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

Obesity is increasing at Epidemic rates

1.8 million more obese U.S. adults each year
4% annual increase

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.

“Large size” Meals Lead to “Supersized” Waistlines

*Increasing portion sizes increase caloric intake*

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

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Existing §81.50 Repealed Modified §81.50 for Public Comment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

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

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

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.

Technomic, Inc
Consumers Who Think it’s Positive Want to be Informed (257/299)

I want to be informed when I make choices in restaurants 70%

It can’t hurt to have the information available 64%

The law will help improve public health 60%

Restaurants would otherwise be unwilling to disclose this information 39%
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

Yes 84%
No 16%
A Huge Majority are Surprised by the Calorie Counts and Find Them Higher Than Expected

Are they higher than expected?

No 3%

Yes 97%

Technomic, Inc
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

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

**TOTAL** 276 11865 <8%

Bassett MT, Dumanovsky T, et al.. AJPH, 2008
Seeing Calorie Information makes a Difference

Those who saw calories

Calories consumed

<table>
<thead>
<tr>
<th>Did Not See Cal Info</th>
<th>Saw Cal Info</th>
<th>Effect</th>
<th>No effect</th>
</tr>
</thead>
<tbody>
<tr>
<td>743</td>
<td>695</td>
<td>634</td>
<td>726</td>
</tr>
</tbody>
</table>

Bassett MT, Dumanovsky T, et al.. AJPH, 2008
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*  

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

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”
## COST VS CALORIES

<table>
<thead>
<tr>
<th></th>
<th>Combo</th>
<th>Cal</th>
<th>Cost</th>
<th>Smaller Meal</th>
<th>Cal</th>
<th>Cost</th>
<th>Diff Cal</th>
<th>Diff Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>main</td>
<td>Big Mac</td>
<td>540</td>
<td></td>
<td>Double CB</td>
<td>440</td>
<td>$1.69</td>
<td>-100</td>
<td>-$1.90</td>
</tr>
<tr>
<td>side</td>
<td>Med FF</td>
<td>380</td>
<td></td>
<td>Small FF</td>
<td>250</td>
<td>$1.00</td>
<td>-130</td>
<td></td>
</tr>
<tr>
<td>drink</td>
<td>Med Soda</td>
<td>210</td>
<td></td>
<td>Small Soda</td>
<td>150</td>
<td>$1.00</td>
<td>-60</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>1130</td>
<td>$5.59</td>
<td>840</td>
<td>$3.69</td>
<td>-290</td>
<td>-$1.90</td>
<td></td>
</tr>
</tbody>
</table>
Substitute healthier choices (we still have a way to go …)

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

530 CALORIES VS. 290 CALORIES

Michael Sandwich

Roast beef sandwich

Choose less. Weigh less.

READ 'EM AND EAT 'EM: 1300 CALORIE POSTER

NYC DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Seeing information is the first part of giving people the power to make informed decisions.

Thank you.