

**Testimony of the New York City Department of Consumer Affairs  
Before the  
New York State Assembly Committee on Consumer Affairs and Protection  
Hearing on A.2320**

**April 13<sup>th</sup>, 2015**

Good morning Chairman Dinowitz and members of the New York State Assembly Committee on Consumer Affairs and Protection. I am Amit Bagga, Deputy Commissioner of External Affairs for the New York City Department of Consumer Affairs (“DCA”). I am joined by my colleague, Marla Tepper, General Counsel and Deputy Commissioner of Legal Affairs. We are here today representing the agency and Commissioner Julie Menin. Thank you for inviting DCA to testify about A.2320, an act to amend the Agriculture and Markets Law in relation to the labeling of sugar-sweetened beverages with warnings. DCA commends the Chair for sponsoring this legislation and convening this hearing to allow government agencies and other stakeholders to comment on this important issue.

There is strong consensus among medical professionals and researchers that consumption of added sugars leads to many health problems, including weight gain,<sup>1</sup> Type 2 diabetes,<sup>2</sup> heart disease,<sup>3</sup> and tooth decay.<sup>4</sup> As our colleagues at the New York City Department of Health and Mental Hygiene (“DOH”) have advised, sugar-sweetened beverages are a leading contributor to the obesity epidemic plaguing the United States. In New York City, nearly 60% of adults are overweight or obese and over 10% have diagnosed diabetes.<sup>5</sup>

While awareness of the negative health effects of sugar consumption is growing, consumption of sugary beverages remains high. In New York City, nearly a quarter (23.3%) of adults drink at least one sugary drink per day.<sup>6</sup> Additionally, consumption rates are nearly double in New York City’s lowest-income communities compared to the highest-income communities (28.8% vs. 16.8%).<sup>7</sup>

It is important to note that soda does not constitute all sugar-sweetened beverages and many consumers might not be aware of the high added sugar content of the diverse range of beverages available for sale. Sports drinks, energy drinks, fruit drinks and juices, and ready-to-drink teas

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<sup>1</sup> Malik VS, Schulze MB, Hu FB. Intake of sugar-sweetened beverages and weight gain: A systematic review. *AJCN* 2006;84(2):274-88.

<sup>2</sup> Schulze MB, et al. Sugar-sweetened beverages, weight gain, and incidence of type 2 diabetes in young and middle-aged women. *JAMA* 2004;292(8):927-34.

<sup>3</sup> Malik VS, Popkin BM, Bray GA, Despres J-P, Hu FB. Sugar-sweetened beverages, obesity, type 2 diabetes mellitus, and cardiovascular disease risk. *Circulation* 2010;121(11):1356-64.

<sup>4</sup> Sohn W, Burt BA, Sowers MR. Carbonated soft drinks and dental caries in the primary dentition. *J Dent Res*. 2006 Mar;85(3):262-6.

<sup>5</sup> New York City Department of Health and Mental Hygiene. Epiquery: NYC Interactive Health Data System Community Health Survey 2013. Viewed April 7, 2015. <http://nyc.gov/health/epiquery>

<sup>6</sup> New York City Department of Health and Mental Hygiene. Epiquery: NYC Interactive Health Data System Community Health Survey 2013. Viewed April 7, 2015. <http://nyc.gov/health/epiquery>

<sup>7</sup> New York City Department of Health and Mental Hygiene. Epiquery: NYC Interactive Health Data System Community Health Survey 2013. Viewed April 7, 2015. <http://nyc.gov/health/epiquery>

and coffees are both popular and widely available, and can also give the illusion that their products are healthy when, in fact, they may contain more sugar than sugar-sweetened soda.

Many researchers and advocates may provide you with expert testimony today about the negative health effects of added sugars and the burden on our healthcare system, but it is just as important to discuss the pervasive marketing and advertising targeted toward consumers, as it is these mechanisms that companies use to ensure the continual wide consumption of sugar-sweetened beverages. Though the ill effects of added sugars are well-documented, it is crucial that consumers, who might not always be aware of the extent of the damage that added sugars can cause, are made aware through disclosures that the products they are purchasing and consuming are dangerous to their health and well-being.

Beverage companies spend billions of dollars advertising their various food and beverage products around the globe every year. In 2013 alone, beverage companies spent more than \$860 million marketing their products to U.S. consumers.<sup>8</sup> These companies spend an additional \$465 million on marketing of non-sugar-sweetened beverages, such as diet drinks, light juice, water, and diet soda.<sup>9</sup>

Teens and young adults are particularly important demographics for soft drink manufacturers who use diverse media, including social media and mobile applications, to target these groups. These manufacturers also design drink products specifically for youth, such as Welch's Chillers, Tum-E Yummies and Little Hug Fruit Barrels. These marketing tactics are more alarming when one considers that over 40% of New York City public high school students report drinking one or more sugary drinks daily.<sup>10</sup> This proportion reaches nearly 50% among youth who attend school in one of New York City's high-need neighborhoods, like north and central Brooklyn.<sup>11</sup> Although the Centers for Disease Control recently reported that teens are drinking less soda,<sup>12</sup> the rate of consumption is still alarmingly high.

In addition to massive expenditures on marketing and advertising, beverage companies have spent millions opposing electoral and policy initiatives to reduce consumption of sugar-sweetened beverages in jurisdictions across the country.<sup>13</sup> After former New York State Governor Paterson proposed a tax on sugar-sweetened beverages in 2010, the American Beverage Association ("ABA") spent nearly \$13 million on lobbying efforts just in New York State in that year alone.<sup>14</sup> Just last year in California, the ABA spent \$9.1 million<sup>15</sup> to successfully defeat Proposition E in San Francisco and over \$2 million in Berkeley, whose voters

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<sup>8</sup> Rudd Center for Food Policy and Obesity. Sugary Drink FACTS. 2014. Available at: <http://www.sugarydrinkfacts.org/>

<sup>9</sup> Rudd Center for Food Policy and Obesity. Sugary Drink FACTS. 2014. Available at: <http://www.sugarydrinkfacts.org/>

<sup>10</sup> New York City Department of Health and Mental Hygiene. Internal analysis based on the New York City Youth Risk Behavior Survey 2013.

<sup>11</sup> New York City Department of Health and Mental Hygiene. Internal analysis based on the New York City Youth Risk Behavior Survey 2013.

<sup>12</sup> <http://nypost.com/2015/04/06/fewer-nyc-teens-are-drinking-sodas-study/>

<sup>13</sup> <http://www.washingtonpost.com/blogs/wonkblog/wp/2014/06/25/how-the-sugar-lobby-helps-perpetuate-that-sweet-tooth-of-yours/>

<sup>14</sup> Soda Industry Political Spending: <http://clinicians.org/wp-content/uploads/2012/06/Beverage-Industry-Political-Spending-Fact-Sheet-CSPI-2012.pdf>

<sup>15</sup> <http://www.sfgate.com/bayarea/article/Why-Berkeley-passed-a-soda-tax-and-S-F-didn-t-5879757.php>

passed municipal referenda to place two-penny and one-penny-per-ounce (respectively) taxes on sugar-sweetened beverages.<sup>16</sup>

Although government might lack the financial resources of soft drink manufacturers, it is incumbent on us to use all available means to provide information about the negative effects of consumption of added sugar to offset the marketing and advertising that is pervasive and often, not fully accurate. To that end, the labeling requirement in this bill is an important step toward reduction in the consumption of sugar-sweetened beverages, and DCA again commends the chair and other sponsors for introducing this bill.

DCA's overall mission is to empower consumers and businesses alike to ensure a fair and vibrant marketplace. The agency licenses approximately 80,000 businesses across 55 different industries, mediates complaints between consumers and businesses, conducts patrol inspections and legal investigations, educates businesses about laws and rules, and also enforces New York City's Earned Sick Time Act, commonly known as the "paid sick leave" law. In addition to its licensing, consumer protection, and labor-related work, DCA operates the Office of Financial Empowerment ("OFE").

DCA has authority under Agriculture and Markets Law Section 16 to enforce weights and measures requirements. DCA would welcome a specific delegation of authority to enforce this bill, which comes under Section 17 of the Agriculture and Markets Law. If DCA is granted local enforcement authority, we could use our patrol inspections to enforce for signage and other compliance requirements and procedures, particularly as they pertain to brick-and-mortar retailers. Absent a delegation of authority under the Agriculture and Markets Law, DCA would explore amending our Code or Rules to facilitate enforcement.

Such authority would complement DCA's ability to review advertisements and marketing materials for deceptive information, provided DCA has the ability to prove the deception. To this end, we welcome tips and feedback from scientific experts who can help us identify such practices.

DCA would also welcome the opportunity to work with the Chair and members of the committee on additional efforts to educate New Yorkers and decrease the consumption of sugar-sweetened beverages. The reduction of the consumption of beverages with added sugar is a vitally important public health issue that should be tackled at all levels of government.

Thank you again for holding this hearing and for inviting DCA to testify today. My colleagues and I will be happy to answer any questions you might have.

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<sup>16</sup> [http://www.huffingtonpost.com/2014/11/04/bay-area-soda-tax\\_n\\_6104000.html](http://www.huffingtonpost.com/2014/11/04/bay-area-soda-tax_n_6104000.html)