Menu Labeling

Late in 2006, aiming to reduce the prevalence of obesity and its consequences—notably heart disease and type 2 diabetes—New York City Mayor Michael Bloomberg's Department of Health and Mental Hygiene proposed something new: to require fast-food chain restaurants—those with more than ten outlets nationally and that already provided nutrition information to customers—to display the calorie content of their food items on menu boards. City health officials knew that most people do not understand calories well, do not know how many calories they are eating, and typically underestimate them, especially from large portions. Calorie labeling, they predicted, would encourage choices of lower-calorie options, especially if accompanied by explanations that most people require about two thousand calories a day to maintain current body weight. The city also predicted that menu postings would encourage fast-food companies to reduce the number of calories in the items they serve. It estimated that calorie labeling could lower the number of obese New Yorkers by 150,000 over the next five years and prevent more than thirty thousand cases of diabetes.

The proposal gained nearly universal support from a wide range of health and nutrition advocacy groups and health associations. Indeed, the only obesity expert who publicly opposed the measure was later found to have been paid by the New York State Restaurant Association (NYSRA) to do so.

The NYSRA filed Freedom of Information Law requests and lawsuits to delay or block implementation. It complained that the proposal was impractical, expensive, punitive, and unconstitutional on the grounds that it was preempted by the Nutrition Labeling and Education Act of 1990 and First Amendment rights. It sued the city. In September 2007 a federal judge ruled in favor of the NYSRA, but his ruling gave the city an opening to try again. He suggested that calorie labeling would be possible if the rules applied to all chain restaurants, regardless of whether they voluntarily provided nutrition information.

The city went back to the drawing boards and in January 2008 rewrote the proposal to comply with this decision. This time it required calorie labeling of all chain restaurants with fifteen or more outlets nationwide, a stipulation that encompassed about 10 percent of the city's twenty-three thousand restaurants. The NYSRA again took the city to court. The National Restaurant Association issued a statement of nonsupport. Restaurants, it said, should be free to decide how to provide nutrition data to their customers.

But in April 2008 the judge ruled that calorie labeling is in the public interest and does not violate the First Amendment. He said it seemed reasonable to expect some consumers to use the information to select lower-calorie meals and that such choices would help reduce obesity. The New York State Restaurant Association again appealed, but the judge allowed the law to go into effect while this appeal was in progress.

In June 2008 the appeal was denied, and the regulation went into effect. The Health Department kicked it off with a campaign: "Read 'em before you eat 'em" and "2,000 calories a day is all most adults should eat."

While the city measure was under litigation, leaders in other places were developing their own initiatives. Although some states passed laws forbidding calorie postings, many cities in other states passed or were considering local ordinances. Some fast-food chains had voluntarily started their own labeling programs. These postings differed in so many particulars that the National Restaurant Association appealed to Congress to pass preemptive national legislation.

Thus, buried in the 2010 Affordable Care Act is a provision mandating national calorie labeling in chain restaurants with twenty outlets nationwide. When the Supreme Court affirmed the act as constitutional two years later, it also made menu labeling constitutional. The U.S. Food and Drug Administration issued the final regulations in November 2014.

Is calorie labeling effective? The city's preregulation baseline data indicated that only 4 percent of customers looked at calorie labeling when it was hidden in brochures, posters, and tray liners. Although the percentage at Subway restaurants was higher, only one-third of the customers who reported looking at the information chose lower-calorie options. Later studies showed little effect of calorie labeling on overall choices, although the subsets of individuals who actually pay attention to the labels do report that calorie postings influence their purchases. An additional benefit is that the regulation induces the chains to reduce the calories in some of their items.

New York City led the way in getting calories posted on menu boards. In this and other public health initiatives aimed at reducing obesity-related chronic disease, this experience demonstrates the value of initiating innovative food regulations at the local level and inspires other communities to

develop their own regulations. See RESTAURANT LETTER GRADING and SODA "BAN."

See also BLOOMBERG, MICHAEL.

Farley, Thomas A., Anna Caffarelli, Mary T. Bassett, et al. "New York City's Fight over Calorie Labeling." *Health Affairs* 28, no. 6 (2009): w1098–w1109.

Kiszko, Kamila M., Olivia D. Martinez, Courtney Abrams, et al. "The Influence of Calorie Labeling on Food Orders and Consumption: A Review of the Literature." *Journal of Community Health* 39, no. 6 (2014): 1248–1269.

Ludwig, David S., and Kelly D. Brownell. "Public Health Action Amid Scientific Uncertainty: The Case of Restaurant Calorie Labeling Regulations." *Journal of the American Medical Association* 302, no. 4 (July 22, 2009): 434–435.

Marion Nestle

Menus

A restaurant menu describes the dishes available for order at a restaurant. The menu usually suggests a sequence of courses (appetizers, entrées, desserts) and may recommend or promote specialties or suggestions, but the patron has a considerable amount of choice. The menu as a type of document emerged in the late eighteenth century at the same time that the restaurant first supplemented other, long-standing ways of dining away from home. The key element of novelty in both restaurants and their menus was choice. Food offerings at inns and taverns were restricted, and meals were usually served at set times. Food shops offered a range of selections but only to take home. The restaurant patron can decide to dine at a time of choice, pick his or her table companions, and make a selection from a menu, what was usually referred to in nineteenth-century restaurants as a "bill of fare."

Paris was the innovator in dining styles, and it took about seventy years in the case of the United States and even longer for Britain for the restaurant model to be adopted. The first real restaurant in New York (and in the United States) is usually thought to be Delmonico's in Lower Manhattan, which was established first as a pastry shop by two brothers from Ticino (Italian Switzerland) and then expended during the 1830s into a French restaurant. The oldest surviving New York menu (in the Museum of the City of New York) is from 1838, an eleven-page list of dishes offered by Delmonico's including many kinds of meat and fowl with truffles and an impressive wine list.

Before the Civil War, most of the fancy restaurants in New York and elsewhere were in hotels. Grand hotels such as the Astor House and Metropolitan in New York opened at the end of the 1830s and in the 1840s. They often provided a separate restaurant for women (a "Ladies' Ordinary," as it was called) where women could dine alone or in all-female groups. The oldest menu in the extensive collection in the New York Public Library (from 1843) is from the ladies' restaurant at the elegant Astor House Hotel on Lower Broadway. Comparison with an even older menu (1841) from the main restaurant at the same hotel, in the collection of Henry Voigt, shows that as yet no distinction was made between male and female tastes. The gentlemen were offered seventeen entrées, all rendered in French, including mutton cutlets, duck with olives, macaroni "à l'Italienne," and fried marinated calf's head. The women were presented with twelve "side dishes" (the same thing as entrées) listed in English, among them mutton cutlets, duck with olives, macaroni, and calf's head (here served with brain sauce). The rest of the ladies' menu is similarly hearty: sautéed kidneys with *fines herbes*, stewed mutton with turnips, breaded veal cutlets with tomato sauce. Even before the Civil War, however, restaurants catering to women shopping or later working at clerical or retail jobs offered ice cream and other desserts and later light fare such as salads and sandwiches. In the 1850s Taylor's, a so-called ice cream saloon, attracted ladies shopping at the great Stewart's Dry Goods store nearby on lower Broadway.

Restaurant menus, especially at hotels, were not organized according to individual à la carte offerings. Hotel guests could adopt what was known as the American plan, by which the meals were included in an overall lodging price and outside guests simply paid a sum (ranging from one to three dollars before the Civil War) that entitled them to whatever they wished, much as might be the case today on a cruise ship or at a grand brunch, except not self-service. The diner informed the waiter which of the dishes on offer he or she desired, but as there were routinely as many as eight courses, the meals consumed by even the most abstemious diners seem large to us. By the 1870s, menus more frequently listed prices for items separately. The Grand Hotel at Broadway and Thirty-First Street in 1879 had an extravagant menu of over ten courses, each item having its own price: oysters and clams, soup (five offered), fish (four), entrées that were roasted (four) or boiled (mutton in caper sauce), game