

September 30, 2009

Mrs. Michelle Obama First Lady The White House 1600 Pennsylvania Avenue, NW Washington, D.C. 20500

Dear Mrs. Obama:

We were delighted to read that you are teaching your daughters how to read the Nutrition Facts Panel required on food labels. The Nutrition Facts Panel provides both children and adults with important information on calories and key nutrients, such as saturated fat, sodium, and sugars that they can use to choose healthier foods and reduce their risk of obesity and diet-related disease. The provision of such information is a key element of a health promotion program and should help reduce health-care costs. Your interest in teaching your children how to read and use such information sets an example for all American families.

But we suspect that teaching the First Family and other Americans how to use food labels is going to be a tougher task than you may have imagined. The Food and Drug Administration's (FDA) Nutrition Facts Panel, first required in 1993, is woefully out-of-date, and the front labels of many food products are loaded with misleading claims that distract from the factual information provided on the back or side of the package.

### 1) Improving Nutrition Labeling

The Nutrition Facts Panel required by the FDA and the U.S. Department of Agriculture (USDA) needs to be reformed. As FDA Commissioner Dr. Margaret Hamburg recently stated, food labeling is:

... an essential means for informing consumer about proper nutrition. It is an issue that's critical for the health and vitality of our nation, and yet it is a concern that has not been substantially addressed since the FDA implemented the Nutrition Labeling and Education Act, more than 16 years ago. iii

One of the biggest problems is that the amounts of key nutrients that a portion of a food contributes to a daily diet are expressed as percentages of "Daily Values" (DV). This format fails to effectively convey whether a portion of a food is high or low in calories, fats, sodium, and other nutrients (the FDA should have, but never developed a DV for refined sugars). Studies have shown that the use of this format is not understood by most Americans. According to an FDA focus group study discussed in *Calories Count: Report of the Working Group on Obesity*, iv this shortcoming results in too few consumers choosing a healthy diet. According to one leading

study cited in the FDA report, v just 20 percent of Americans accurately calculated the contribution of a food to a daily diet. Other studies have shown similar problems. vi

### 2) Halting misleading health-related claims on food packaging

Further, even if parents and their children can decipher the Nutrition Facts Panel, they may be deceived by misleading claims on the fronts of food packages. As FDA Commissioner Dr. Hamburg recognized:

Recently... we've seen the emergence of claims that may not provide the full picture of their products' true nutritional value. It will be important to re-establish a science-based approach to protect the public. vii

Indeed, the supermarket aisle is filled with products with misleading claims:

- Nestle's Juicy Juice beverage claims to contain "DHA- a Building Block for Brain Development in children." An asterisk on the label indicates that the beverage is intended for use "in children under two years old." In fact, the American Academy of Pediatrics recommends that children under six months old not be fed juice at all and that children aged 1 to 6 consume no more than 4 to 6 oz. of juice in a day, in part to reduce the risk of obesity. Furthermore, a serving of Juicy Juice contains only 16 mg of DHA, (as much as only ¼ teaspoon of salmon). There is little credible evidence that even higher levels of DHA improve any measure of brain function in children.
- Kellogg's Cocoa Krispies claims that it "now helps support your child's immunity" (a concern of many parents during flu season), because it is fortified with vitamins A, B, C, and E. While a deficiency in those vitamins could interfere with the proper functioning of the body's immune system, there is no evidence that Cocoa Krispies can help children ward off disease. Moreover, the cereal is almost 40% sugar, containing 12 grams per ¾ cup (31 grams) serving.
- Nestlé's classic "Drumstick" vanilla fudge ice cream cone proclaims "0g Trans Fat" in a banner on the front label, but contains 50% of the Daily Value of saturated fat, a fact disclosed only on the back of the package (both trans fat and saturated fat raise serum cholesterol levels, which increase the risk of heart disease).
- Gerber "Graduates juice treats for preschoolers" is described on the front label as a "Fruit Medley" containing "natural cherry, grape, orange, pineapple, peach and raspberry flavors with other natural flavors." The product, however, contains no cherry, orange or pineapple juice, and less than 2% raspberry and apple juice concentrates and peach juice. The primary ingredients, listed in small print in the ingredient list, are corn syrup and sugar. The U.S. Dietary Guidelines for Americans considers the juice concentrates to be a form of added sugar.

Thus, parents trying to teach their children how to read food labels have quite a challenge. Families have to become food label detectives to sort the wheat from the chaff and determine if a food can be part of a healthy daily diet.

The Center for Science in the Public Interest (CSPI), which played a key role in the passage of the legislation requiring nutrition labeling, has been seeking to modernize the law's requirements so that the Nutrition Facts Panel is more useful to consumers. Also, for many years, CSPI has been encouraging FDA and USDA to establish new rules and enforcement policies to halt misleading claims. Leading health organizations, including the American Heart Association, the American Cancer Society, and the American Diabetes Association, are joining with us and calling for reform. Other countries, such as the United Kingdom, have already developed sets of universal symbols (such as red, yellow, and green "traffic lights") to indicate a food's nutritional value, if and the European Union has instituted strict new controls on health-related claims for foods. Such steps should be aggressively pursued in the U.S. in the controls of the countries of the count

We are delighted that you are helping to inform American families about the importance of reading food labels. We would like to work with your office to continue that process and to help call attention to the full preventive health potential that food labeling reform efforts can produce.

Sincerely,

Michael Jacobson, Ph.D.

**Executive Director** 

Bruce Silverglade

Director of Legal Affairs

Ilene Ringel Heller Senior Attorney

### Attachments:

- 1) Food labels illustrating misleading claims
- 2) Letter from health, medical, and consumer organizations to Congressman Henry Waxman, Chairman, House Energy and Commerce Committee (and original sponsor of the Nutrition Labeling and Education Act), March 16, 2009.

cc:

Susan Sher Chief of Staff Office of the First Lady

Jocelyn Frye Deputy Assistant to the President For Domestic Policy Director of Policy and Projects for the First Lady

Trooper Sanders
Deputy Director of Policy and Projects
Office of the First Lady

Melody Barnes Director White House Domestic Policy Council

Dr. Howard Koh Assistant Secretary for Health U.S. Department of Heath and Human Services

Michael Taylor Senior Advisor to the Commissioner Food and Drug Administration

Jerold Mande, M.P.H.
Deputy Under Secretary for Food Safety
U.S. Department of Agriculture

### **Endnotes**

<sup>&</sup>lt;sup>i</sup> Darlene Superville, Trainer Spills Secrets of Michelle Obama's Arms, Associated Press, September 7, 2009.

ii While cause and effect relationships are difficult to establish, consumer research has shown that many consumers use the Nutrition Facts Panel (NFP) and that the use of nutrition labelling is associated with healthier diets. See Nayga RM, Do Nutrition Labels Affect Calorie Intakes and Diet Quality? Prepared for the FDA Workshop: Exploring the Link Between Food Labeling and Weight Management, 2003 (finding that nutrition label users consume fewer calories from fat, less cholesterol and sodium, and more fiber, than non-label users); Kristal AR, Henderson MM, Patterson RE, Neuhauser ML. Predictors of Self-Initiated, Healthful Dietary Change. J Am Diet Assoc. 2001:762-765 (finding that the use of food labels is strongly associated with fat reduction); Mathios, Alan D. The Impact of Mandatory Disclosure Laws of Product Choices: An Analysis of the Salad Dressing Market. J Law Econ. 2000:651-677 (finding that the addition of the Nutrition Facts Panel to food packages reduced the sale of high fat foods); The American Dietetic Association. Nutrition Trends Survey 1997. September 1997 (finding that approximately two-thirds of those reading the Nutrition Facts Panel reported that they stopped or started buying a food product because of something they read on the label, and 56 percent of consumers said the information on the nutrition label had caused them to switch brands).

<sup>&</sup>lt;sup>iii</sup> Dr. Margaret Hamburg, M.D., Keynote Address, National Food Policy Conference, Washington, D.C. September 8, 2009.

iv Calories Count: Report of the Working Group on Obesity, Food and Drug Administration 18, 41, note 3 (2004).

<sup>&</sup>lt;sup>v</sup> Levy, Patterson, and Kristal. (2000). How Well do Consumers Understand Percentage Daily Values on Food Labels? American Journal of Health Promotion 14:157-60.

vi In the 1996 Food Marketing Institute/Prevention Magazine Survey, 82% of 1000 shoppers claimed to have seen the % DV information on nutrition information panels (FMI/Prevention, 1996). However, only 43% understood the meaning of a DV for fat of 5%. Even among the "healthy" eaters, only 50% could accurately interpret % DV for fat. The use and understanding of food label information among 27 women with non-insulin dependent diabetes mellitus was investigated (Miller et al., 1997). Focus groups and face-to-face interviews were carried out. Participants did not consider % DV to be useful because of the belief the figures did not apply to them and that percentages were confusing.

vii Supra, note iii.

The American Academy of Pediatrics, Committee on Nutrition, *The Use and Misuse of Fruit Juice in Pediatrics*, 107 Pediatrics 1210-1213 (May 2001). *Reaffirmed* 119 *Pediatrics* 405 (Feb. 2007). "Juice should not be introduced into the diet of infants before 6 months of age. . . . Intake of fruit juice should be limited to 4 to 6 oz/d for children 1 to 6 years old. For children 7 to 18 years old, juice intake should be limited to 8 to 12 oz or 2 servings per day." *Id.* "Excessive juice consumption and the resultant increase in energy intake may contribute to the development of obesity." *Id.* 

ix See e.g., N. Auestad, DT Scott, et. al., Visual, cognitive and language assessments at 39 months: a follow-up study of children fed formulas containing long-chain polyunsaturated fatty acids to 1 year of age, Pediatrics 2003 Sept; 112 (3 Pt. 1):e 177-83. "...[N]o differences among the formula groups or between the formula and breastfed group were found." Id.

<sup>&</sup>lt;sup>x</sup> Department of Health and Human Services, U.S. Department of Agriculture, *Dietary Guidelines for Americans* 2005, at 38 Table 14.

xi See attached letter to Congressman Henry Waxman, the original sponsor of the 1990 law that led to the Nutrition Facts label.

xii http://www.food.gov.uk/foodlabelling.

xiii The National Academy of Sciences Institute of Medicine has recently announced that it is forming a study committee for the Examination of Front of Package Nutrition Rating Systems and Symbols (Phase I). The FDA also held a public roundtable on the issue in December 2008.



16mg Per Serving

BRAIN DEVELOPMENT

NO SUGAR ADDED

apple

JUICE BEVERAGE FROM CONCENTRATE WITH ADDED INGREDIENTS / BEBIDA CON JUGO DE CONCENTRADO CON INGREDIENTES AGREGADOS

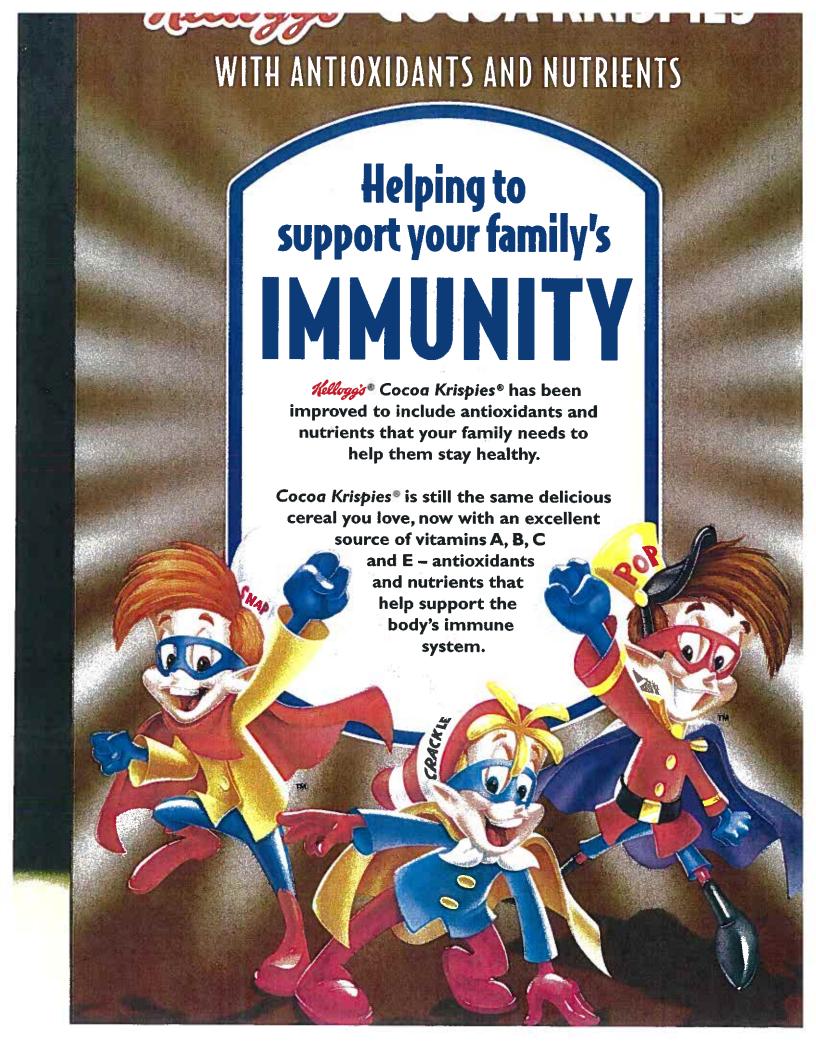
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### **Nutrition Facts**

Serving Size 3/4 Cup (31g/1.1 oz.) Servings Per Container About 15

		Cereal with 1/z Cup Vitamins A&C
Amount Per Serving	Cereal	Fat Free Mill
Calories	120	160
Calories from Fat	10	10
	% Da	ily Value**
Total Fat 1g*	2%	2%
Saturated Fat 0.5g	3%	3%
Trans Fat 0g		
Cholesterol 0mg	0%	0%
Sodium 150mg	6%	8%
Potassium 60mg	2%	8%
<b>Total Carbohydrate</b>	27g <b>9</b> %	11%
Dietary Fiber less than	1g 1%	1%
Sugars 12g		
Other Carbohydra	le 15g	

Vitamin A	25%	30%
Vitamin C	25%	25%
Calcium	4%	15%
Iron	25%	25%
Vitamin D	10%	25%
Vitamin E	25%	25%
Thiamin	25%	30%
Riboflavin	25%	35%
Niacin	25%	25%
Vitamin B <sub>6</sub>	25%	25%
Folic Acid	25%	25%
Vitamin B <sub>12</sub>	25%	35%
Phosphorus	2%	15%

Zinc 10% 15%

\* Amount in cereal. One half cup of fat free milk contributes an additional 40 calories, 65mg sodium, 69 total carbohydrates (6g sugars), and 4g protein.

\*\* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories	2,000	2,500
Total Fat	Less than	65g	80a
Saturated Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sadium	Less than	2,400mg	2,400mg
Potassium		3,500mg	3,500mg
Total Carbonydra	de	300g	3750
Dietary Fiber		25g	30g
0-1-2	- C-LA A		

Calories per gram: Fat 9 . Carbohydrate 4 . Protein 4

IMBREDIENTS: RICE, SUGAR, COCOA PROCESSED WITH ALKALI, SEMISWEET CHOCOLATE (SUGAR, CHOCOLATE, ANHYDROUS DEXTROSE), PARTIALLY HYDROGENATED VEGETABLE OIL (ONE OR MORE OF: COCONUT, SOYBEAN AND/OR COTTONSEED)T, SALT, MALT FLAVORING, CALCIUM CARBONATE, RIGH EPRICTOSE CORD. SYRIP ACTICIONE HIGH FRUCTOSE CORN SYRUP, ARTIFICIAL FLA-VOR, ASCORBIC ACID AND SODIUM ASCORBATE (VITAMIN C), IRON, ALPHA TOCOPHEROL ACETATE (VITAMIN E), NIACINAMIDE, ZINC OXIDE, VITAMIN A PALMITATE, PYRIDOXINE HYDROCHLORIDE (VITAMIN 86), RIBOFLAVIN (VITAMIN 82), THIAMIN HYDROCHLORIDE (VITAMIN B<sub>1</sub>), FOLIC ACID, BHT (PRESERVATIVE), VITAMIN D, VITAMIN B<sub>12</sub>. TLESS THAN 0.5g TRANS FAT PER SERVING.

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Exchange: 2 Carbohydrates
The dietary exchanges are based on the Exchange
Lists for Meal Planning, ©2003 by The American
Diabetes Association, Inc. and The American Dietetic Association.



No percentage for sugar is given since the % DV for sugars has not been established. The Institute of Medicine suggests that less than 25% of daily calories some from colded sugars to help minimize the consumption of food with empty colories (IOM, 2002/2005). For a 2,000 calorie diet, this would equal 125g of edded sugar per de-

Visit www.kellaggsnutrition.com to learn how to



### **Nutrition Facts**

Serving Size 1 Drumstick (98g) Servings Per Container 4

Amount Per Serving

Catories 340 Calories from Fat 170

%	Daily	Value

Total Fat 19g	29%
Saturated Fat 10g	50%
Trans Fat 0g	

 Cholesterol 20mg
 7%

 Sodium 100mg
 4%

 Total Carbohydrate 36g
 12%

Dietary Fiber less than 2g 8%

Sugars 23g

**Protein** 6g

Vitamin A 4% • Vitamin C 0%
Calcium 8% • Iron 2%

Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

OLIOWAL CIÓD	RUCHING OU YO	nt canonie ne	100S
	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	200	250
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carboh	ydrate	300g	3750
Dietary Fibr	NT.	250	30a

INGREDIENTS: MILKFAT AND NONFAT WHIK, CONE (BLEACHE) WHAS FLOUR, SUGAR, SOYPERAN OIL, PARHALLY HYDROGENATED SOYPEAN AND COLLONSED OIL SALT SOYLEGITHM, PEANULS FUDGE CORE ISUGAR WATER CORNI SYRUP SWEETERED CONDENSED MYLK COCONDI DIL COCCO, SALT WANNELM ARTHE CHALLY ANDRE CARRAGEEMAN GONO NOD DIGHT CREMINS, SOY LEGITHM, CORE COATING (COCONDI DIL SUGAR COCOA POWDER PARTIALLY HYDROGENATED SOYBEAN OIL SOYLECTHME, HYDROGENATED PALA OIL WANNELM ARTHECIAL FLAVORI, SUGAR HEAD COATING (COCONDI DIL PALM DIL SUGAR HEAD COATING TOCOCONDI DIL PALM DIL SUGAR HEAD COCOA REDUCTO MILKRALS WHEY, MILK CHOCOLATE, SOY LEGITHM, ARTHECIAL VANILLA FLAVORI, CORRI SYRUP WHEY, STABILLYER GONOD AND DIGHT VERRIPS GUAR CUM. CARRAGEENANI MAUBAL FLAVOR, INVERT SUGAR, ARRIFICIAL FLAVOR, ANNATIO COLOR

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INNER UNITS NOT LABELED FOR RETAIL SALE



### or Preschoolers

**Nutrition Facts** Serving Size 1 Pouch (28g) Servings Per Container 6

Calories 100 ount Per Serving

Calories from Fat 0

Potassium 15mg Total Carbohydrate 24g Sodium Sugars Cholesterol **Dietary Fiber** Trans Fat Saturated Fat

Protein 0% Vitamin A 0% Vitamin C 20% Calcium 0%

JUICE CONCENTRATE COLOR, CITRIC PALPRIKA EXTRACT COLOR, ANNATTO EXTRACT COLOR ELDERBERRY CONSTANCH, HYDROGENATED CO-UICE CONCENTRATES, PEACH LICE, REO CABBAGE EXTRACT CULTR CARNUBA WAX, BEESWAX TENAN, NATURAL FLAVORS, DEX. TENAN, NATURAL FLAVORS, DEX. TROSE ASCORBIC ACID (VITAMIN C) HTE GRAPE JUICE CONCENTRATE

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THIS PRODUCT SHOULD
ONLY BE FED TO SEATED,
SUPERVISED CHILDREN
WHO ARE AT LEAST
2 YEARS OF AGE









gives you the information you need to provide

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your child with the best possible nutrition for















healthy growth and development.

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- No artificial sweeters
- No artificial flavors
- A Perfect size pouch for
- Taste preschoolers love

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- Good for a once in a while treat
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- Try our other preschooler meals, snacks and treats

Parents Resource

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March 16, 2009

The Honorable Henry A. Waxman Chairman, Committee on Energy and Commerce 2204 Rayburn House Office Building Washington, D.C. 20515-0530

Attn: Karen Nelson

Dear Chairman Waxman:

The undersigned organizations would like to meet with you to discuss legislation to modernize the Nutrition Labeling and Education Act of 1990 (NLEA). Many of our organizations worked closely with your office in 1989 when you introduced legislation that eventually became the NLEA and would welcome the opportunity to do so again.

We know that even in these economically troubled times we must keep working on long-term health promotion efforts, focusing especially on matters such as improving food labeling that do not require increased funding, yet produce great returns in terms of health care cost savings. Food labeling is a key component of a comprehensive public health promotion strategy to combat both childhood and adult obesity and diet-related diseases such as diabetes, cancer and heart disease.

However, to continue the positive process and fulfill the health promotion potential that your previous food labeling initiative produced, the NLEA must be updated. Because many changes and new discoveries have occurred since the NLEA was enacted in 1990, the current law does not match today's health priorities. Further, since its enactment, some companies have taken advantage of certain areas in the 1990 law where guidance is missing or incomplete, leading to unintended consequences. This has reduced the positive impact that food labeling can have on the public's health.

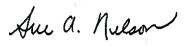
While FDA has the authority to address certain aspects of this problem, the nature and scope of the needed reforms indicate the necessity for Congress to take the lead. We hope that you will once again champion this issue by holding hearings and supporting legislation that would bring the NLEA into step with today's health priorities.

We look forward to meeting with you at your earliest convenience.

Sincerely,



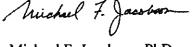
Michael D. Maves, MD, MBA Executive Vice President, CEO American Medical Association



Sue A. Nelson Vice President, Federal Advocacy American Heart Association



Shereen Arent
Executive Vice President Government
Affairs and Advocacy
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