

MEMORANDUM FOR HILLARY RODHAM CLINTON

Date: Saturday, August 8, 2015
From: Policy Team
Re: GMO Labeling

I. OVERVIEW

This memo provides a short overview of the current debate between consumer advocacy groups and food and agribusiness companies on the subject of GMO labeling. It also provides a recommendation that YOU strike a middle ground on the issue by: (1) supporting the Department of Agriculture's certification program for "GMO free" products; (2) opposing Congressional attempts to preempt state labeling mandates; and (3) focusing on innovative ideas like placing bar codes on food products to provide consumers with more information.

II. THE LABELING DEBATE

The debate over GMO labeling has pitted consumer groups against major food and agribusiness companies. Both sides agree that some form of labeling should take place and that the federal government should play a role in nationalizing labeling standards. However, a major fault line exists in that the two sides disagree as to **whether federal law should require national GMO labeling, or rather, require national voluntary labeling by preempting state mandates.**

Mandatory Labeling

The push for federal legislation – or FDA administrative action – to require labeling of all GMO products is championed by a strong and vocal advocacy community. These advocates argue that mandating GMO labeling would provide Americans with more information when purchasing products and ensure a level playing field for all manufacturers. Many do not necessarily oppose GE technology; rather, they posit that the “jury is still out” and the long-term health risks of GE foods have not yet been fully investigated.

These advocates have found some democratic allies in Congress. In February, the **Genetically Engineered Food Right-to-Know Act was introduced in the Senate by Sen. Barbara Boxer and in the House by Rep. Peter DeFazio (D-OR).** With some exceptions, the bill would amend the Federal Food, Drug, and Cosmetic Act to deem any food that has been genetically engineered misbranded, unless the food

clearly discloses that information. The bill would also prohibit manufacturers from labeling genetically modified foods as “natural”.

In the Senate, the bill was referred to the Subcommittee on Health in February. Thirteen Democratic Senators, including Bernie Sanders, joined Boxer in sponsoring the bill. In the House, 22 representatives, including one Republican, joined Rep. DeFazio in sponsoring its version of the Genetically Engineered Food Right-to-Know Act. In 2013, Boxer and DeFazio introduced similar legislation and in 2012, they sent a letter to the FDA urging the agency to mandate labeling.

Note: Sanders has been a strong advocate for GMO labeling. In 2013, he proposed an amendment to a farm bill that would have codified the right of states to require the labeling of GMO products (note: in 2013 advocates feared states would be sued if they mandated labeling). The amendment was rejected 71-27, as Senators from farm states that use large amounts of genetically modified crops strongly opposed it. Sen. Debbie Stabenow stated: “I believe we must rely on the FDA’s science-based examination before we make conclusions about food ingredients derived from genetically modified foods. They currently do not require special labeling because they’ve determined that food content of these ingredients does not materially differ from their conventional counterparts.”

Preempting Mandatory Labeling

On the other side of the issue, food and biotech companies are advocating for federal legislation to preempt state and local efforts to require mandatory labeling. These groups argue that the current state-by-state framework leads to higher compliance costs that are passed to shoppers. According to them, not only are GMOs safe and regulated – developers must test their products for toxicity and assure their nutrient contents are at least as valuable as their non-GMO counterparts – but GMO crops also have become ubiquitous in the national food supply. As a result, mandating labeling would undermine affordability and security.

Additionally, small farm organizations generally do not support GMO labeling. In Iowa, many view labeling as an attack on farming. Last year, an estimated 97 percent of soybeans and 95 percent of corn grown in Iowa were from biotech seeds, figures that were both higher than the national average. However, some farmers have recently turned to GMO-free crops to boost their incomes. The revenue hike is a welcome benefit at a time when lower commodity prices are pushing farm income down to what is expected to be the lowest level in six years.

Three states have passed mandatory labeling laws (VT, ME¹, and CT) and 17 others are considering similar measures. But labeling laws also have faced pushback. Since 2012, voters have rejected labeling referendums in CA, CO, OR, and WA. In 2013, legislation failed in IA where many lawmakers view labeling as an attack on the state's agriculture industry.

In March, in an attempt to fully thwart these state efforts, Rep. Mike Pompeo (R-KS) introduced **the Safe and Accurate Food Labeling Act of 2015** (referred to as the “DARK Act” by labeling advocates) with lead co-sponsor Rep. G. K. Butterfield (D-NC). The bill would establish a voluntary federal labeling standard for foods with genetically modified ingredients and provide the FDA with sole authority to require mandatory labeling if the agency found GE products to be unsafe or materially different than non-GE products. As such, the bill would preempt states from passing their own mandatory labeling laws. At this time, there is no corollary legislation in the Senate. The bill was referred to the Subcommittee on Biotechnology, Horticulture, and Research in April. With 20 co-sponsors (12 Republicans and 8 Democrats), backers of the proposal have said they are confident the bill will be approved.

III. RECOMMENDATION

A potential middle ground exists in this debate that respects science, farmers, and advocates. We recommend that YOU:

- **Support the Department of Agriculture’s certification program for “GMO free” products:** In May, Sec. Vilsack unveiled a voluntary certification program, through which food companies will pay to have their products labeled “GMO-free.” The program, the first national program of its kind, will give consumers more information about their purchasing decisions and provide food companies with consistent and fair standards in making non-GMO claims. Nielsen, which conducts consumer research and analysis, said sales of non-GMO products exceeded \$10 billion last year and grew at a faster pace than sales of gluten-free items over the last four years.
- **Oppose federal preemption efforts of state labeling mandates.** States act as the laboratory for our democracy and are rightfully taking the lead on this issue. States have long held the right to require disclosure on food packages

¹ While Maine passed a law to require labeling, it will only go into effect if nearby states act.

—a right enshrined in the preemption provisions of the Nutritional Labeling and Education Act (in which preemptions only apply to the nutrition facts panel and the ingredient line, not the rest of the food package). States have used this power to compel everything from use-by and sell-by dates to grading for butter and maple syrup.

- **Focus on innovation.** Sec. Vilsack has also been an outspoken advocate for using technology to provide consumers with nutritional information. Earlier this year he proposed that food companies place barcodes on food products that are scannable by smartphones. The barcode would provide interested consumers with additional nutritional information. A host of web portals and phone apps like Fooducate are also innovating in the nutritional space, providing consumers with health ratings for specific food items and brands and allowing them to track their purchases.

We recommend YOU use the following Q&A if questioned on these issues:

HRC: Do you support mandatory labeling of GMO products? What about federal efforts to prevent states from establishing labeling requirements?

- First of all, I want to express my full support for the Department of Agriculture’s voluntary certification program for “GMO free” products. The program ensures there are fair standards in making non-GMO claims.
- I also oppose federal attempts to block state labeling efforts. States act as the laboratories for our democracy and are rightfully taking the lead on this issue. States have long held the right to require disclosure on food packages.
- At the same time, we should be focused on how we innovate for a 21st century food system. Ideas like placing barcodes on food products to provide consumers with a host of information is an intriguing one. And web portals and phone apps like Fooducate are just scratching the surface of what’s possible.

If pressed: Would you support federal legislation to mandate GMO labeling?

- I think this is a question that should be left to the states. States act as the laboratories for our democracy and are rightfully taking the lead on this issue.

Surrogate: Does Hillary support mandatory labeling of GMO products? What about federal efforts to prevent states from establishing labeling requirements?

- First, Hillary Clinton fully supports the Department of Agriculture’s voluntary certification program for “GMO free” products. The program ensures there are fair standards in making non-GMO claims.
- She opposes federal attempts to block state labeling efforts. States have long held the right to require disclosure on food packages.
- At the same time, Hillary believes we should be focused on how we innovate for a 21st century food system. She thinks that an idea like placing barcodes on food products to provide consumers with nutritional information is an intriguing one.