NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Ashwin Vasan, MD, PhD
Commissioner

July 18, 2022

RE: Requests that the FDA amend 21 C.F.R. § 101.11(ii) to include added sugars among the nutrients for which information is required to be available in written form on the premises of covered establishments and provided to the customer on request (Docket ID: FDA-2022-P-0110)

The New York City Department of Health and Mental Hygiene (DOHMH) and the Mayor's Office of Food Policy respectfully submits this comment in support of the Citizen Petition filed by the Center for Science in the Public Interest (CSPI), Consumer Reports, and Dr. Jason Block. We support rulemaking to require chain restaurants to declare added sugars. This change would expand consumers' access to information they need to make healthy choices and ensure that the same information is available to consumers for both restaurant and packaged foods. The current public health landscape demonstrates that diets remain critical. Diet-related health conditions such as diabetes and heart disease, can increase the risk of severe illness from COVID-19 and continue to be among the leading causes of death in the nation.[1]

The Case for Sugar Reduction

There is a vast body of literature that links added sugar consumption to negative health outcomes, emphasizing why added sugars in the food supply are critical to address. Added sugars contribute calories but few essential nutrients. Research shows that consuming added sugars is associated with increased risk of excess weight, type 2 diabetes, hypertension, stroke, heart disease and cavities.[2] Adults and children consume more added sugars than recommended by the Dietary Guidelines for Americans (DGA), which is less than 10% of daily calories. Average intake of added sugars is 266 calories per day, compared to the recommended limit of 200 calories (for a 2,000-calorie diet).[3] Added sugars are pervasive in the food supply, with 68% of barcoded foods and beverages purchased in the U.S. containing added sweeteners;[4] this makes it difficult for individuals to reduce their sugar consumption.

Among children who consume more than the recommend daily limit of added sugars, estimated intake is 18.5% of daily calories or nearly twice the recommended proportion of calories.[5] This is especially concerning for the youngest consumers as early food exposures may shape food choices later in life,[6] potentially predisposing children to prefer highly sweet, processed foods. In addition, added sugars are associated with excess weight,[7] and evidence suggests that children with obesity face a greater risk of

[1] CDC Leading Causes of Death: https://www.cdc.gov/nchs/fastats/leading-causes-of-death.htm

[2] Dietary Guidelines Advisory Committee. 2020. *Scientific Report of the 2020 Dietary Guidelines Advisory Committee: Advisory Report to the Secretary of Agriculture and the Secretary of Health and Human Services.* U.S. Department of Agriculture, Agricultural Research Service, Washington, DC. Available at: https://doi.org/10.52570/DGAC2020

[3] 2020-2025 Dietary Guidelines for Americans

[4] Popkin BM, Hawkes C. Sweetening of the global diet, particularly beverages: patterns, trends, and policy responses. *Lancet Diabetes Endocrinol*. 2016;4(2):174-186. doi:10.1016/S2213-8587(15)00419-2

[5] Bowman SA, Clemens JC, Friday JE, Schroeder, N, and LaComb RP. Added Sugars in American Children's Diet: What We Eat in America, NHANES 2015-2016. Food Surveys Research Group. Dietary Data Brief No. 26. December 2019.

[6] De Cosmi V., Scaglioni S., Agostoni C. Early taste experience and later food choices. Nutrients. 2017;9:107.

[7] Dietary Guidelines Advisory Committee. 2020. *Scientific Report of the 2020 Dietary Guidelines Advisory Committee: Advisory Report to the Secretary of Agriculture and the Secretary of Health and Human Services.* U.S. Department of Agriculture, Agricultural Research Service, Washington, DC. Available at: https://doi.org/10.52570/DGAC2020

remaining obese into adulthood and developing related chronic conditions.[8] It is critical to consider the potential long-term impacts of excess sugar consumption among children, and to leverage all possible chronic disease prevention opportunities early in the life course.

Restaurants as a critical setting

Restaurants are a critical setting for added sugar reduction. According to a recent study, among adults, 22.5% of calories consumed are from restaurants, where diet quality is lower compared to foods consumed from grocery stores.[9] The estimated proportion of adults consuming food with poor diet quality from restaurants is 65.2%. The proportion is even higher (72.9%) for adults consuming food from fast-food or quick-serve restaurants.[10] Another study, which analyzed consumption of sodium, calories, and sugary drinks from restaurants in New York City, found that restaurants (both quick-service and full service) present a risk for unhealthy meal choices. Approximately one third of quick service restaurant patrons in the study purchased a sugary drink, the majority of which had at least 50g of added sugar.[11]

As of 2018, it is required for calories to be posted on chain restaurant menus and for full nutrition information to be available to consumers by request. More recently, in 2020, with the updated Nutrition Facts label, added sugars are now broken out as a subset of total sugar, providing increased visibility into the quantity of added sugars in packaged foods and beverages. Yet consumers cannot make the same informed choices at restaurants because of a lack of available information. Restaurant patrons deserve the opportunity make informed choices about the food they consume; providing this information will arm consumers with the information they need to make healthy choices.

Policy Considerations

Having access to added sugar information in restaurant settings would be valuable not only to consumers, but to researchers and policy makers as well. Public health researchers will have the ability to analyze added sugar content in different types of restaurant foods and trends over time, which are metrics that can currently only be studied among packaged foods at this time. This information could be used to design, implement, and enforce evidence-based policies that aim to create a less unhealthy restaurant food supply and ultimately reduce added sugar consumption.

Added sugar disclosures in restaurants would also facilitate public health policy design and enforcement for efforts aimed at reducing added sugar consumption. For example, the New York City Council passed a bill (Int 1326-2019) in December 2021, which requires restaurant chains to notify customers of prepackaged foods and beverages containing high amounts of added sugars. This policy was limited to prepackaged items, the only items in the restaurant setting for which added sugar content is available. With the requirement of added sugars, local jurisdictions would have the ability to implement similar policies that could cover a broader range of products high in added sugars, such as fountain beverages.

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[8] Freedman DS, Mei Z, Srinivasan SR, Berenson GS, Dietz WH. Cardiovascular risk factors and excess adiposity among overweight children and adolescents: the Bogalusa Heart Study. J Pediatr 2007; 150(1): 12-17.e2.

[9] Liu J, Micha R, Li Y, Mozaffarian D. Trends in Food Sources and Diet Quality Among US Children and Adults, 2003-2018. *JAMA Netw Open*. 2021;4(4):e215262. Published 2021 Apr 1. doi:10.1001/jamanetworkopen.2021.5262

[10] Liu J, Micha R, Li Y, Mozaffarian D. Trends in Food Sources and Diet Quality Among US Children and Adults, 2003-2018. *JAMA Netw Open*. 2021;4(4):e215262. Published 2021 Apr 1. doi:10.1001/jamanetworkopen.2021.5262

[11] Prasad D, Mezzacca TA, Anekwe AV, Lent M, Farley SM, Kessler K, Angell SY. Sodium, calorie, and sugary drink purchasing patterns in chain restaurants: Findings from NYC. Preventative Medicine Reports. 2020. DOI: 10.1016/j.pmedr.2019.101040

Equity considerations

We see large inequities in the rates of diet-related disease and premature deaths (occurring in those younger than 65 years of age) in New York City and across the country. Black and Latino communities have higher rates of obesity and diabetes compared to white and Asian Americans. For example, 15.8% of Black New Yorkers and 18.2% of Latino New Yorkers reported having diabetes, compared to 7.1% of White New Yorkers.[12] Non-Hispanic Black New Yorkers are at more than 1.5 times the risk of non-Hispanic white New Yorkers for pre-mature death revealing significant inequities in these preventable deaths.[13] In addition, added sugar consumption varies by race and ethnicity with non-Hispanic Blacks consuming more than other racial and ethnic groups,[14] a difference that is also observed among the youngest consumers. Non-Hispanic black toddlers consume an average of 8.2 tsp per day compared to 3.7 tsp for non-Hispanic Asian, 5.3 tsp for non-Hispanic white, and 5.9 tsp for Hispanic toddlers.[15] We have an obligation to take every option possible to eliminate these gaps.

Policies and systems – rather than personal failings – are at the root of the inequities we see in consumption patterns as well as health outcomes. Corporate practices and commercial determinants of health, such as ubiquitous and targeted marketing, as well as product design, portion sizes, and placement , promote and make unhealthy products easy to buy and healthy foods challenging to access. For example, one study found that food swamps, defined as areas with a high-density of businesses selling high-calorie fast food and junk food, are associated with higher adult obesity rates.[16] The restaurant environment can negatively impact health outcomes; policy changes in restaurants are critical and can contribute to a more transparent disclosure of health risks – one important step toward a more equitable distribution of resources that support health.

New York City Department of Health and Mental Hygiene appreciates the opportunity to comment in support of this Citizen Petition. We believe that expanding the nutrition information available at restaurants to include added sugars will support more healthful consumer choices nationwide. Thank you for your consideration.

Sincerely,

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Commissioner

Kate Mackenzie, MS, RD
Executive Director

[12] NYC Community Health Survey 2020 (unpublished)

[13] NYC Vital Statistics Data, 2019

[14] Bowman SA, Clemens JC, Martin CL, Anand J, Steinfeldt LC, and Moshfegh AJ. Added Sugars Intake of Americans: What We Eat in America, NHANES 2013-2014. Food Surveys Research Group. Dietary Data Brief No. 18. May 2017.

[15] Herrick KA, Fryar CD, Hamner HC, Park S, Ogden CL. Added Sugar Intake among US Infants and Toddlers. Journal of the Academy of Nutrition and Dietetics. 2019 Nov.

[16] Cooksey-Stowers K, Schwartz MB, Brownell KD. Food Swamps Predict Obesity Rates Better Than Food Deserts in the United States. *International Journal of Environmental Research and Public Health*. 2017; 14(11):1366. https://doi.org/10.3390/ijerph14111366