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HEADLINE: Fred Smith and Michael Jacobson discuss proposed legislation to fight obesity

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BODY:

GLORIA BORGER, co-host:

And welcome back to CAPITAL REPORT.

The FDA is looking for ways to combat the exploding rate of obesity in this country. At a hearing this week, Congress explored putting nutrition labels on restaurant menus. But the big power and money debate is whether obesity should be considered a disease, like alcoholism? And if so, who's going to foot those big medical bills? Joining us now, the president of **Competitive Enterprise Institute**, Fred Smith; and the executive director of the Center for Science in the Public Interest, Michael Jacobson.

Thanks to both of you for being with us.

Mr. FRED SMITH (President, **Competitive Enterprise Institute**): Yes, yes.

BORGER: Fred Smith, let me go right to you. A lot of people in Washington are lobbying hard to make obesity a disease. Is this a good idea?

Mr. SMITH: Well, I'll tell you, if obesity becomes a disease, we know who's going to be serving at the five-star restaurants. It's going to be the trial lawyers of America, because they'll be feasting through litigation taxes on the American consumer. You raise the price of food, consumer products, the Twinkie tax we might call it, cause the government to change in California, it might cause Americans to rethink the wisdom coming out of Washington, DC.

BORGER: What do you say, Michael Jacobson?

Mr. MICHAEL JACOBSON (Executive Director, Center for Science in the Public Interest): Well, I don't know what you say has anything to do with reality. If obesity were declared a disease, that would mean that dietitians could be reimbursed through Medicare and other insurance means.

MURRAY: Which means it would cost the taxpayer more money?

Mr. JACOBSON: Or private insurance...

MURRAY: And private insurance companies.

Mr. JACOBSON: ...payers. It might. But we're going to pay in anyway. The tremendous rates of diabetes are going to bankrupt us. And Medicare will pay for diabetes, and it will pay for high blood pressure and heart disease. And if we don't do something about obesity rates, we're going to be--I'd rather pay a dietitian a few hundred bucks than pay \$25,000 for somebody's bypass operation.

MURRAY: How about that, Fred, that it's cheaper to pay for obesity treatment than all the things it

causes?

Mr. SMITH: The argument that somehow we have to give up our freedoms because we're not able to control our diet problems--when government rushes in to try to control diets--this is a government that can't even control spending.

Mr. JACOBSON: Wait. We're talking about reimbursing for Medicare. We're not--what are you talking about--controlling diet?

Mr. SMITH: Michael, when you basically go out and say, 'People get fat, and therefore, we have to pay,' you're basically buying into the idea that it's not my responsibility; it's our responsibility. You don't want to remove the incentive people have to go on diets. It's hard to do it. We all have gone on diets and lost thousands of pounds and gained them again. But you want to have a situation where people basically say, 'If I get fat, I've got to take responsibility. I've got to decide to push away from the table and not eat fat foods.'

Mr. JACOBSON: Certain, I agree. Self-control is a very important aspect of this. Now one thing the government can do is give people information, could require that information be available to have an informed marketplace, so capitalists like you...

MURRAY: Well, that gets to the issue.

BORGER: Well, OK.

Mr. JACOBSON: ...who go eating at restaurants...

BORGER: Yeah.

Mr. SMITH: ...(unintelligible).

BORGER: That gets to my restaurant menu thing, because I...

Mr. JACOBSON: That's right.

BORGER: ...have to ask you.

Mr. JACOBSON: Exactly.

BORGER: You go into a restaurant, and you're going out for a great romantic dinner with your husband, and you look at your restaurant menu, and it starts telling you what those veal chops are going to cost you or those fries...

Mr. SMITH: Or Gloria--or even worse...

BORGER: ...in calories, and you're like, 'I don't want to be here.'

Mr. JACOBSON: Well, even worse.

BORGER: Why do I want to know that?

Mr. JACOBSON: What if they put the price on the menu?

BORGER: OK.

Mr. JACOBSON: The price is even worse...

BORGER: No, no.

Mr. JACOBSON: ...the dollars.

BORGER: But why do I want to know that? Why do I need to know that when I go out?

Mr. SMITH: Because even worse...

BORGER: Wait. Let me ask Michael this. Why do I need to know that?

Mr. JACOBSON: Because people don't have any idea how many calories and how much fat is in their foods.

BORGER: But I'm a grown-up. I'm a grown-up. I know what I want to eat.

Mr. JACOBSON: Yes, but you might change your mind if you realize that that tuna salad sandwich is 750 calories.

MURRAY: I think this is a good point. I think this is a good point. You're in favor of free markets, Fred.

Mr. SMITH: I am, indeed.

MURRAY: Information makes markets work better. The more information you have, the better informed choices you can make. What's wrong with more information?

Mr. SMITH: Have you never been to a Borders book store? The diet shelf is much bigger than any other public policy shelf out there.

Mr. JACOBSON: Well, that's begging the question.

Mr. SMITH: You walk into a store right now, you walk into a restaurant, the way we're going with Michael's agenda, we'll walk in, my wife and I, and the restaurant owner will look at us and say, 'Your wife can eat, but you can't. You're a little overweight tonight, Mr. Smith.' Do we really want that kind of nanny regulation pushed in?

Mr. JACOBSON: But why talk about slippery slopes instead of the...

Mr. SMITH: Not slippery slopes. That's where we're going in this area.

Mr. JACOBSON: No. No, no. The issue that's being discussed in six state legislatures is giving people a little bit of information, calories.

Mr. SMITH: Michael, we've got information already. I've got friends who have more diet books on their shelf than anything else. Maybe they're not reading them. They're certainly not acting on them.

BORGER: Now I don't know if any of our viewers are aware of this. Maybe they've already taken advantage of this. But apparently the IRS already recognizes obesity as a disease, and is already allowing taxpayers to claim...

MURRAY: Right.

BORGER: ...their weight loss plans...

MURRAY: Certain.

BORGER: ...as a deduction.

MURRAY: That happened last April.

BORGER: Maybe their trainers.

Mr. SMITH: I knew my tax accountant didn't tell me all the deductions I could take.

BORGER: Do you think that's a...

Mr. SMITH: Look, this is a serious issue. Michael and John Banzhaf and the people who brought us into the tobacco settlement have now been meeting--are there, what, 120 trial lawyers up on Boston only a few months ago, basically plotting how to put Twinkie taxes and litigation taxes on everything we eat in fast food restaurants, because the people don't understand nutrition. We have solved the problem of malnutrition in the world. Food has become very inexpensive. And we've got another problem, the obesity problem. And Michael's work actually--his nutritional newsletter has a lot of good advice.

MURRAY: But what do we do about it?

Mr. SMITH: The problem is that we don't always do it.

MURRAY: What do we do about it?

Mr. JACOBSON: You never answered his question. Why not make the marketplace work better by giving people calories? When they go to a McDonald's and they'll see a Big Mac has 590 calories, and they'll say, 'Oh, my god. I'm going to get a small hamburger instead.'

Mr. SMITH: Good question. And I'm a little like Gloria. There are times when you want the information to be presented to you, and there are times you don't.

BORGER: Well, maybe there would be two menus for us, one with the calorie information...

Mr. SMITH: That's right, exactly.

BORGER: ...and one without the calorie information.

Mr. SMITH: And what about the restaurants? It's all fine and good for the fast food restaurants that have a standardized menu day in and day out. But what happens if you go to the little mom and pop that has a blue plate special, and they say, 'Mr. Smith, we can serve you, but it's going to take us another hour...

Mr. JACOBSON: You know what?

Mr. SMITH: ...to get FDA to tell us what the nutritional value's going to be?'

BORGER: Well, answer that. How can you know in restaurants what they...

Mr. JACOBSON: Every single bill that has been introduced starts at 10 or 20 units, so a restaurant has to be 10 or 20 units. It's not going to be that little mom and pop...

Mr. SMITH: I hope not, but it never stops there.

Mr. JACOBSON: ...or that fancy French restaurant where you're going to go.

Mr. SMITH: It never stops there.

Mr. JACOBSON: See, there you are with your slippery slopes again.

Mr. SMITH: Slippery slopes are called slippery slopes, because we have slid down them. We slid down them in the tobacco area. We slid down them in the--the trial lawyers can take anything and turn it into a way of enriching trial lawyers at the expense of people.

Mr. JACOBSON: Well, then they're going to make lack of information something to sue companies over.

Mr. SMITH: No. No, no. No. What the really--danger is, you're an honest restaurateur. The law is passed. I'm sitting there, trying to do it. I make a mistake. Trial lawyers are going to be ...(unintelligible) through every restaurant in America, praying that someone made a mistake.

BORGER: OK. Michael Jacobson, quick last word here.

Mr. JACOBSON: I think we need to do a lot of things to deal with obesity, getting junk foods out of schools, calorie labeling at restaurants, getting junk food ads off of children's television. And you will still be able to dine at that fine restaurant with your husband.

Mr. SMITH: I think we need to go on diets.

MURRAY: Final word.

BORGER: Maybe we should go to dinner. Thank you very much, Michael Jacobson and Fred Smith. Thanks so much.