat



**Triple Whopper w/ Cheese**

1230 calories

82 grams fat

1590 grams sodium



**Double Cheeseburger**

500 calories

29 grams fat

1030 grams sodium

# Important Considerations NYC faced when drafting §81.50

## 3. Where and in what manner they should be required to post information?

- On menus, menu boards and item tags, wherever there was a food item and a price
- Adjacent or in close proximity to the listing of menu item so as to be clearly associated
- In a font size at least as large as the menu item name OR price



# Evidence of effectiveness of posted information

- “the menu board is the single most valued piece of real estate in a Burger King restaurant. It is the most important way we communicate with our customers in the store about the products we offer and their price. It is what the customers look at, and it is what stimulate their decision to buy.” Hector Munoz of Burger King



# Calorie Labeling to Date

<b>December, 2006</b>	First regulation of calorie posting on menus in US to be approved
<b>June, 2007</b>	Lawsuit Filed by NYSRA
<b>September, 2007</b>	Judicial decision
<b>October, 2007</b>	Existing §81.50 Repealed Modified §81.50 for Public Comment
<b>January 2008</b>	Board of Health Vote on §81.50
<b>February 2008</b>	Lawsuit filed
<b>April 15 2008</b>	Court rules in favor of calorie labeling
<b>April 28, 2008</b>	Lawsuit filed
<b>May, 2008 violations begin. July 18, 2008 fines begin</b>	July 17, large chains begin posting

# FDA's Interpretation

- “State requirements for the nutrition labeling of [restaurant foods] would not be preempted.”

FDA, Guidance for Industry, “A Labeling Guide for Restaurants and Other Retail Establishments Selling Away-From-Home Foods” (4/2008) (available at <http://www.cfsan.fda.gov/dms/labrguid.htmlat>), question 106

# Item Tags

Calories must be posted on individual item tags displayed with food.

\*Notice the calories are posted in the same font and format as the item name and price



# Font/Format



A menu board for 'Premium Salads' with a green background. The board lists five salad options: Southwest, Asian, Bacon Ranch, Caesar, and Fruit & Walnut. Each option has two preparation choices: 'grilled' and 'new crispy'. Calorie counts are provided for each preparation. Prices are listed to the right of each salad name. The 'Fruit & Walnut' salad is marked as a 'Snack Size'.

Premium Salads		
	grilled or	new crispy
Southwest	grilled 320 Cal	crispy 430 Cal
Asian	grilled 300 Cal	crispy 410 Cal
Bacon Ranch	grilled 260 Cal	crispy 370 Cal
Caesar	grilled 220 Cal	crispy 330 Cal
Fruit & Walnut	210 Cal	

Snack Size  
Calorie counts for salads do not include dressing.

Is this calorie information posted properly?

**NO**

Posted calorie information must be printed in a font and format that is at least as prominent as the name or price of the menu item.

Posted calorie information must be clear and conspicuous, in a font and format that is at least as prominent as the name or price of the menu item.





# Font/Format

Is this item labeled correctly?

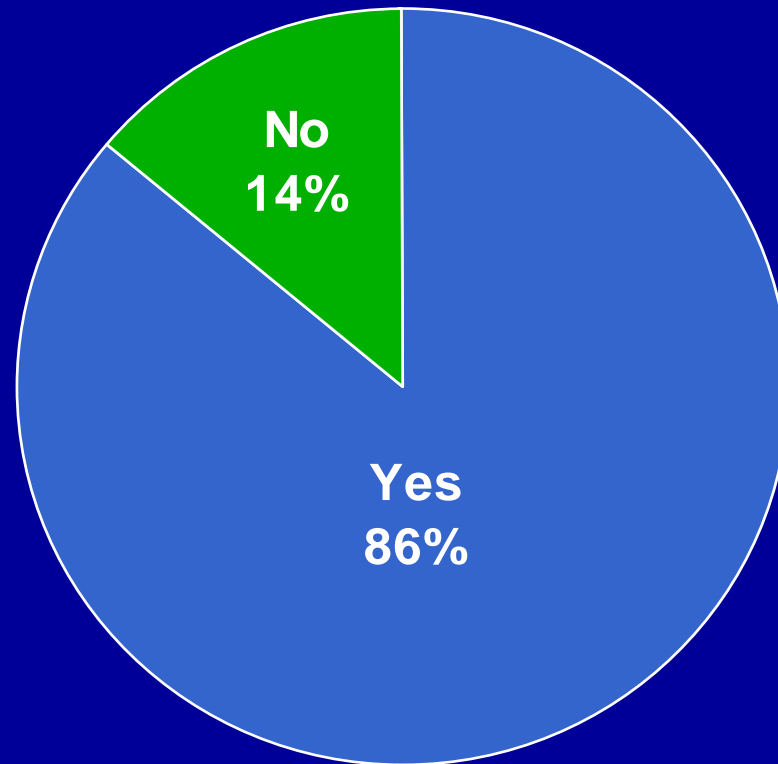
**No.** The calorie label for this combo is posted in a font and format similar the price, but it should be a range of calories since diet soda is 0 calories.



# What's the Difference in the Combo Meal?



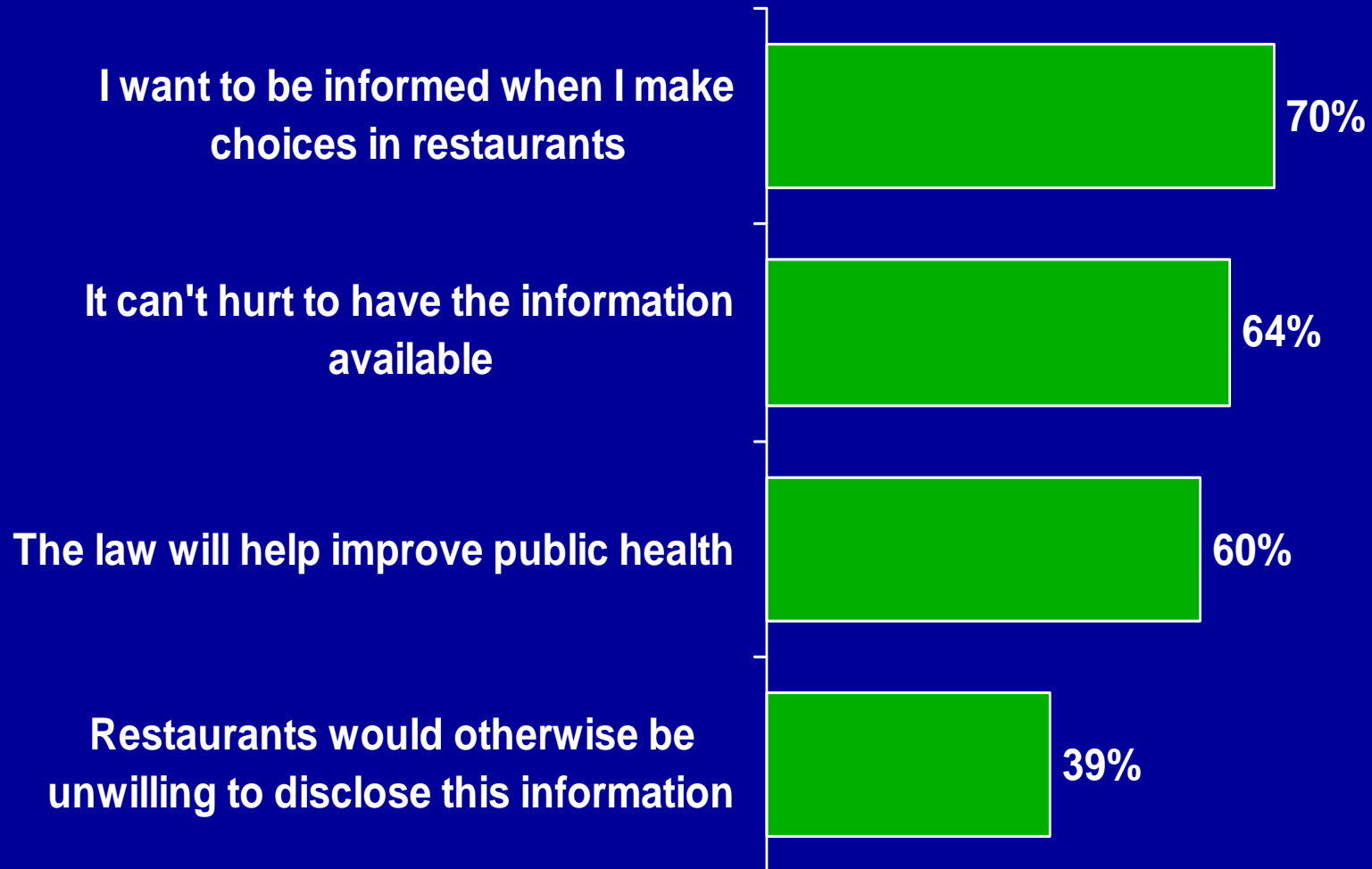
# Do Think the Law is a positive move?



- 299 people were asked.
- Responses were consistent across demographic groups.



# Consumers Who Think it's Positive Want to be Informed (257/299)



# Three Studies

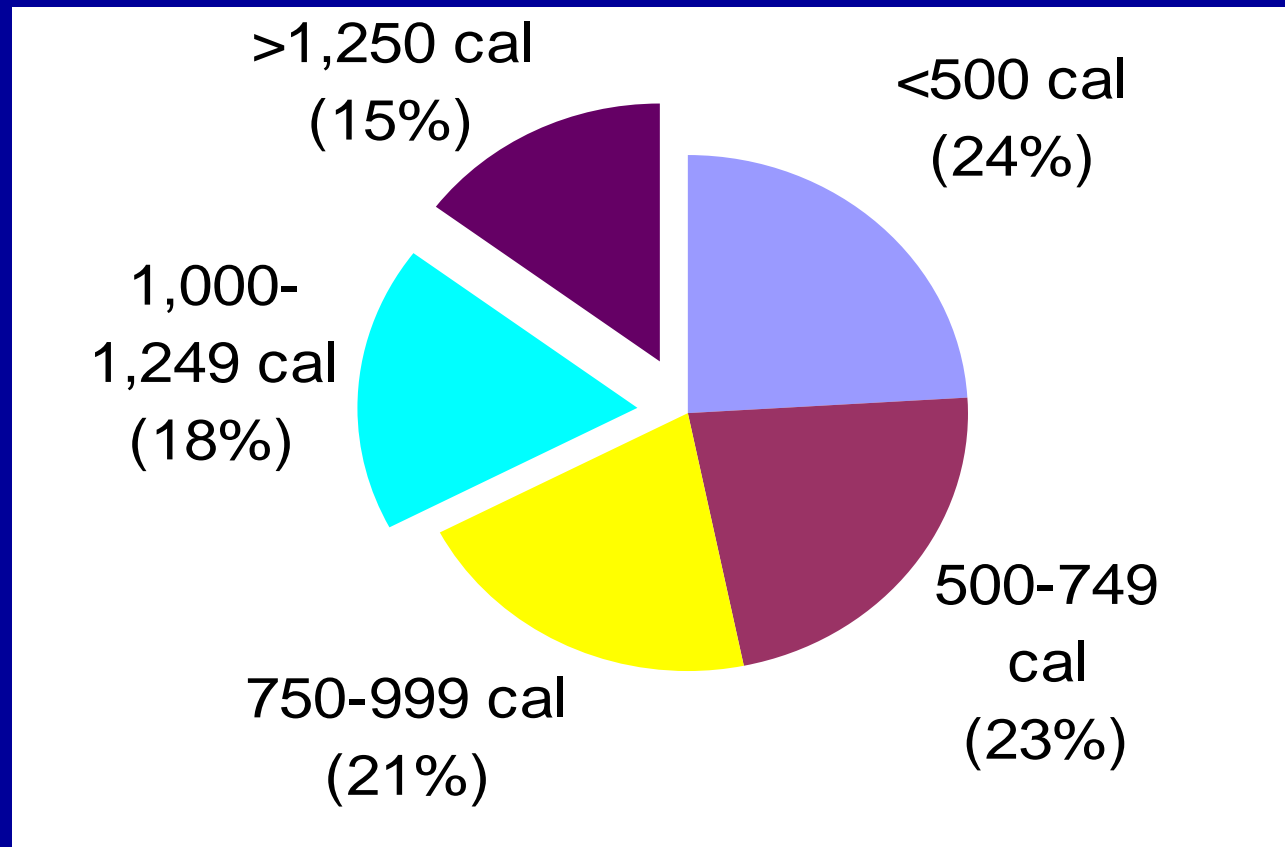
- 1) How many calories are people purchasing
- 2) Will mandating calorie posting cause food reformulations
- 3) If calories are posted, will a) people see them more easily and b) will it affect their purchasing.

# Survey of Fast-food Chains

## March-June 2007

- 11,835 diners at 275 restaurants in all five boroughs representing 13 chains
- Exit interviews with receipts. Adults only
- 11 chains were 'lunch' chains representing 7,308 purchases. Interviews done between noon-2pm
- 2 were coffee places. Interviews done 2-4pm.

# 1 out of 3 Lunch Meals Purchased, contained more Than 1,000 Calories

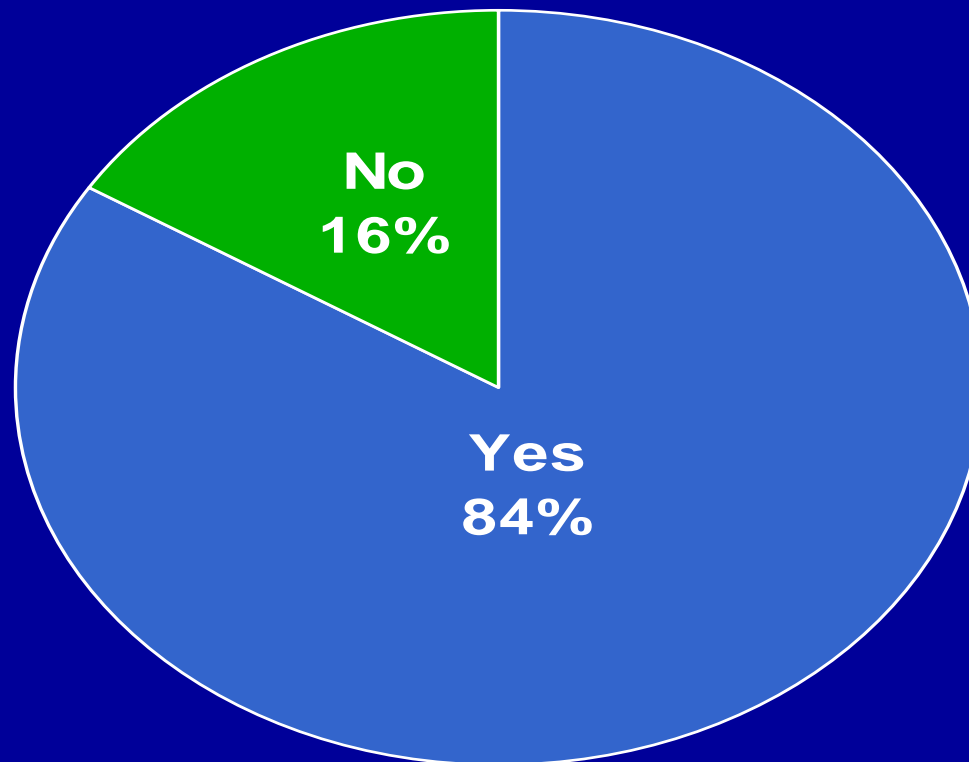


*Preliminary data from 7,308 customers purchasing for themselves only at 11 chains serving lunch*

# Many Have Read the Information When Visiting Restaurants

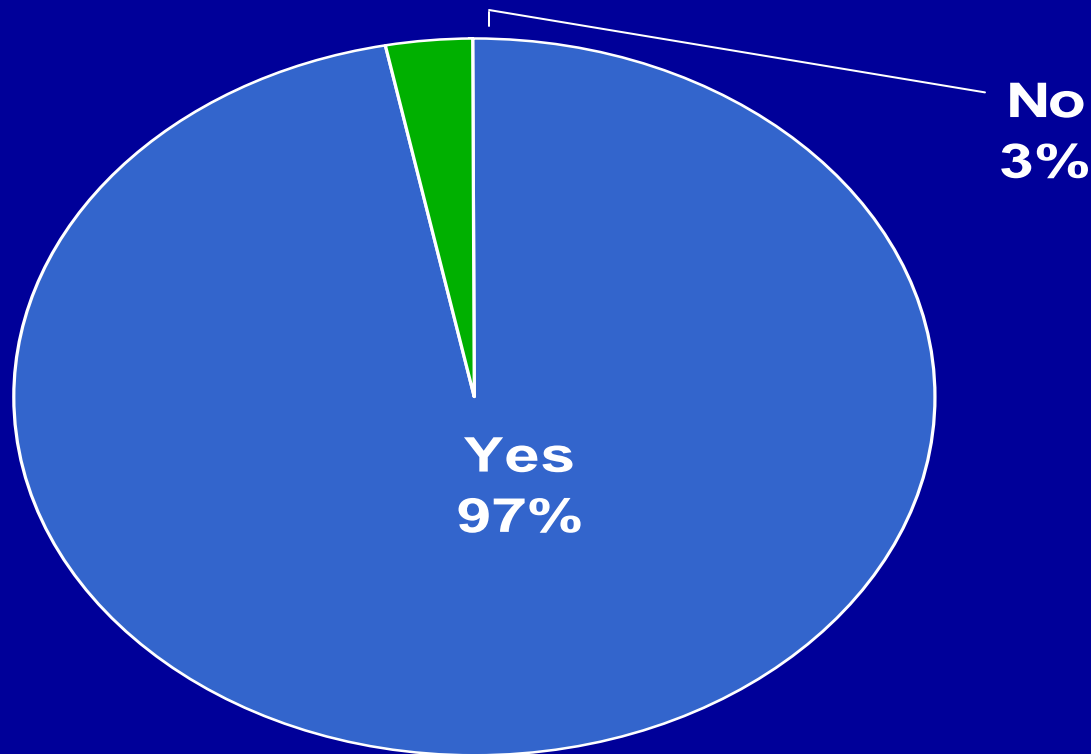
**Do you read the nutrition information now listed on menus?**

*Base: Have visited = 192*



# A Huge Majority are Surprised by the Calorie Counts and Find Them Higher Than Expected

Are they higher than expected?





**How many calories is this Bagel & Cream Cheese?**

# ...Little Information

- Except at Subway, only 4% of patrons reported seeing calorie information as was previously provided



Does nutrition information on a tray liner work?  
According to our study, not as much as fast food chains would like you to believe.



# Can You See It Now?

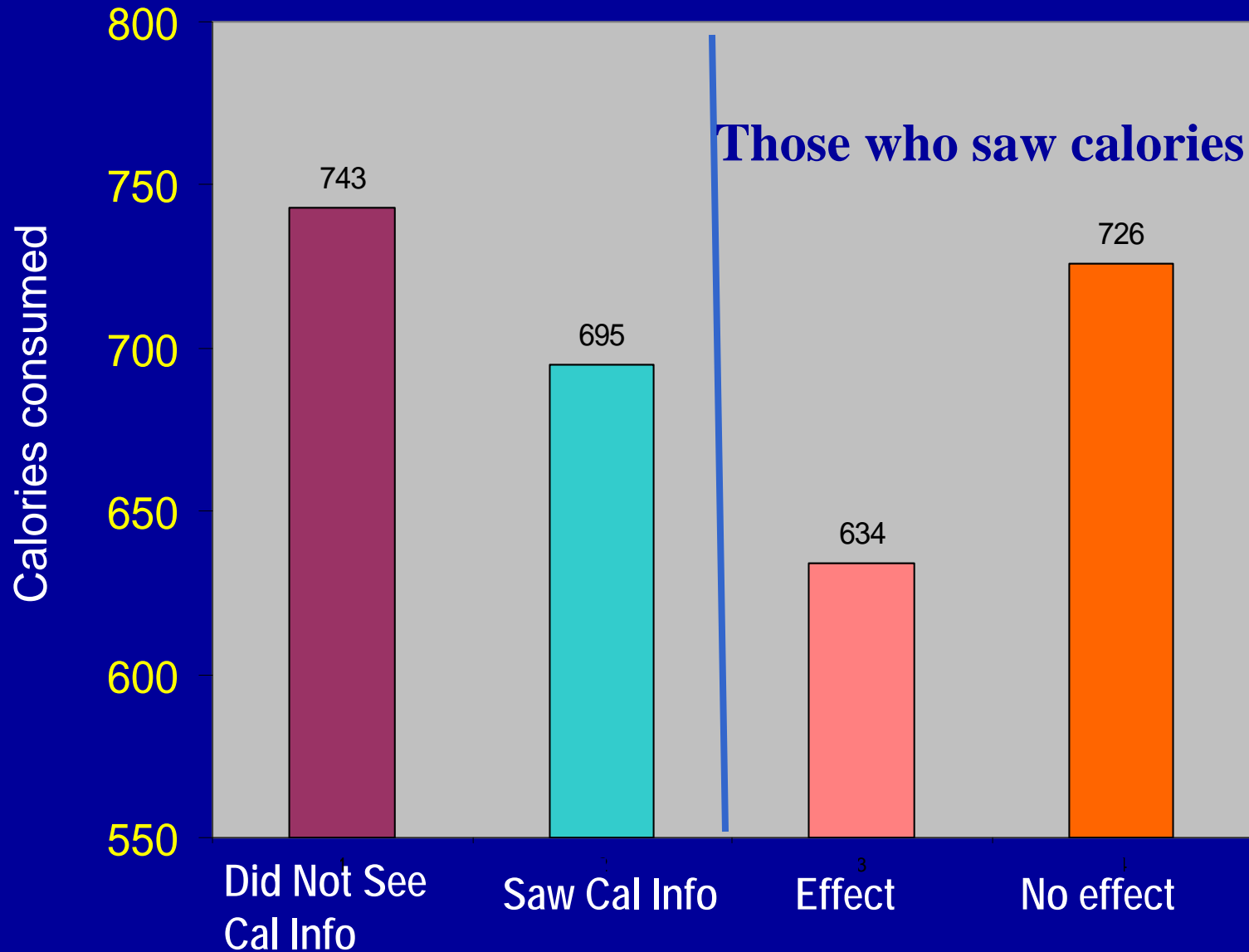


# Existing Information was Invisible

% of consumers who saw calorie information at NYC establishments covered under Health Code Calorie Labeling Regulation, with their existing information practices in May-June 2007

Brand	# of Sites	# of Customers Interviewed	% of Customers who Reported Seeing Calorie Information in the Restaurant
Dominos	10	57	0.0%
Papa Johns	5	222	0.0%
Popeyes	7	512	0.6%
Dunkin Donuts	70	2756	1.3%
Starbucks	37	1285	2.7%
Au Bon Pain	2	166	3.7%
Burger King	20	1033	3.8%
Yum Brand	21	861	4.6%
McDonald's	45	2593	4.7%
Wendy's	11	474	6.9%
Subway	48	1906	31.3%
<b>TOTAL</b>	<b>276</b>	<b>11865</b>	<b>&lt;8%</b>

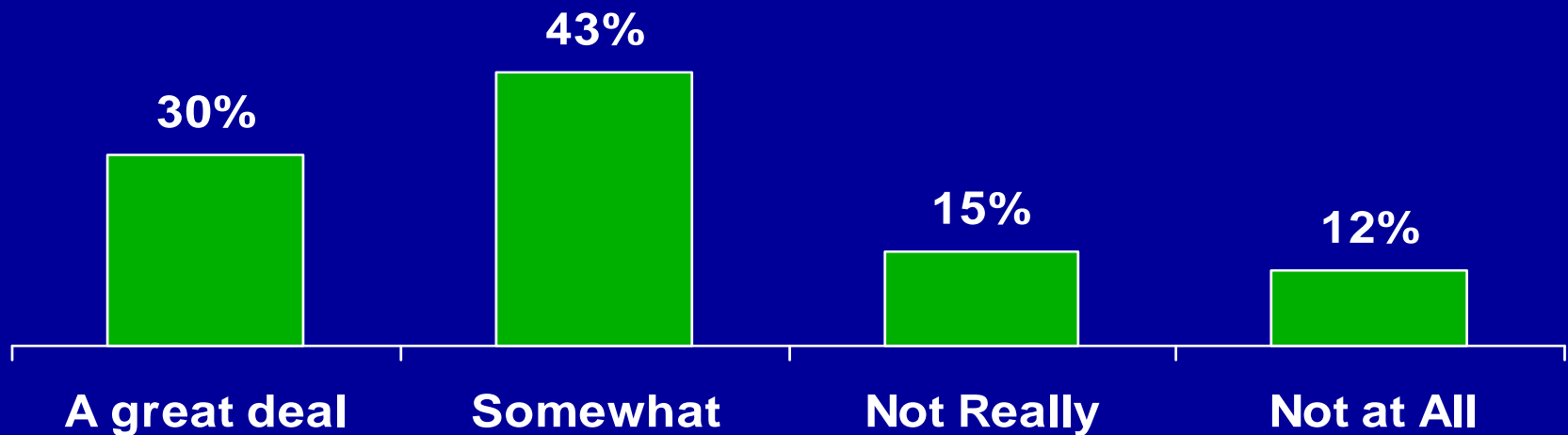
# Seeing Calorie Information makes a Difference



# Close to 75% of Consumers Think the Information Has Made Some Impact on Their Ordering

**How much of an impact has nutrition information on menus impacted your ordering behavior?**

*Base: Have visited restaurants that post calories = 192*



# What do we hope?

- 1) That people will choose smaller portions if they have this information
- 2) That restaurants will change some of their offerings

# Preliminary Signs of Menu Reformulations...

**Table 2: Examples of reformulations of chain restaurant food before (March 2007) and after (June 2008) the calorie posting requirement in New York City\***

Brand and Item Name	Calories			
	March-2007	June-2008	Change	% Change
<b>Au Bon Pain</b>				
Hot chocolate (large)	670	600	-70	-10.4
Hot chocolate (small)	410	350	-60	-14.6
<b>Dunkin' Donuts</b>				
Glazed cake stick	490	360	-130	-26.5
Plain cake stick	420	310	-110	-26.2
Glazed chocolate cake stick	470	370	-100	-21.3
Plain croissant	330	270	-60	-18.2
<b>Kentucky Fried Chicken</b>				
Boneless fiery buffalo wings	530	420	-110	-20.8
Sweet & spicy wings	460	400	-60	-13.0
Tender roast sandwich (w/ sauce)	430	380	-50	-11.6
<b>McDonalds</b>				
French fries (large)	570	500	-70	-12.3
Grilled chicken ranch BLT sandwich	520	470	-50	-9.6
<b>Starbucks</b>				
Blueberry muffin	400	320	-80	-20.0
Crispy square	450	440	-10	-2.2
<b>Taco Bell</b>				
Southwest steak border bowl	690	600	-90	-13.0
<b>Wendy's</b>				
Chicken club	650	540	-110	-16.9
Crispy chicken sandwich	380	330	-50	-13.2
Jr cheeseburger deluxe	360	300	-60	-16.7
Jr hamburger	280	230	-50	-17.9

1. Information from online company nutritional guides accessed March 2007 and June 2008.

2. Some restaurants also launched new higher calorie products such as Wendy's Baconator (840 cals)

*“Some restaurants have had their own sticker shock and started offering lighter options. Cosi had a nutritionist look for ways to save on every item. Switching to low fat mayo brought the Cosi Club from more than 700 calories to 447...”*

*“Having to post this information in New York really focused us on paying attention as well” says Chris Carroll, the chain’s chief marketing officer”*  
- Wall Street Journal July 29, 2008

# COST VS CALORIES

	Combo	Cal	Cost	Smaller Meal	Cal	Cost	Diff Cal	Diff Cost
main	Big Mac	540		Double CB	440	\$1.69	-100	
side	Med FF	380		Small FF	250	\$1.00	-130	
drink	Med Soda	210		Small Soda	150	\$1.00	-60	
<b>Total</b>		1130	\$5.59		840	\$3.69	-290	-\$1.90



# Substitute healthier choices

(we still have a way to go ...)

	Combo	Cal	Cost	Smaller Meal	Cal	Cost	Diff Cal	Diff Cost
main	Big Mac	540		Chicken classic grilled	420	\$3.99	-120	
side	Med FF	380		Side salad	60	\$1.79	-320	
drink	Med Soda	210		Med Diet Soda	0	\$1.45	-210	
<b>Total</b>		1130	\$5.59		840	\$7.23	-650	<b>+\$1.64</b>

# Lessons Learned: Need for Teamwork

- **Press** – education and consumer awareness
- **Involve legal early**
- **If sued** – don't “go it alone”
- **Mobilize stakeholder support**
- **Enforcement** – know how you plan to enforce and keep enforcement feasible and low cost
- **Ongoing communication with companies**
- **Evaluation** – invest in evaluation to see if it works!

# Lessons Learned

- State and local authorities can act effectively to modify the food environment
- Local action can have ***National*** effect

# 2000 CALORIES A DAY IS ALL MOST ADULTS SHOULD EAT



VS.



**Choose less. Weigh less.**



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MARATHON

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**Seeing information is the first part of giving people the power to make informed decisions.**

Thank you.

