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## United States Senate

COMMITTEE ON HEALTH, EDUCATION,  
LABOR, AND PENSIONS

WASHINGTON, DC 20510-6300

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October 16, 2017

Dr. Scott Gottlieb  
Commissioner  
Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20857

Dear Dr. Gottlieb:

I write to you regarding the Food and Drug Administration's (FDA) October 10, 2017 proposed rule which would delay the compliance deadline under the May 27, 2016, final Nutrition and Supplement Facts Label rule. This is the latest in a series of delays by the FDA on critical public health protections. The length of this potential delay – ranging from 18 to 30 months – threatens to unreasonably postpone access to key nutrition information for families, cause confusion in the marketplace, and further hinder the FDA's mandate to protect public health. FDA should quickly issue guidance to support industry efforts to comply with the final rule, and expedite implementation of the updated Nutrition Facts panel.

On May 27, 2016, the FDA published the new final rule on nutrition facts labeling, designed to make it easier for consumers to be better informed regarding the food they buy and eat. These important changes stem from updated scientific information and public health research, including with regards to the link between diet and chronic diseases, following a robust public comment process. The rule also requires that new labels be updated to highlight important information in food products like calories, sugars, and serving sizes.

Under this month's proposed rule, FDA would delay the date of compliance from July 26, 2018 to January 2020 for large companies and January 2021 for small companies. This would be a step backward for consumers seeking to make informed dietary choices. While I am pleased the FDA will not suspend or reopen this rule, I am concerned that having different labels on products for an extended period will lead to consumer confusion and undermine the FDA's public health effort.

This latest announcement follows a concerning trend of FDA delaying and deprioritizing implementation of critical public health rules. In May, FDA delayed the compliance date for the agency's Menu Labeling rule by one year – the announcement was made just one day before the

compliance date was set to go into effect. In July, FDA announced its intent to delay implementation of key provisions of the tobacco deeming rule, giving e-cigarette and cigar manufacturers—including those manufacturing flavored products that appeal to children—a free pass to stay on the market for years with minimal oversight and restrictions. The FDA is charged with protecting the public health, and repeated delays such as these have the opposite effect.

As FDA Commissioner, it is your responsibility to protect public health. Repeated delays of public health protections threaten to undermine the critical mission of the agency and your commitments to put families' health first. I urge you cease the FDA's recent practice of pushing off compliance for key public health protections.

Sincerely,

A handwritten signature in blue ink that reads "Patty Murray". The signature is fluid and cursive, with the first name "Patty" and last name "Murray" clearly distinguishable.

Patty Murray  
United States Senator