

## CONSUMER FOOD CHOICE

### Federal Food, Drug, and Cosmetic Act

The U.S. Food and Drug Administration is trying to control Americans' diets by abusing its power to regulate food additives. In November 2013, the FDA published a tentative proposal to remove the "generally recognized as safe" (GRAS) status of partially hydrogenated vegetable oils, also known as PHOs or trans fats. Removal would mean that food producers would need to prove that PHOs are "safe" before being allowed to use the ingredients in their products—a hurdle that is likely impossible, given that FDA has indicated that it believes there is no safe level of trans fat consumption. Thus, the revocation of GRAS status is a way of creating a de facto ban on the ingredient. And public health activists and consumer advocacy organizations are pressuring the FDA to use its GRAS authority to ban or restrict additional ingredients, including sugars, salt, caffeine, and many others.

#### Congress should:

- ◆ Stop the Food and Drug Administration's march toward invasive control by amending the Federal Food, Drug, and Cosmetic Act to clarify that the agency has authority to limit or ban only those ingredients that are either acutely harmful to human health or have health risks that are cumulative over time, cannot be identified by the consumer, and cannot be mitigated through dietary or lifestyle choices.

Although there is some evidence that high levels of trans fat consumption may increase the risk of cardiovascular disease, a ban is regulatory overkill. In 2002, Americans consumed an average of 4.6 grams of PHOs a day. Yet in 2012, average daily consumption dropped to approximately 1 gram a day (or 0.5 percent of total daily calories) (FDA, "FDA Takes Step to Further Reduce *Trans* Fats in Processed Foods," news release, November 7, 2013, <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm373939.htm>). Despite the dramatic voluntary decline in consumption and the fact that research has examined mainly the effects of high levels of consumption—and those that looked at consumption below 2 percent of daily calorie intake found no adverse effects—the FDA contends that any level of trans fat consumption increases the

risk of cardiovascular disease and death and therefore warrants total elimination from Americans' diet. (See Dennis Strayer et al., *Food Fats and Oils*, 9th ed., Washington, DC: Institute of Shortening and Edible Oils, 2005, 20.)

Under the Federal Food, Drug, and Cosmetic Act, the FDA has the authority to approve additives for use in food if it determines they are safe. Revoking the GRAS status of PHOs because long-term overuse may lead to an increased risk of developing certain health conditions would be a significant shift in policy. By attempting to stop individuals from consuming ingredients that could be unhealthful if overused, the agency is trying to protect consumers not from dangerous foods, but from what it sees as bad choices.

The FDA appears to be basing its policies not on sound scientific evidence but on the wishes of extremist public health activists. For example, in 2012, Robert Lustig, a pediatric endocrinologist at the University of California, San Francisco, declared that sugar was a toxin and that the agency should consider removing its GRAS status, thus treating it like an additive that companies would need to prove is safe before they can add it to their products. In essence, the FDA sees trans fats as the low-hanging fruit in its broader effort to establish its authority to limit or ban ingredients that are not harmful, but that may be *unhealthful* if overconsumed. If successful, public health advocates will push the FDA to do the same with their true targets: sugar, salt, and caffeine in manufactured foods. What constitutes our diet ought to be the choice of every individual.

Experts: Michelle Minton, Gregory Conko

#### For Further Reading

Stanley Feldman, *Panic Nation: Unpicking the Myths We're Told about Food and Health*, London: John Blake, 2005.

Dennis Strayer et al., *Food Fats and Oils*, 9th ed., Washington, DC: Institute of Shortening and Edible Oils, 2005.

#### "Nudging" Policies

In July 2014, Rep. Rosa DeLauro (D-Conn.) introduced the Sugar-Sweetened Beverages Tax Act, which would impose a na-

tional tax on sugary beverages and use the revenue to partially fund the Affordable Care Act. The goal of the tax is to make soda expensive enough that consumers will choose other beverages, leading to a reduction in obesity. Yet soda taxes do not result in more than trivial weight reductions because those who consume the largest amounts of sugar-sweetened beverages appear to respond least to higher prices, or they substitute other high-calorie foods and beverages for the taxed sugar-sweetened products. Sin taxes simply raise prices for low- and middle-income families at the grocery store.

### Congress should:

- ◆ Reject proposals to impose soda taxes or any other attempt to use “sin taxes” to engineer individuals’ choices.
- ◆ Monitor the proceedings of the Dietary Guidelines Advisory Committee (DGAC) to ensure that the next edition of its *Nutritional Guidelines for Americans* is based on nutritional science, that the committee participants are not politically motivated, and that no federal agency uses the *Guidelines* as a tool to socially engineer choices that ought to be left to individuals.

Although economic theory would suggest that higher prices generated by soda taxes should lead to lower consumption, real-world evidence suggests that sin taxes have only a minuscule effect on consumption of sugar-sweetened beverages. In part, the reason is that any decrease in soda consumption is offset by increased consumption of other sweet or calorie-dense drinks, such as fruit juices and whole milk. Most of the research predicting sizable benefits from soda taxes assumes that individuals will reduce soda consumption and not change any other consumption patterns.

Economic studies estimate that every 10 percent increase in soda prices may result in an 8 percent to 10 percent reduction in soda consumption, but that higher-calorie substitutes are consumed instead. Research on the effect of even very high taxes on sugary beverages found that 20 percent and 40 percent taxes on all sugar-sweetened beverages resulted in an average annual weight loss of only 0.7 to 1.3 pounds per person, respectively. Those studies also show that the weight reductions were driven almost entirely by middle-income households, and that sin taxes failed to alter the weight of lower-income houses at all.

In addition to taxes, another tool currently being used by public health nannies is the Dietary Guidelines Advisory Committee, which meets every five years and publishes the *Dietary Guidelines for Americans*. That publication is meant to outline what dietary and lifestyle choices promote good health. Based on the testimony at this year’s meetings, the 2015 *Guidelines* will be more politically motivated and less science-based than ever before. DGAC members include many at the forefront of nanny-state activism, such as Sonia Angell, who led the effort to ban trans fats in New York City restaurants and has proposed using taxation and regulation to push Americans toward a plant-based diet.

Among other dubious suggestions, the DGAC’s 2015 recommendations on sodium intake will likely echo the 2010 *Guidelines*, which advised adults to reduce their sodium intake to fewer than 2,300 milligrams a day (fewer than 1,500 milligrams for adults over 51), perpetuating the misguided “war on salt.” However, a comprehensive report by the Institute of Medicine, commissioned by the U.S. Centers for Disease Control and Prevention (CDC), concluded that there was no evidence of a benefit to reducing sodium intake to below 2,300 milligrams, and that some groups might *increase* their risk of death by consuming fewer than 1,840 milligrams a day (Institute of Medicine, *Sodium Intake in Populations: Assessment of Evidence*, Washington, DC: National Academies Press, 2013). And a landmark 2011 study published in the *Journal of the American Medical Association* found that, although higher sodium consumption was associated with slightly higher blood pressure, lower sodium consumption was associated with higher cardiovascular disease mortality. The third of study subjects who consumed the least salt had three times the mortality as the third who consumed the most salt.

Although the *Guidelines* primarily affect school lunches, the military, and food stamp programs, it informs the policy of the FDA, USDA, National Institutes of Health, and CDC. For instance, when proposing to revoke the GRAS status of trans fats, the FDA relied heavily on the conclusions of the 2010 *Dietary Guidelines for Americans*.

Experts: Michelle Minton, Gregory Conko

### For Further Reading

Trevor Butterworth, “Can a Soda Tax Really Curb Obesity?” *Forbes*, September 16, 2009, <http://www.forbes.com>.

- com/2009/09/16/nejm-health-obesity-cigarettes-opinions-contributors-soda-tax.html.
- Eric A. Finkelstein, Chen Zhen, James Nonnemaker, and Jessica E. Todd, "Impact of Targeted Beverage Taxes on Higher- and Lower-Income Households," *Archives of Internal Medicine*, Vol. 170, No. 22 (2010): 2028–2034, [http://www.kickthecan.info/files/documents/loi05112\\_2028\\_2034.pdf](http://www.kickthecan.info/files/documents/loi05112_2028_2034.pdf).
- Jason M. Fletcher, David E. Frisvold, and Nathan Tefft, "The Effects of Soft Drink Taxes on Child and Adolescent Consumption and Weight Outcomes," *Journal of Public Economics*, Vol. 94 (2010): 967–974, [http://www3.nd.edu/~wev-ans1/class\\_papers/fletcher\\_et\\_al\\_JPubEcon.pdf](http://www3.nd.edu/~wev-ans1/class_papers/fletcher_et_al_JPubEcon.pdf).
- Niels A. Graudal, Thorbjørn Hubeck-Graudal, and Gesche Jürgens, "Effects of Low-Sodium Diet vs. High-Sodium Diet on Blood Pressure, Renin, Aldosterone, Catecholamines, Cholesterols, and Triglyceride," *American Journal of Hypertension*, Vol. 25, No. 1 (January 2012): 1–15.
- Christopher Snowdon and Michelle Minton, "Wages of Sin Taxes," Competitive Enterprise Institute, February 2013, <https://cei.org/studies/wages-sin-taxes>.
- Katarzyna Stolarz-Skrzypek et al., "Fatal and Nonfatal Outcomes, Incidence of Hypertension, and Blood Pressure Changes in Relation to Urinary Sodium Excretion," *Journal of the American Medical Association*, Vol. 305, No. 17 (2011): 1777–1785.
- Gary Taubes, "The (Political) Science of Salt," *Science*, Vol. 281, No. 5379 (1998): 898–907.