

United States Senate

WASHINGTON, DC 20510

January 21, 2016

Ms. Pamela G. Bailey
President and CEO
Grocery Manufacturers Association
1350 I Street, Northwest, Suite 300
Washington, D.C. 20005

Dear Ms. Bailey:

We write regarding the Grocery Manufacturers Association (GMA) recent launch of its SmartLabel initiative, which is currently supported by over 30 food, beverage, and consumer product companies. As you know, consumers take into account a number of factors, including health, environmental, religious, ethical, and more, when making their food purchasing decisions. Accordingly, we strongly believe consumers have a right to easy access of basic information about their food, so that they can make informed decisions about what to eat for themselves and their families.

We understand that your new initiative is intended to allow consumers to use their smartphone to obtain information not required to be on a product's label, by scanning its bar code or QR code while shopping.¹ While we recognize that the companies committed to this initiative are taking a step towards supplying consumers with the information that they deserve to have access to, we are troubled that this initiative may have significant anti-consumer loopholes. We worry that this initiative will instead make it more difficult for consumers to learn basic information about the food products they are buying, such as whether a product contains a specific allergen or whether the product uses genetically engineered ingredients. Specifically, we have concerns with respect to the implementation of this program and how GMA intends to address issues that deal with consumer privacy, discrimination, and technical feasibility.

First, this initiative may unfairly discriminate against a large segment of the population. According to the Pew Research Center, only 68 percent of American adults own a smartphone—many of which do not necessarily subscribe to mobile broadband.² *How will GMA ensure that consumers who don't have smartphones—typically lower income, less educated, or elderly individuals³—are able to access important food labeling information while they are shopping in the grocery store aisles? How will GMA make these shoppers aware of the SmartLabel initiative? How will you measure the efficacy or consumer use of this initiative and will such reporting be made publically available?*

¹ <http://www.gmaonline.org/news-events/newsroom/new-smartlabel-initiative-gives-consumers-easy-access-to-detailed-ingredient/>

² <http://www.pewinternet.org/2015/10/29/technology-device-ownership-2015/>

³ <http://www.pewinternet.org/2015/04/01/us-smartphone-use-in-2015/>

Second, many consumers are worried about how this initiative will affect their privacy. According to a recent poll by the Mellman Group, 82 percent of consumers believe that food manufacturers should be restricted from collecting personal information, such as product choices and physical location, from consumers.⁴ Eating habits and preferences are personal, and consumers deserve to be able to scrutinize labels without worrying about food manufacturers gathering their information, creating profiles about them, and possibly sharing or selling this information. *What promises will manufacturers participating in the SmartLabel initiative make to consumers to assure their privacy and that their information will not be used or sold?*

Lastly, we are concerned that the SmartLabel initiative faces many technical hurdles that will affect consumer access to critical information that they will not have access to by simply reading a product's label. Different smartphone models vary greatly in their ability to quickly and easily scan QR codes. In addition, it can be difficult to scan a QR code if it is too small, based the type of surface it is on (e.g. a curved surface or crinkly package), and if the store's lighting is not at the optimum level. Furthermore, not all grocery stores get adequate cell phone data service and most aren't equipped with free Wi-Fi. *What steps will your members take to resolve these numerous technical considerations? What commitments do you have with food retailers to ensure that these issues, among others, are addressed?*

Consumers have a right to clear, truthful, and concise food labels regarding key information about the food products they are purchasing. We look forward to monitoring the implementation of your new initiative. We ask that you provide answers to our questions by February 17, 2016. Thank you for your attention to this issue.

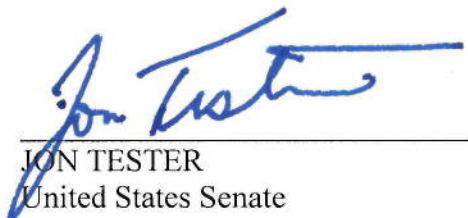
Sincerely,



RICHARD BLUMENTHAL
United States Senate



PATRICK LEAHY
United States Senate



JON TESTER
United States Senate



EDWARD J. MARKEY
United States Senate



BERNARD SANDERS
United States Senate



CHRISTOPHER MURPHY
United States Senate

⁴ <http://www.justlabelit.org/press-room/new-poll-nearly-nine-in-10-americans-want-labels-on-gmo-food/>