

CITY COUNCIL  
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

Of the

COMMITTEE ON HEALTH

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January 26, 2016  
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HELD AT: Committee Room - City Hall

B E F O R E:  
COREY D. JOHNSON  
Chairperson

COUNCIL MEMBERS:  
Rosie Mendez  
Mathieu Eugene  
Peter A. Koo  
James Vacca  
James G. Van Bramer  
Inez D. Barron  
Robert E. Cornegy, Jr.  
Rafael L. Espinal, Jr.  
Ben Kallos

## A P P E A R A N C E S (CONTINUED)

Dr. Sonia Angell  
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Division of Prevention & Primary Care  
New York City Department of Health and  
Mental Hygiene

Dan Kass  
Deputy Commissioner  
Division of Environmental Health  
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Department of Population Health  
NYU School of Medicine and Wagner School  
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## A P P E A R A N C E S (CONTINUED)

Marie Bragg  
Assistant Professor  
Section for Health Choice Policy and  
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NYU School of Medicine

Dr. Kimberly Libman  
Deputy Director for Prevention  
New York Academy of Medicine

Charles Platkin  
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Tony Herbert  
Community Advocate  
President and CEO  
New York State Minority Restaurant &  
Nightlife Association

Thomas Grech  
Executive Director  
Queens Chamber of Commerce

Gerald Fernandez  
President and CEO  
Multicultural Foodservice & Hospitality  
Alliance (MFHA)

Dr. Cynthia Goody  
Senior Director of Nutrition  
McDonald's

## A P P E A R A N C E S (CONTINUED)

Dr. Diana Torres-Burgos  
Advisor to Hispanic Health  
National Hispanic Health Foundation

Robin Vitale  
Senior Director  
Governmental Relations  
American Heart Association

Barry Lee Burke  
Representative  
Dr. Hazel Dukes  
President  
NAACP New York State Conference

1  
2 CHAIRPERSON JOHNSON: Okay, we're gonna  
3 start in a moment, if folks could quiet down  
4 [background comments] and take their seats.

5 Sergeant; are we ready? [background  
6 comment] Yes.

7 [gavel]

8 Good afternoon everyone; my name is  
9 Council Member Corey Johnson; I am Chair of the  
10 Council's Committee on Health. Thank you for joining  
11 us today as we hear Int 0442, sponsored by Council  
12 Member Ben Kallos.

13 Obesity-related health problems are among  
14 the leading causes of death in New York City.  
15 Children and adolescents who are obese are more  
16 likely to become obese adults and even young children  
17 can develop high cholesterol, high blood pressure and  
18 Type 2 Diabetes. Although many factors are behind  
19 childhood obesity, consumption of restaurant food has  
20 been linked with higher risk for being overweight and  
21 obese. Research has found that food marketing  
22 influences children's food preferences and food  
23 choices. This is no secret to fast food chains, many  
24 of which market directly to children. The biggest  
25 way they do that, in terms of money spent, is by

1 including toys with children's meals. Although some  
2 restaurants have improved the nutrition content of  
3 their kids' meals in recent years, few of them appear  
4 to meet the standards of Int 0442.  
5

6 For example, McDonald's now offers fruit  
7 alongside the French fries for its Happy Meals, but  
8 also offers sugar-sweetened beverages as an option as  
9 well.

10 Through a wide range of initiatives, from  
11 parental education to calorie counsel on menus to  
12 replacing soda with water at schools, the City has  
13 started to reverse the trend of rising childhood  
14 obesity, but we are fighting against powerful forces  
15 marketing unhealthy food to children. The bill we  
16 are hearing today is an attempt to grapple with this  
17 difficult problem.

18 I wanna thank you all for being here; I  
19 look forward to hearing from health experts,  
20 advocates and the restaurant industry to discuss how  
21 we can make progress against the rise of childhood  
22 obesity.

23 I want to acknowledge the members how  
24 have joined us today; Council Member Jimmy Vacca is a  
25 member of this committee recently, with Council

1  
2 Member Arroyo leaving, thank you for being here and I  
3 want to thank my Legislative Director, Louis Cholden-  
4 Brown; the Counsel to the Health Committee, David  
5 Seitzer; the Policy Analyst of the Health Committee,  
6 Crystal Pond and I wanna give Council Member Kallos  
7 the opportunity to make an opening statement.

8 COUNCIL MEMBER KALLOS: Thank you, Chair  
9 Johnson for holding this hearing and most importantly  
10 for being my co-prime on this legislation, along with  
11 Council Member Steve Levin; with the three of us  
12 leading the charge on this, I don't think anyone can  
13 stop us from protecting our city's kids. I would  
14 also like to thank Council Member; now State Senator,  
15 Leroy Comrie for initially introducing this  
16 legislation back in 2011 and thank Deputy  
17 Commissioner Sonia Angell for joining us today.

18 I would also like to thank my Food Policy  
19 Directors, Amanda Melpolder, now with NYCCAH, Lea  
20 Edaman [sp?], now with United Way and Debbie Visnesky  
21 [sp?], who has stepped up to the plate, as well as my  
22 Legislative Director, Paul Westrick and my Chief of  
23 Staff, Jesse Towsen; we've got a whole team dedicated  
24 to this plus many more graduate students who have  
25

1  
2 worked in our Food Policy shop for quite some time to  
3 help make this happen.

4           A 2010 study by the City's Department of  
5 Health found that an alarming 40% of public school  
6 children grades K-12 were overweight or obese. A  
7 2014 Center for Disease Control study looking at just  
8 elementary and middle school-aged children in New  
9 York City public schools showed that despite positive  
10 strives, 21% of these children were obese and another  
11 6% were severely obese. These kids are at a higher  
12 risk for diabetes, heart disease and many other  
13 conditions now and as they grow up. In fact, this  
14 means that if we continue down this path, children in  
15 New York City will have shorter projected life spans  
16 than their parents; that's not just depressing;  
17 that's not acceptable.

18           In 2009 the Federal Trade Commission  
19 reported that the fast food industry spent \$714  
20 million advertising to children; nearly half of which  
21 was highlighting toys that accompanied the meals.  
22 This marketing influences the children's preferences;  
23 children in turn influence their parents' food  
24 purchasing choices.



1  
2 A 2007 study published in the  
3 International Journal of Advertising and Marketing to  
4 Children showed that children are a significant  
5 player in the family food choices. A 2011 study  
6 published in the Journal of Marketing Management went  
7 even further to show that children are aware of this  
8 influence and intentionally use it over purchases  
9 they know they can impact, especially meal choices.  
10 The term is "pester power," it is real and we know  
11 companies use millions of dollars to influence  
12 children who don't have the cognitive ability to make  
13 healthy food choices and we have to stop that cycle.

14 Int 0442 requires nutritional standards  
15 for restaurant meals intended for children which  
16 include an incentive or in simpler terms, this bill  
17 requires any kids' meal that comes with a toy to also  
18 come with some nutritional value. Specifically, the  
19 total meal must be 500 calories or less, fewer than  
20 35% of the calories may come from fat, fewer than 10%  
21 of the calories may come from saturated fat, fewer  
22 than 10% of the calories may come from added sugar;  
23 the meal must contain fewer than 600 milligrams of  
24 sodium and the meal must include a full serving of  
25 either fruit or vegetables or a serving of whole

1 grains. These guidelines in the legislation are  
2 similar to the National Restaurant Association's Kids  
3 LiveWell program, which aims to help parents and  
4 children select healthy menu options when dining out  
5 and counts as many as 144 restaurants and chains as  
6 partners, including restaurants like Burger King and  
7 Wendy's, totaling roughly 42,000 restaurant locations  
8 across the country, some of which don't even offer  
9 toys, but they do offer a healthy meal.  
10

11 In a 2008 report by CSTI, it was noted  
12 that eating out accounts to one-third of children's  
13 daily caloric intake. Parents shouldn't have to give  
14 up eating at restaurants in order to make sure their  
15 child eats a nutritious meal. This bill is about  
16 empowering parents trying to feed their kids an  
17 affordable, healthy meal and builds on work that many  
18 restaurants have already begun. The goal is to serve  
19 more fruits, vegetables and whole grains to our  
20 children so they grow up knowing the importance of  
21 making healthy food choices and can avoid the serious  
22 health risks associated with poor nutrition.

23 I'd like to thank DOHMH for the work  
24 they've done so far to empower parents and children  
25 to make healthy food choices, as well as all the

1  
2 advocates who have been working for years to combat  
3 childhood obesity and ensure access to affordable and  
4 healthy meals for our city's children.

5 Thank you again to our Chair, Corey  
6 Johnson and our General Welfare Chair, Steve Levin  
7 for being co-primes on this legislation and helping  
8 to carry this forward.

9 CHAIRPERSON JOHNSON: Thank you, Council  
10 Member Kallos. We've been joined by Majority Leader  
11 Jimmy Van Bramer and I want to call up the  
12 administration who is going to testify; we have with  
13 us today, as Council Member Kallos said, Dr. Sonia  
14 Angell from the Department of Health and Mental  
15 Hygiene, Dan Kass from the Department of Health and  
16 Mental Hygiene and the General Counsel of the  
17 Department of Health and Mental Hygiene, Tom Merrill.

18 If you... [background comment] Yeah. If  
19 you all could please raise your right hand. Do you  
20 affirm to tell the truth, the whole truth and nothing  
21 but the truth in your testimony before this committee  
22 and to respond honestly to council member questions?  
23 So you may begin in whatever order you'd like; just  
24 make sure that the red light on your mic is on.

1  
2 DR. SONIA ANGELL: Thank you. Good  
3 afternoon, Chairman Johnson and members of the  
4 committee; I am doc... [interpose]

5 CHAIRPERSON JOHNSON: If you could just  
6 pull it a little closer.

7 DR. SONIA ANGELL: Closer? Is that  
8 good...? [crosstalk]

9 CHAIRPERSON JOHNSON: There you go.

10 DR. SONIA ANGELL: Yeah, great. So good  
11 afternoon, Chairman Johnson and members of the  
12 committee; I am Dr. Sonia Angell, Deputy Commissioner  
13 of the Division of Prevention and Primary Care at the  
14 New York City Department of Health and Mental  
15 Hygiene. I'm joined today by Dan Kass, Deputy  
16 Commissioner for the Division of Environmental Health  
17 and Tom Merrill, General Counsel.

18 On behalf of Commissioner Bassett, thank  
19 you for the opportunity to testify today on the  
20 proposed legislation, which would set nutritional  
21 standards for meals that include incentive items  
22 appealing to children.

23 I want to note on the outset of my  
24 testimony that the Law Department is still reviewing  
25 this bill, so my testimony does not include any

1  
2 possible legal issues the Law Department may find in  
3 its review.

4           The Health Department shares the  
5 Council's interest in creating healthier food  
6 environments for all New Yorkers and in particular we  
7 applaud you for thinking about ways to reduce  
8 childhood obesity rates. We are concerned however  
9 that the bill will fail to achieve this goal for a  
10 variety of reasons.

11           First we believe restaurants will not be  
12 able to comply with and the Department will not be  
13 able to enforce the bill's requirements. The bill  
14 restricts any restaurant from offering a toy or other  
15 incentive item unless the meal, food item or beverage  
16 meets certain nutritional standards. The majority of  
17 the city's 24,000 restaurants are independent  
18 establishments that prepare meals to order for their  
19 customers; it would be difficult for these  
20 restaurants to determine whether they are complying  
21 with these standards and it would be impossible for  
22 the Department to determine compliance. Chain  
23 restaurants serve more standardized meals and by  
24 federal law they will be required to have certain  
25 nutritional information on site for customers and the

1  
2 Department to reference, beginning on December 1st,  
3 2016.

4           The bill however imposes standards beyond  
5 the information required by federal law and for these  
6 standards the Department similarly will not be able  
7 to determine whether a particular meal, food item or  
8 beverage complies with the proposed legislation.

9           Second, the bill's broad definition of  
10 incentives creates enforcement problems. First,  
11 while a meal sold with a toy giveaway is easy to  
12 identify, the bill could also apply to meals served  
13 on placemats with clown faces, meals that offer  
14 children crayons to draw with or ice cream served in  
15 little Yankees or Mets helmets.

16           Identifying what is and what is not a  
17 covered meal would lead to longer inspections and  
18 disputes with restaurants, which could eventually  
19 required judicial interpretation.

20           Finally, we are also concerned that the  
21 bill will have limited reach. The bill would only  
22 apply to meals, food items and beverages with  
23 incentive items, which are a small proportion of  
24 meals purchased for children in restaurants.

25 According to 2009 data from NPD Group, a market

1  
2 research company, nearly 80% of meals ordered for  
3 children in restaurants are not from a kids menu.  
4 Similarly, a 2015 study conducted in three chain  
5 restaurants found that only 35% of children ordered a  
6 meal sold with a toy. Thus, the bill's nutrition  
7 standards would only apply to a small percentage of  
8 food sold by restaurants to children.

9           Also, a restaurant could avoid  
10 implementing the nutrition standards simply by not  
11 offering incentive items with kids' meals or by not  
12 offering kids meals, as Taco Bell did in 2013.

13           Given this, the Department does not think  
14 that this bill would achieve the Council's laudable  
15 goal of reducing childhood obesity. As I said  
16 earlier, however, we are excited to be talking about  
17 this issue and we welcome the opportunity to discuss  
18 with you other ways to tackle this problem.

19           The mission of the Department of Health  
20 and Mental Hygiene is to improve and protect the  
21 health of all New York City residents and promote and  
22 protect health equity. Obesity and associated  
23 chronic diseases -- Type 2 Diabetes and heart disease  
24 -- are a significant health problem in New York City  
25 and disproportionately affect blacks, Latinos and

1  
2 poor New Yorkers; continued efforts to address these  
3 chronic conditions are needed. Two key dietary  
4 contributors are high sodium and sugary drinks; the  
5 latter being the single largest source of added sugar  
6 in Americans' diet.

7 Reducing consumption of sugary drinks is  
8 a priority for the Department, as consumption of  
9 sugary drinks is linked to long-term weight gain and  
10 increased risk of heart disease and diabetes.

11 Consumption of sugary drinks by children is  
12 especially concerning; with every additional sugary  
13 drink a child consumes daily, the odds of becoming  
14 obese increases by 60%. In the United States, nearly  
15 50% of added sugar consumed among children and teens  
16 comes from beverages and over 40% of New York City  
17 children ages 6-12 were reported to consume one or  
18 more sugary drinks daily. An assessment of  
19 children's meals on menus in the top 25 U.S. chain  
20 restaurants found that soft drinks are the most  
21 popular beverage offered with children's meals.

22 Improving beverage options in children's  
23 meals can help improve diet quality, as they are a  
24 significant contributor of empty calories to  
25 children's diets. These products are also heavily



1  
2 marketed in our communities; in 2013, beverage  
3 companies spent \$866 million on ads for unhealthy  
4 drinks, four times the amount spent on advertising of  
5 non-sugar-sweetened drinks, like 100% fruit juice and  
6 water.

7           Disparities in marketing exposure exist  
8 and may impact equity in health among all children;  
9 throughout the United States, black and Latino TV  
10 viewers are overexposed to sugary drink advertisement  
11 compared to other youth. In 2013, black youth saw  
12 more than twice as many TV ads for sugary drinks and  
13 energy drinks compared with white youth. Locally,  
14 85% of food and non-alcoholic beverage ads in  
15 supermarkets and bodegas surveyed in South Bronx  
16 neighborhoods were for sugary drinks in 2012.

17           Several leading restaurant chains,  
18 including McDonald's, Burger King, Wendy's and most  
19 recently Applebee's and IHOP have removed sugary  
20 drinks as a default option from kids meals. This  
21 voluntary action demonstrates that this targeted  
22 change is feasible and appealing to consumers.

23           The Department agrees that sugary drinks  
24 have no place in children's meals and encourages  
25

1  
2 restaurants to offer healthier default choices across  
3 their menu options.

4 Thank you again for the opportunity to  
5 testify; I'm happy to answer any questions.

6 CHAIRPERSON JOHNSON: Thank you  
7 Dr. Angell for your testimony. We've been joined by  
8 Council Member Peter Koo and Council Member Rosie  
9 Mendez, two members of this committee.

10 Before I turn it over to Council Member  
11 Kallos, who I know has many questions, it sounds like  
12 from your testimony you don't support this piece of  
13 legislation in its current form.

14 DR. SONIA ANGELL: That's correct.

15 CHAIRPERSON JOHNSON: That's correct.  
16 And you spent a significant amount of time talking  
17 about the issues related to sugar-sweetened beverages  
18 and the health impact they have in New York City.

19 DR. SONIA ANGELL: Correct.

20 CHAIRPERSON JOHNSON: You gave a lot of  
21 statistics; primarily.. I mean it disproportionately  
22 affects black, Latino and poor New Yorkers who are  
23 marketed these items, who aren't offered healthy  
24 options sometimes in their own communities and the  
25 pretty significant health effects that that has on an

1 individual who is over consuming sugar-sweetened  
2 beverages.

3 DR. SONIA ANGELL: That's right.

4 CHAIRPERSON JOHNSON: So do you support  
5 the portion control cap on sugar-sweetened beverages?  
6

7 DR. SONIA ANGELL: So the Mayor and this  
8 administration have gone on record supporting  
9 approaches to reducing sugary beverage intake.

10 CHAIRPERSON JOHNSON: Do you support the  
11 portion control cap?

12 DR. SONIA ANGELL: He has gone on  
13 recording supporting the portion control cap.

14 CHAIRPERSON JOHNSON: He supports that?  
15 Yes?

16 DR. SONIA ANGELL: Yes, he has gone on  
17 record supporting the portion control cap.

18 CHAIRPERSON JOHNSON: So how do we best  
19 achieve that? What is the Health Department's view  
20 on that? If that's the primary issue here, I mean  
21 you spent a lot of your testimony talking about that...  
22 [crosstalk]

23 DR. SONIA ANGELL: Yeah. Yeah, thank you  
24 for this opportunity to talk about sugar-sweetened  
25 beverages, because the point is absolutely clear that

1  
2 40% of added sugar in adults and nearly 50% of added  
3 sugar in children and youth is coming simply from  
4 sugar-sweetened beverages. There are very, very few  
5 nutritional opportunities; we have to target one  
6 single item that could have such a profound impact on  
7 the health of our children and future generations; as  
8 noted earlier, this generation faces the likelihood  
9 of a shorter life span as a result of exposures that  
10 kids have these days that we didn't necessarily have  
11 as adults. Sugar-sweetened beverages are incredibly  
12 important to address; we are looking for ways to  
13 address this through many activities and already we  
14 are doing this through specific environment. So for  
15 example, in day care centers; I'm sure you're aware;  
16 we introduced regulations that eliminates sugar-  
17 sweetened beverages in day care centers and instead  
18 promotes things like water... [crosstalk]

19 CHAIRPERSON JOHNSON: Through Board of  
20 Health regulations?

21 DR. SONIA ANGELL: That's right.

22 CHAIRPERSON JOHNSON: Yeah.

23 DR. SONIA ANGELL: and throughout our  
24 schools and through the food procurement standards we  
25 have also put in place mechanisms that reduce

1  
2 exposure not only in youth and children's  
3 environments, but adult environments as well, where  
4 the City is responsible for purchasing items..  
5 [interpose]

6 CHAIRPERSON JOHNSON: But isn't that  
7 tinkering a bit around the edges? I mean I'm not  
8 saying it's not important.

9 DR. SONIA ANGELL: No, it's a really  
10 important point... [crosstalk]

11 CHAIRPERSON JOHNSON: But what about... I  
12 don't wanna get off of...

13 DR. SONIA ANGELL: Yeah.

14 CHAIRPERSON JOHNSON: you know, I wanna  
15 turn it over to Council Member Kallos, but since you  
16 spent so much of your time talking about this, since  
17 it's been on the news, since there was a Court of  
18 Appeals case that struck down what the previous  
19 administration tried to do, not based on the  
20 substance of the policy, but based on jurisdictional  
21 issues that it shouldn't go through the Board of  
22 Health, but should go through the City Council  
23 legislative body, what is the Department of Health's  
24 plan on -- and this is not me discounting the things  
25 you just outlined... [interpose]

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DR. SONIA ANGELL: Right.

CHAIRPERSON JOHNSON: but to do something writ large in a wholesale way that will have the most dramatic effect on reducing the intake of sugar-sweetened beverages.

DR. SONIA ANGELL: So I would answer that in two ways. One is; I wanna note that sugar-sweetened beverages do not exist in simply one environment, they're not only in restaurants, clearly we buy them in the retail environment, we consume them in the home; we buy them in vending machines. So the solution is not one single solution; the solution really requires us thinking across many of the different environments. The example that you bring up, which is supported by the evidence, was the portion cap approach to use in restaurant environments; that is one of a number of examples that would help increase healthy options, reduce exposure to very high levels of sugar-sweetened beverages and help promote other options like water and other beverages that might and would have a more healthful outcome.

[background comment]

1  
2 CHAIRPERSON JOHNSON: Would... Would... Would  
3 you... go ahead, Tom.

4 TOM MERRILL: Tom Merrill, the General  
5 Counsel. And as you noted, we did go to the Court of  
6 Appeals; we do believe in portion cap; it is  
7 something we thought should've been done; we lost, as  
8 you point out, on jurisdictional grounds; not on  
9 substantive grounds, and the Mayor is on record at  
10 supporting that and we would support it  
11 legislatively, but it's... as you asked us, it's in  
12 your ball court now and not ours.

13 CHAIRPERSON JOHNSON: Would you all  
14 support banning sugar-sweetened beverages as part of  
15 kids' meals?

16 DR. SONIA ANGELL: So one of the  
17 important things when we think about policies to  
18 introduce is not only the feasibility and likelihood  
19 of enforcement, but it would also be the health  
20 impact, so I think that is... banning them in kids  
21 meals is something that is worth considering; it has  
22 been done in one other jurisdiction that we know of,  
23 in... [crosstalk]

24 CHAIRPERSON JOHNSON: Where?

25 DR. SONIA ANGELL: in Davis County.

1  
2 CHAIRPERSON JOHNSON: Davis County,  
3 California... [crosstalk]

4 DR. SONIA ANGELL: Californ... California,  
5 sorry.

6 CHAIRPERSON JOHNSON: California.

7 DR. SONIA ANGELL: Yeah. And... And...  
8 [crosstalk]

9 CHAIRPERSON JOHNSON: So goes Davis  
10 County; so goes New York City.

11 DR. SONIA ANGELL: Can I quote you on  
12 that?

13 CHAIRPERSON JOHNSON: Okay.

14 DR. SONIA ANGELL: So that would be  
15 something -- we'd be happy to discuss that with you;  
16 we would wanna look at the health impact that one  
17 single policy would have on kids.

18 CHAIRPERSON JOHNSON: We've been joined  
19 by Council Member Mathieu Eugene and I wanna turn it  
20 over to Council Member Kallos. [background comment]  
21 I already recognized him. Yes. Thank you.

22 [background comments]

23 COUNCIL MEMBER KALLOS: Thank you, Chair  
24 Johnson. So just to go through the arguments one at  
25 a time; your first argument is, it would be



1  
2 impossible for the Department to determine compliance  
3 because of 24,000 restaurants. How many restaurants  
4 are currently evaluated by DOHMH for food grades  
5 every year?

6 DAN KASS: So all restaurants are  
7 evaluated for food grade; the issue that we were  
8 trying to raise was not that it was the number of the  
9 restaurants that could be affected; it was the  
10 availability of information, both at the restaurant  
11 level and to the Health Department to determine  
12 whether a food item would meet the nutritional  
13 requirements or whether the bundling of food items in  
14 a kids meal would exceed any of these standards;  
15 that's the crux of the issue, it's informational as  
16 opposed to... [crosstalk]

17 COUNCIL MEMBER KALLOS: So... So... yes or  
18 no, DOHMH currently sends out inspectors to every  
19 restaurant in the city to determine health  
20 regulations and compliance therewith?

21 DAN KASS: That's correct.

22 COUNCIL MEMBER KALLOS: And calories  
23 have to be posted; that's something that's already  
24 out there.

1  
2 DAN KASS: Calories have to be posted for  
3 a subset of restaurants, only for those that are part  
4 of a national chain with 15 or more across the  
5 country.

6 COUNCIL MEMBER KALLOS: And out of that  
7 24,000; how many would meet those criteria?

8 DAN KASS: It's about 4,000 we believe.

9 COUNCIL MEMBER KALLOS: So 4,000 you  
10 already have the calorie counts for?

11 DAN KASS: We have calorie counts, but  
12 there are other elements of the requirements here  
13 that we don't.

14 COUNCIL MEMBER KALLOS: Okay. So you've  
15 got calorie counts at of least 4,000. Sodium, that's  
16 something else in our bill; are you doing any  
17 regulation around sodium?

18 DAN KASS: Yes. I think as you know, we  
19 passed new regulations that have gone into effect and  
20 will begin to be enforced in March; those too apply  
21 to a subset of restaurants, only to those that are  
22 required to post calorie labels.

23 COUNCIL MEMBER KALLOS: Okay, so we've  
24 got sodium, calories checked off; what about...

25 [interpose]

1  
2 DAN KASS: Can I... I'm just gonna make a  
3 point on... we have them checked off for chain  
4 restaurants.

5 COUNCIL MEMBER KALLOS: And that's the  
6 4,000 restaurants?

7 DAN KASS: That's correct.

8 COUNCIL MEMBER KALLOS: Okay. And so  
9 next on the list is fat; have we done anything around  
10 fat -- trans fats, polyunsaturated fats, unsaturated  
11 fats -- are those things that DOHMH is currently  
12 regulating?

13 DAN KASS: We regulate trans fat as an  
14 outright prohibition. So the way a restaurant  
15 determines whether an item has trans fat is that it's  
16 required to be posted on federal nutritional labels;  
17 that's how they would determine whether something has  
18 trans fat or not. It would require something quite  
19 different for a restaurant to determine the total fat  
20 content, the percent of calories from fat in a full  
21 meal as opposed to an ingredient and that's part of  
22 their concern with this bill, is that that's the  
23 expectation, not just for chains, but for all  
24 restaurants are all bound to it [sic].

1  
2 COUNCIL MEMBER KALLOS: So there's an app  
3 for that; literally you can go onto the USDA or  
4 anywhere else pretty much and look up the caloric  
5 count for a tomato; is that correct?

6 DAN KASS: If you were constructing a  
7 recipe, then yes, you can actually determine the  
8 total fat content, assuming you know everything about  
9 what's going into there. There are additional  
10 exclusions that this law requires, which would be to  
11 exclude from those calculations, for example, nut  
12 fats, so that further complicates the matter.

13 Again, I think one of the issues is that,  
14 you know we... many of the regulations that have been  
15 very effective; like calorie labeling, and as we're  
16 beginning to launch sodium warning, that are in chain  
17 restaurants are really predicated on the notion that  
18 the restaurants already know the meal is entirely  
19 standardized, is identical across each of the  
20 instances of that restaurant or each of the  
21 facilities and I think the reach of this legislation  
22 while, you know, again we entirely support its goals,  
23 but the reach of it into all restaurants and into all  
24 potential meals makes it much harder to, both at the  
25 restaurateur level and for us to enforce.

1  
2 COUNCIL MEMBER KALLOS: So would you  
3 support the legislation if it was targeted at the  
4 4,000 restaurants that currently have the calorie  
5 counting postings; would that be easier for you to  
6 enforce?

7 DAN KASS: Well I think aspects... from an  
8 enforcement perspective, aspects of this would be  
9 easier were it limited to restaurants that had  
10 standardized menus and that make nutritional  
11 information available; that doesn't remove some of  
12 the other difficulties of this bill around some of  
13 the other ingredient requirements and... you know,  
14 right now the Health Department is tracking sodium  
15 based on disclosed information from chain  
16 restaurants; we have the ability to evaluate calories  
17 based on disclosed information and so do restaurants.  
18 Were a restaurant only to be required to sum the  
19 calories of components of a kid's meal or some sodium  
20 for components of a kid's meal; that would be  
21 relatively straightforward, both at the restaurant  
22 level and for the Department in evaluating it. But  
23 once we're getting into, you know, grains, whole or  
24 non-whole; total content from certain fats but not  
25 others, it becomes much more difficult.

1  
2 COUNCIL MEMBER KALLOS: We had the  
3 Department of Education here yesterday; they're  
4 serving millions of meals and they seem to be able to  
5 do this; it also seems that the National Restaurant  
6 Association is able to do this as part of the Kids  
7 LiveWell program, so it is hard for me to fathom that  
8 DOHMH, which is in the business of doing this with  
9 calories and sodium and trans fat would not be able  
10 to do it for the others.

11 Second on the bill, you have confusion  
12 with regards to incentives and you actually listed  
13 examples of incentives; I would say that whether or  
14 not you get something physically when you get a meal  
15 as a takeaway is pretty straightforward and probably  
16 as these go and having read through the USDA's  
17 regulations for school food, which is 81 pages just  
18 for the regs and then the subregs were around 151  
19 pages; this bill is two pages, so I'm having trouble  
20 understanding why the definition of an incentive item  
21 is so hard. I can read it to you from the bill if  
22 it's necessary.

23 DAN KASS: Well I think Dr. Angell's  
24 testimony poses a question to the Council and to the  
25 authors of the bill about what precisely is meant and

1  
2 so it would helpful if that could be clarified. If  
3 the clarification is that any item whatsoever handed  
4 out to someone ordering a meal is an incentive; then  
5 that's helpful to know, but we weren't clear, upon  
6 reading this, whether the examples cited --  
7 placemats, the receptacle for ice cream scoops --  
8 counted or whether this was intended to focus  
9 principally on toys or that kind of thing.

10 COUNCIL MEMBER KALLOS: Sure. Can we  
11 dispense with the reading, but I think it comes down  
12 to placemat type situation where you're throwing it  
13 away with the tray and there's no value, that's a  
14 piece of paper; if we're talking about a piece of  
15 paper with a Monopoly number written on it and you  
16 call a number or you go on an app and then you win a  
17 million dollars; that's clearly incentive; if it's a  
18 laminated thing that you're taking home and it's  
19 being advertised as a piece; that's different.

20 And then just going back to the first  
21 question; you are saying our bill applies to 24,000  
22 restaurants or 4,000 subset, but in your analysis,  
23 have you done even an estimate -- before you came out  
24 in opposition, did you do an estimate on how many of  
25 the 24,000 restaurants in New York City offer a toy

1  
2 bundled with kids meals or even just restaurants with  
3 kids meals in New York City?

4 DAN KASS: The reality is; we don't know  
5 that information, it's not something we've gathered  
6 before and I think it would take some work to  
7 determine it and it would also be quite... there would  
8 need to be more than one snapshot in time because  
9 kids meals may be offered at one time in a restaurant  
10 or in a chain and not again for another period of  
11 time, so we don't actually know how many restaurants  
12 offer kids meals at any time, nor do we know the  
13 frequency with which those that do do.

14 COUNCIL MEMBER KALLOS: Honestly, before  
15 I come out with a position on things, I generally try  
16 to learn as much about the underlying facts as  
17 possible, so I think it's worth the time and I would  
18 like... will DOHMH look at these numbers and come back  
19 with what the numbers are here and how many  
20 restaurants you actually think this applies to and  
21 give us a second opinion as it were, perhaps from a  
22 different doctor at DOHMH, of how easy this would be  
23 to enforce? Can I get a second opinion?

24 DAN KASS: I get it. So I don't think we  
25 can commit to surveying restaurants to do this; I



1 think we would be dependent on any information we've  
2 heard from national surveys on the frequency with  
3 which kids meals are offered and then we don't know..  
4 we probably know less the extent to which those  
5 include incentives. You might ask some of the  
6 industry representatives who may be here today how  
7 frequently it's done, but it would be a very heavy  
8 workload to do a survey to determine that.

9  
10 COUNCIL MEMBER KALLOS: If you ask your  
11 numbers folks at DOHMH to go through your open data  
12 set with the food grades, I can instruct them on  
13 matching those up.

14 On the third piece of opposition, so your  
15 concern is that this is only for meals with incentive  
16 items; would Mayor de Blasio support applying this to  
17 all children's meals?

18 DR. SONIA ANGELL: So absolutely the  
19 concern about the incentive items also stems from the  
20 fact that we know that in one study for example where  
21 they looked at three major restaurants, about 35% of  
22 the meals purchased by kids were those that included  
23 toys. We also know from the NDP data that I quoted  
24 earlier that 80% of the meals ordered by children are  
25 not from the kids menu and so that means only about

1  
2 20% of kids are ordering from that kids menu. What  
3 we would need to do is take a step back and look at  
4 this again and analyze it within the context of the  
5 very limited number of restaurants that this would  
6 apply to as we're discussing that are standardized  
7 restaurants and the number of children that would be  
8 purchasing and they'd be purchasing off of the kids  
9 menu; we need the criteria of the choice food in  
10 order for us to assess some level of impact; we'd be  
11 happy to discuss with a new iteration of the bill,  
12 because that's not the bill that we were commenting  
13 on here; if there's a new iteration, a way in which  
14 it would be shaped, we'd be more than happy to  
15 discuss with you the impact it would have, but the  
16 final assessment for us in making a recommendation  
17 about going forward would be the impact it would have  
18 on children's purchasing of more healthy meals.

19 COUNCIL MEMBER KALLOS: To be clear and  
20 in terms of scope, amendments to a bill are generally  
21 what you suggest prior to coming out in opposition,  
22 so if you would like to do the study and give us, as  
23 part of that second opinion, whether you believe we  
24 could have a better impact, that would be great and  
25 that would've been within the bounds of this hearing

1  
2 to come to a hearing and say we're opposed to this  
3 bill, but we want a sugar drink ban, we wanna ban  
4 sugary drinks; I think that's actually usually out of  
5 scope and I think as you've answered for the Chair,  
6 the Mayor wants a sugary drink ban.

7 DR. SONIA ANGELL: So I appreciate what  
8 you're saying, but the question is; how one would  
9 look at limiting or increasing healthier options  
10 being purchased in restaurants so that it had a  
11 maximum impact. So we are very supportive of  
12 policies that improve the nutritional environment,  
13 the restaurant environment for dining for all New  
14 Yorkers and we're very interested in ways in which we  
15 might improve the purchasing of meals for children as  
16 well, so we are happy to look at this with you, but  
17 the concern is... [crosstalk]

18 COUNCIL MEMBER KALLOS: Well I would... I  
19 would encourage the Mayor; he's introduced a number  
20 of program bills; he is welcome to introduce a bill  
21 specifically on sugary drinks, but I would note that  
22 as part of this legislation, when a sugary drink is  
23 offered as part of -- for free or a nominal price --  
24 as part of another offering to a child, it does limit  
25 calories from sugar or caloric sweeteners, so do you

1 think that that would help with this larger problem  
2 that you're saying, 40% of New York City children  
3 ages 6-12 are reported to consume one or more sugary  
4 drinks daily?  
5

6 DR. SONIA ANGELL: So I think there are  
7 many different ways to approach the sugary drink  
8 issue... [interpose]

9 COUNCIL MEMBER KALLOS: Well you've got a  
10 live bill on the table; you don't have a sugary drink  
11 bill coming or that the Mayor's introduced; this  
12 one's been here for two years; you haven't done  
13 anything else prior to coming out in opposition, so  
14 would this help towards your goal that you spent a  
15 page-and-a-half of your testimony on?

16 DR. SONIA ANGELL: So the subset of  
17 consumers that would purchase it, that we understand  
18 would purchase it based on this data, it would help,  
19 but whether or not that would have long-term  
20 meaningful impact is really looking at how many of  
21 those consumers that there would be. As mentioned  
22 also in my testimony, there are a number of chain  
23 restaurants which have already changed the default  
24 for sugary drinks on their kids meals that come with  
25 incentivized toys, so again, it's looking at not

1  
2 only... it's looking at where things are right now and  
3 including looking at your nutritional requirements,  
4 understanding how many are already being met to  
5 understand what kind of impact it will have  
6 otherwise.

7 CHAIRPERSON JOHNSON: We're gonna come  
8 back to Council Member Kallos in a little while; I  
9 wanna get to some of the other members that have  
10 questions; first we're gonna go to Council Member  
11 Vacca.

12 COUNCIL MEMBER VACCA: Okay, thank you,  
13 Mr. Chair. So much of what I wanted to ask or say  
14 has been said; I do wanna indicate to you that I  
15 think that we should use the bully pulpit in this  
16 city more effectively; I come from the Bronx; we are  
17 62 out of 62; we are the most unhealthy county in the  
18 entire state and it's a distinction that we're not  
19 happy with; something must be done. I just looked up  
20 something and I don't wanna say what restaurant it...  
21 what fast food place it comes from because I don't go  
22 to those places, but chicken bacon sandwich has 38  
23 grams of fat, in excess of 1700 milligrams of sodium,  
24 65 carbohydrates, 10 saturated fat, so this is  
25 typical I think and my suggestion to you is that we

1  
2 start to get a target; what is our city's objective  
3 and then call in 10 or 15, the fastest of the fast  
4 food restaurants and let them know that they've gotta  
5 be part of the solution; get them around the table  
6 and let them know that this can't continue to exist  
7 in this city. We have to tell people that we want  
8 accountability and no one's being called to task on  
9 this; I think someone has to be called to task. What  
10 are we doing about that; why can't we ask these  
11 people to come to the table and tell them that they  
12 have to get their shop in order?

13 DR. SONIA ANGELL: So I think this  
14 comment of engaging industry meaningfully and  
15 actively into changing menus is a really important  
16 discussion to have; you may know about the National  
17 Salt Reduction Initiative in which we set targets for  
18 sodium reductions; in setting those targets we  
19 included industry in the conversations to set the  
20 targets and asked them to commit to them. We are  
21 evaluating the impact that that's having, and so we  
22 have, to your point, started those discussions; they  
23 can be expanded and I think it's a really important  
24 note that we are all part of the solution and we all  
25 need to work together on this.

1  
2 COUNCIL MEMBER VACCA: Yeah, I think they  
3 have to be formalized; I think it's got to be  
4 publicly announced that this is an objective; there's  
5 gotta be a mobilization of citizens in this city  
6 behind your efforts; it can't be done quietly and  
7 piecemeal. I don't see this effort right now, I  
8 don't see any such effort; whatever you are doing  
9 quietly is even news to me as a councilman, leave  
10 alone the average person who's not involved in the  
11 legislative process. So I think that we have to go  
12 at this full throttle and I just don't see it; this  
13 is an emer... we have an emergency, we have an  
14 emergency, in my borough especially, we have an  
15 emergency and people talk about it and people write  
16 about it, yet there's no concerted citywide target,  
17 there's no... what are we looking for; how much fat can  
18 we reduce; how much sodium should we be reducing?  
19 Everyone has to be involved; you know why? When you  
20 reduce the fat and the sodium, sometimes the taste  
21 will suffer, will not taste the same, so perhaps one  
22 or two of them will not wanna do that, they may lose  
23 customers from it; that's why everybody's gotta be  
24 engaged. Maybe we have to sacrifice taste a little  
25 bit in order to get health. You can go almost

1  
2 anywhere and get a grilled option, you can get  
3 grilled vegetables, grilled children, many of these  
4 places have a grilled option full of sauces, full of  
5 breads, it's not really a grilled option; it's full  
6 of everything else that's junk. So when are we gonna  
7 have a real grilled option for our kids, for out  
8 adults, for out adults? So I bring this up to you;  
9 I'd be willing to help you in that effort, but we  
10 need a commitment; we need the City to say that this  
11 is something that you're going to undertake at the  
12 highest levels, and that's my statement.

13 DR. SONIA ANGELL: Thank you very much.

14 CHAIRPERSON JOHNSON: Council Member Koo.

15 COUNCIL MEMBER KOO: Thank you,  
16 Chair Johnson and thank you doctor coming to testify.

17 You mentioned in your testimony obesity  
18 has higher prevalence in the minority population, so  
19 how big a problem for the minorities, and that's  
20 like, compared with American white kids; what's the  
21 percentage? Well compared with the general  
22 population.

23 DR. SONIA ANGELL: So the data I have for  
24 children is actually... we have that broken down by  
25 district public health offices, but which as you know



1  
2 in New York City, we definitely have race ethnic  
3 differences by our neighborhoods. So I'll share for  
4 you some statistics that show the differences in  
5 school children age's kindergarten through 8th grade.  
6 So overall the level of obesity in New York City kids  
7 is 21.4%; 1 in 5 children are obese... [crosstalk]

8 COUNCIL MEMBER KOO: Okay.

9 DR. SONIA ANGELL: And when we look at  
10 the Bronx, 24.8%; 1 in 4...

11 COUNCIL MEMBER KOO: Okay.

12 DR. SONIA ANGELL: When we look at  
13 Brooklyn, our district public health office there,  
14 again, 1 in 4; 24.8%; East Harlem, 24.7%. If you do  
15 not live in those neighborhoods, the average  
16 prevalence is 20.3%. And I'd be happy to look back  
17 at some data that we have by race ethnicity and we  
18 can get back to you on those numbers, but I think  
19 those numbers that I've just shared with you really  
20 illustrate the gross disparities that we have in our  
21 communities, especially when you recognize that being  
22 obese as a child doubles the likelihood of you being  
23 obese as an adult.

24 COUNCIL MEMBER KOO: So from your  
25 professional knowledge; do you think these kids are

1  
2 obese because they eat too many Happy Meals or from  
3 other reasons?

4 DR. SONIA ANGELL: So the causes of  
5 obesity include excess caloric intake, with not  
6 enough burning off of energy, right; you take in too  
7 much; you don't burn off enough, so it's a  
8 combination of eating too much and not exercising  
9 enough; striking that balance... [crosstalk]

10 COUNCIL MEMBER KOO: Yeah. Yeah.

11 DR. SONIA ANGELL: and we know that in  
12 particular the foods that we're eating, the choices  
13 that children have and that are being made by  
14 themselves or by their parents are not necessarily  
15 the most health promoting. The contributors to that  
16 depend upon where the child eats and what decisions  
17 the child makes in that environment, so we know that  
18 people are eating out more and more, our lives are  
19 more and more complicated and foods prepared away  
20 from the home and processed foods are becoming an  
21 increasing part of the diet and so the restaurant  
22 environment is one source of caloric and dietary  
23 intake that is contributing to obesity in children.

24 COUNCIL MEMBER KOO: So do you agree  
25 that.. my thought is that all these problems, the main

1  
2 responsibility belongs to the family, to the parents,  
3 grandparents; how they feed their children; not from  
4 us passing a law; do you agree with that? I mean the  
5 main responsibility lie on the families; that means  
6 parents or grandparents, whoever is taking care of  
7 the kids, they should have the say what the children  
8 should eat and what should they drink.

9 DR. SONIA ANGELL: So one of the things  
10 that we know and are very committed to is creating  
11 healthier environments that empower people to make  
12 healthier choices; the choices that people make, that  
13 families make, that children make; that parents make  
14 for their children also depends upon what's available  
15 to them. So what we really think about doing with  
16 all of the policies and programming that we get  
17 engaged in is creating ways in which people can live  
18 healthier lives because they are surrounded by more  
19 healthful options and opportunities.

20 COUNCIL MEMBER KOO: So how much calories  
21 do children need... how many total calories, say per  
22 day or per week from eating at convenient places,  
23 like McDonald's [sic]? How often do they go out to  
24 McDonald's; once a week or once a month? Do you know  
25 that?

1  
2 DR. SONIA ANGELL: I don't have that  
3 statistic off the top of my head; I'm sorry. So...  
4 [crosstalk]

5 COUNCIL MEMBER KOO: So my point is that,  
6 the kids are obese because they eat too many Happy  
7 Meals, because like you said, they don't have proper  
8 nutritional guidance from the parents or they don't  
9 have enough exercise, so there are two things that we  
10 should stress [sic] on the Department of Health, to  
11 teach our neighborhood people how to eat right, how  
12 to exercise more and make sure the parents understand  
13 the consequences of drinking too much soda or eating  
14 too much potato chips, all those things; I don't  
15 think it's necessary for us to pass a law, a  
16 regulation to tell parents, you shouldn't go to  
17 McDonald's to get a Happy Meal. We are based on a  
18 free market system here; we should not tell business  
19 owners, say hey, you cannot give a toy when you sell  
20 a meal. I mean we can tell them, show them  
21 regulations, the guideline; say if you eat too much  
22 sodium it's not good for you; too much sugar is not  
23 good for you, but I think it's not right for the City  
24 to enforce or to pass a regulation to tell kids [sic]  
25 you shouldn't get a Happy Meal for your kid or tell

1  
2 the business owners, you cannot sell a meal by  
3 offering an extra toy, I mean they're doing... all  
4 other businesses offer something extra, you know, to...  
5 to... [crosstalk]

6 DAN KASS: Well I guess...

7 COUNCIL MEMBER KOO: incentivize they buy  
8 the meal. So I think this is illegal or immoral;  
9 it's up to the parents who make a decision.

10 DAN KASS: Well I appreciate what you're  
11 saying and there's no question that choice is sort of  
12 essential in the overall equation of sort of how a  
13 child or an adult for that matter consumes, you know  
14 excess of calories; that said, you know, even what  
15 you're describing requires a set of expectations and  
16 enabling information to be able to make a proper  
17 choice. So the basis for calorie labeling  
18 requirements, for example, is to inform people;  
19 without that information there's simply no way  
20 someone could make a determination about what food  
21 has an appropriate or inappropriate level. The same  
22 is true for the sodium warning without alerting  
23 people who are making the choice. But I think it's  
24 also important to note that while we have very  
25 substantive issues with this particular version of

1  
2 this law because of how difficult it is to obtain  
3 this information or enforce on it, I don't think we  
4 wanna go on record as objecting to the notion that  
5 rules and regulations actually do influence practice;  
6 children didn't become obese over the last several  
7 decades from simply a lack of information; they have  
8 been assaulted with ads, with food choices, with food  
9 options, with default options that really work to  
10 promote excessive calorie consumption. It is the job  
11 of government to help sort of balance that kind of  
12 power.

13 COUNCIL MEMBER KOO: So I would encourage  
14 you then to work with the school system, you know to  
15 teach, especially universal Pre-K, to teach them how  
16 to eat a proper diet when they're young, you know,  
17 teach them that these are things that are no good for  
18 you; these things are good for you and teach them how  
19 to read the label on food, how much sodium and all  
20 those things; education is the most important key.  
21 So the legislation or the things you wanna do are  
22 only for... it's good for informational purpose, you  
23 know, they can compare, you know a can of soup; this  
24 can has too much sodium or too much... we shouldn't  
25 consume so much calories from sugar, those things we

1 should teach them, especially in the school level;  
2 the younger they are the better we teach them. So we  
3 should start with universal Pre-K to teach them  
4 what's good and not good so when they grow up they  
5 can make their own choice. And I don't think... this  
6 rule, this legislation is an overkill, overreach to  
7 do and from the point of small business people; if I  
8 open a restaurant, I don't wanna have all these rules  
9 in front of me; how many calories from this, how much  
10 fat when I cook a meal; it's too much burden; I mean  
11 for a McDonald's, for a big franchise, they probably  
12 can do it, but small businesses are... mom and pop  
13 store or a restaurant, they have to follow all these  
14 rules, it's difficult; I mean let the consumers be  
15 aware what to eat. Thank you.

17 CHAIRPERSON JOHNSON: Thank you, Council  
18 Member Koo... [crosstalk]

19 DR. SONIA ANGELL: Thank you.

20 CHAIRPERSON JOHNSON: Thank you for  
21 telling us how you really feel.

22 I think you heard from Council Member  
23 Kallos that he stands... I don't wanna speak for him,  
24 but it sounded like from what he said, is sort of  
25 ready, willing and able to work with the Department

1  
2 on amending this bill, and I understand his  
3 frustration and I don't know if there were  
4 conversations that were had between the council  
5 member and the Health Department leading up to this  
6 hearing...

7 COUNCIL MEMBER KALLOS: Yes.

8 CHAIRPERSON JOHNSON: so if that's the  
9 case, you know, I think he's justified in saying that  
10 before you come out and oppose this bill and given  
11 that you named other instances, that the Department  
12 has undertaken to try to work on some of these  
13 obesity issues, childhood obesity issues; that you  
14 try to work with him and make the bill suitable,  
15 before coming and saying outright opposition to it.

16 I want to come back to what I was trying  
17 to hit on earlier, which is... and I think Council  
18 Member Kallos just mentioned this; you know we  
19 haven't seen any action here at the Council related  
20 to portion control legislation on sweet and sugary  
21 beverages; I would like to see that happen, I'm  
22 supportive of figuring out how we can make an impact  
23 to save people's lives, to ensure they don't get  
24 diabetes, to try to provide healthier options and to  
25 incentivize people making healthy choices, but the



1  
2 Mayor has... I'm glad he's come out in favor of this; I  
3 think he said it during his campaign and he said it  
4 again since then; do you know, are there any plans to  
5 do a program bill or a bill at the request of the  
6 Mayor on this, given that I know that the Health  
7 Department feels so strongly about this? Do you have  
8 any sense?

9 TOM MERRILL: I don't have any immediate  
10 sense; it's obviously an issue; you know where we  
11 stand..

12 CHAIRPERSON JOHNSON: Yeah.

13 TOM MERRILL: and it's certainly  
14 something we're willing to talk about, but you know,  
15 and as we are on any issue, a lot of issues and this  
16 bill as well; we did speak with Councilman Kallos a  
17 year ago; we did raise that we had some enforcement  
18 issues; not in the detail perhaps that we... as of  
19 today, but we're willing to talk to the Council about  
20 portion cap; anything that can tackle the issue of  
21 childhood obesity.

22 CHAIRPERSON JOHNSON: Well I'm really  
23 glad that the Mayor came out in favor of this during  
24 his campaign and has continued to say he supports it;  
25 Commissioner Bassett has been a real leader in

1 talking about these issues and the health impact that  
2 it has on communities across the city, and I actually  
3 think, and not that it's about politics, but it's  
4 actually probably not the most popular position to  
5 take that he'd support putting portion control on  
6 this and the Mayor did that and has stood by that and  
7 so I think that is commendable; what I would love to  
8 see happen, and we've had many conversations with  
9 this, I've had conversations with Dr. Bassett and  
10 your team at the Department, about how we can  
11 actually make that happen in a feasible way that  
12 would withstand legal scrutiny as well as hopefully  
13 get public support when we explain it well enough on  
14 why we wanna take this measure.

16 So I just wanna get back to -- so the  
17 position, Dr. Angell, you're saying you would support  
18 what Davis County did, a ban on sugary beverages for  
19 these type of meals? Would the Department support  
20 that? You mentioned it in your testimony, but it  
21 didn't say we support this goal or we would like the  
22 City of New York to take this course of action.

23 DR. SONIA ANGELL: So what we would need  
24 to do is look at the impact that would have; we have  
25 not done that analysis; we'd have to be very clear on

1  
2 what kinds of meals this would cover; we would  
3 absolutely be willing to discuss this, absolutely  
4 interested to think about what the impact might be,  
5 share our knowledge on it and think about revisions  
6 that would make sense that would have impact on  
7 children.

8 CHAIRPERSON JOHNSON: And Tom; is it your  
9 opinion that you believe that if we took that action  
10 under state law and city law that that would pass  
11 legal muster?

12 TOM MERRILL: I mean... [crosstalk]

13 CHAIRPERSON JOHNSON: You know you may  
14 not know at this point.

15 TOM MERRILL: The soda one...

16 CHAIRPERSON JOHNSON: If we did it  
17 legislatively.

18 TOM MERRILL: Certainly legislatively  
19 there's one challenge that you don't have to worry  
20 about that we had to worry about; I can guarantee  
21 that one, and I think that, you know, sitting here, I  
22 think there are some issues around... you know you have  
23 to think about the first amendment when you're ever  
24 talking about promotions and things like that, but I  
25 think you could reasonably restrict it, as Davis

1  
2 County did soda. [background comments] Yeah, Davis  
3 city, yeah.

4 CHAIRPERSON JOHNSON: Okay. Are there  
5 any other colleagues -- you have questions, Council  
6 Member Kallos; I'm gonna go back to Council Member  
7 Kallos. [background comment] Does anyone have any  
8 questions, anything else? Okay, back to Council  
9 Member Kallos. [background comments] Jimmy's  
10 hungry. Okay, go ahead.

11 COUNCIL MEMBER KALLOS: I think I just  
12 want to acknowledge some of the remarks that were  
13 made by Council Member Vacca. In terms of the  
14 leadership that we're seeing, we are seeing the  
15 National Restaurant Association creating this Kids  
16 LiveWell program and Burger King's a participant,  
17 Wendy's is a participant and they're doing this  
18 national convening and there's 144 chains that have  
19 agreed to offer a healthy meal; not quite as healthy  
20 as our legislation, but pretty damn close. So to the  
21 extent; has DOHMH had any conversations with the  
22 National Restaurant Association around bringing this  
23 to more restaurants in New York City in order to lead  
24 as Council Member Vacca suggested?

1  
2 DAN KASS: We meet on a frequent basis  
3 with the local chapter and the state chapter of the  
4 National Restaurant Association, but to our knowledge  
5 this question hasn't come up.

6 COUNCIL MEMBER KALLOS: In follow-up to  
7 Council Member Vacca; would you commit to working  
8 with the National Restaurant Association around Kids  
9 LiveWell if not legislation like ours and seeing what  
10 we can do with them? I mean they're already leading  
11 the nation.

12 DAN KASS: We absolutely are willing to  
13 talk to them and hear more about the program. What  
14 you're describing is a voluntary program; is that  
15 correct?

16 COUNCIL MEMBER KALLOS: Voluntary; it's  
17 got 144 restaurants; theirs is 600 calories, ours is  
18 500, so maybe they would be willing to do a Kids  
19 LiveWell in New York City ahead of our legislation  
20 passing so that folks can get to where they need to  
21 voluntarily. In terms of the calories from fat,  
22 saturated fat they have almost identical... they allow  
23 trans fats; we don't and that's already banned in New  
24 York City, so that's pretty much a non-starter,  
25 that's easy; calories from sugar and other items, so

1 we're pretty close, it's just 100 calories here and a  
2 100 milligrams of sodium there, so using what they've  
3 already got and they've already got great restaurants  
4 like Burger King, Wendy's; they don't have  
5 McDonald's, I don't know why, but they don't have  
6 McDonald's, but we do have Burger King, Wendy's,  
7 Arby's, Dairy Queen, speaking of places where you can  
8 get that baseball cap with ice cream in it; you can  
9 even get a Kids LiveWell meal at Dairy Queen, of all  
10 places, and not that I would wanna take away those  
11 fun hats a kid wants and they're great, but would  
12 love to do that and I just wanna say just that,  
13 Deputy Commissioner Kass, I loved your responses to  
14 my colleague, Council Member Koo; we have fond  
15 respect for each other, though sometimes we may  
16 disagree a little bit, and I think just a key thing  
17 to share is just, no ban here; parents can still do  
18 whatever they want, it's just, as DOHMH shared, when  
19 they're doing these ads and I guess one question is;  
20 how much does DOHMH currently spend on advertising in  
21 order to incentivize children to make better choices?  
22 Children and adults or children if you have them,  
23 'cause I see those subway ads sponsored by you every  
24 day.  
25

1  
2 DR. SONIA ANGELL: I'm sorry; I don't  
3 have the budget numbers for you, but as you know, we  
4 have a couple of campaigns, "Pouring on the Pounds"  
5 and other ones focusing on eating well; we can look  
6 back at those budget numbers for you.

7 COUNCIL MEMBER KALLOS: But I think as we  
8 do this we're trying to combat all the hundreds of  
9 millions of dollars, I think it's somewhere around  
10 \$350 million as of the Federal Trade Commission that  
11 I cited in my opening, that's being spent advertising  
12 to children so that those children, because they want  
13 the toys, take it back to their parents and drag them  
14 by the sleeve, 'cause I was one of those kids,  
15 saying, I want that meal 'cause I really want that  
16 toy and the only way to get that specific toy -- I  
17 can't buy it at a toy store -- is if I eat this food  
18 which is really bad for me and trying to decouple it  
19 so that when the kid is dragging them for that toy..  
20 [interpose]

21 CHAIRPERSON JOHNSON: Coun...

22 COUNCIL MEMBER KALLOS: that it's a  
23 healthy meal.

24 CHAIRPERSON JOHNSON: I'm happy to have a  
25 freewheeling debate here at the Council with

1 fireworks; we don't typically do this. Council  
2 Member Koo or Vacca; did you wanna say something?

3  
4 COUNCIL MEMBER VACCA: I wanna agree with  
5 my colleague Council Member Koo; I do not think that  
6 us extending the arm of government, telling someone  
7 that you can't have a toy if you buy a certain meal  
8 is going to assist in the very laudable goal I think  
9 we all have and I don't think that we want to do that  
10 and I on the Council have said this on several  
11 occasions, as recently as last week when we had  
12 legislation, that told supermarket owners, you can't  
13 fire anyone for 90 days; I voted against that because  
14 again, it's the arm of government coming in and  
15 telling a private sector person, you can't do this;  
16 we tell you who you can hire and fire. The toy, on a  
17 different level, is kind of similar and I agree with  
18 Councilman Koo's point, but this conversation, I'm  
19 glad we're having it and I'm glad Councilman Kallos  
20 and Chair Johnson have allowed this discussion to  
21 take place; I don't see a policy here, I don't see an  
22 effort, I don't see any type of coordinated,  
23 collaborative program; we are the City of New York;  
24 we should be sitting down with every agency, you're  
25 the Department of Health, well where's the Department



1  
2 of DYCD; where is Department of Aging; where is the  
3 Department of Education; where is there a sense of  
4 urgency here? I mentioned before about getting  
5 together all the restaurants; where is there a  
6 multipronged attack, we all sit here with statistics;  
7 believe me, I know that 1 person in 4 in the Bronx is  
8 obese, I see it, I see it. So but I don't get any  
9 coherent policy here, I don't see anything; where is  
10 the... we need someone to focus on this; we need to  
11 have a focus, we focused on cigarette smoking in this  
12 city and we decreased cigarette rates, maybe five  
13 years ago; six years ago when we started and I have  
14 to be honest, when I saw those commercials, some of  
15 them frightened me, when I saw people dying in front  
16 of me on the TV screen, but there was a sense of  
17 alarm, there was a sense, oh my god; there's no sense  
18 about this, there's no urgency here. I don't sense  
19 any coordinated program, multiagency, nothing.

20 DR. SONIA ANGELL: So I think we share  
21 your concern that there is an urgency to respond to  
22 this, absolutely; I would share, however there are  
23 examples where we are working across agencies on some  
24 very specific, concrete proposals and executive  
25 orders that have come out of it that actually set New

1  
2 York City as a leader for the nation at large around  
3 food procurement standards, so this is one example;  
4 the City of New York has a Food Policy Coordinator  
5 which worked across every single agency; the  
6 Department of Health was the technical agency that  
7 helped to create nutrition standards so that every  
8 single dollar used by New York City that purchases  
9 food to be served or given to individuals has to meet  
10 specific nutrition criteria; that covers 260 million  
11 meals in New York City per year; that is a huge and  
12 immense amount and it has set an example that's been  
13 adopted by other cities and states and even agencies  
14 within the federal government... [crosstalk]

15 COUNCIL MEMBER VACCA: I don't doubt...

16 DR. SONIA ANGELL: in coordinating, but...

17 COUNCIL MEMBER VACCA: I don't doubt your  
18 sincerity, but where do we go from here? We've done  
19 certain things; obviously with the statistics you  
20 cited before, we've not done enough. So where do we  
21 go from here; what is the vision; what is the plan?  
22 And that's what I don't see; I'm not saying that what  
23 we've done in the past was not correct, I'm sure it  
24 was and it was helpful, but I don't see any plan for  
25 the future.

1  
2 DR. SONIA ANGELL: So we would be happy  
3 to sit down and also speak with you further about  
4 additional opportunities that exist. We are  
5 committed to an approach that does work across all of  
6 our agencies because there is this power of the City  
7 of New York at large and it's not one single agency  
8 and in fact the industry, as you mentioned, is also  
9 an important player in this, so we really do  
10 appreciate that we do..

11 COUNCIL MEMBER VACCA: I will sit down  
12 with you.. [crosstalk]

13 DR. SONIA ANGELL: Yeah. Sure.

14 COUNCIL MEMBER VACCA: at any time. Let  
15 me clarify.. [crosstalk]

16 DR. SONIA ANGELL: Thank you.

17 COUNCIL MEMBER VACCA: let me be very  
18 clear. The Mayor has made mental health a priority  
19 by virtue of the First Lady doing so much for mental  
20 health; she has given vision and voice and I'm proud  
21 of that voice. We have no such voice when it comes  
22 to public health at this point in New York City; we  
23 need a focus on this, be it an individual, a set of  
24 individuals, a mayor's commission perhaps on health,  
25 nutrition and physical fitness; we need a focus. I

1  
2 will sit down with you, but I shouldn't be sitting  
3 down with you absent a plan and I don't see a plan; I  
4 don't see a multiagency effort; I don't see an  
5 urgency, I don't see it and I wanna tell you; I thank  
6 Corey Johnson for bringing Ben Kallos' bill to a  
7 hearing, even though I'm not on the bill, I'm not for  
8 it, but at least there was this conversation and both  
9 of them should be commended for this discussion, but  
10 I'm not satisfied that I see what I should see, as a  
11 Bronx person, as a City-elected official, I'm not  
12 happy today.

13 CHAIRPERSON JOHNSON: Was the Department  
14 of Health at the hearing yesterday that Council  
15 Member Kallos mentioned related to the Department of  
16 Education and looking at food policy?

17 DR. SONIA ANGELL: The Department of  
18 Health was not there; Barbara Turk from the Mayor's  
19 Office of Food Policy was there.

20 CHAIRPERSON JOHNSON: Why wasn't the  
21 Department there? Maura, if you wanna testify, you  
22 can. [laughter, background comments] You can sit  
23 down. [background comments] Okay. If you could..  
24 and if you could [background comments] introduce  
25 yourself for the record, and do you affirm to tell

1  
2 the truth, the whole truth and nothing but the truth  
3 and answer council member questions honestly?

4 MAURA KENNELLY: I do.

5 CHAIRPERSON JOHNSON: Thank you.

6 MAURA KENNELLY: And my name is Maura  
7 Kennelly and I'm the Director of Intergovernmental  
8 Affairs for the Health Department.

9 Yesterday's hearing was attended by the  
10 Department of Education and by the Mayor's Office of  
11 Food Policy, represented by Barbara Turk; the Health  
12 Department, as Sonia mentioned, provides technical  
13 assistance to the Office of School Food, but the  
14 Mayor's Office of Food Policy really leads kind of  
15 the school food initiative for the administration and  
16 brings together all of the City agencies, you know  
17 when we look at the food standards, the procurement  
18 standards that Sonia mentioned.

19 CHAIRPERSON JOHNSON: I love Barbara  
20 Turk; she has done amazing service to our city for  
21 decades and I was so happy when the Mayor appointed  
22 her to that position because she is so capable and  
23 able and passionate on these issues. How many staff  
24 members work in that office?

1  
2 MAURA KENNELLY: I believe that there are  
3 two full-time staff members.

4 CHAIRPERSON JOHNSON: So the reason why I  
5 say that is because, as I say constantly, we have the  
6 best Department of Health and Mental Hygiene in the  
7 country; I think we have the best commissioner  
8 related to public health in the United States,  
9 Barbara is amazing; this is not me taking anything  
10 away from her, but she has a lot of things to look  
11 at, you know, she's... two people can't do all this  
12 work that Council Member Vacca's talking about and  
13 that Council Member Kallos brought up; I mean Council  
14 Member Kallos, there's a bill related to this that  
15 hopefully we'll have a hearing on sometime soon to  
16 try to expand this portfolio and get more support on  
17 food policy issues, but I make the point that -- and  
18 this is not me being critical of the department; I  
19 think it's an issue that we see all the time with  
20 City agencies and departments, is collaboration and  
21 coordination and informing decisions that are made  
22 that impact other agencies that sometimes may have  
23 more expertise. I mean we had a hearing a few months  
24 ago about, you know, my thoughts on trying to have an  
25 office of citywide comprehensive health planning and

1  
2 it's for sort of the same reason, this is wanting  
3 just to make sure that when the Department of  
4 Education comes and testifies on this important  
5 issue, when Dr. Angell gives all these, you know,  
6 statistics, which I'm sure they had yesterday,  
7 hopefully, that the Department of Health is at the  
8 table, 'cause you guys are the real experts on this,  
9 you guys are the ones that know this inside and out;  
10 you're the doctor, you're the one that has this  
11 information and so I just think we need to do a  
12 better job of coming up with a plan and a vision and  
13 a task force or a commission or some body that  
14 doesn't put it all on Barbara; she does so much and  
15 she has done so much already in two years, but I just  
16 want to ensure that we continue to coordinate in a  
17 real way and come up with a real plan.

18 MAURA KENNELLY: Thank you and we  
19 appreciate your thoughts and Council Member Vacca's  
20 and I think that you've given us a lot to think about  
21 and we will think about that very carefully and we  
22 look forward to talking with you further.

23 CHAIRPERSON JOHNSON: Council Member  
24 Cornegy.

25

1  
2 COUNCIL MEMBER CORNEGY: Thank you,  
3 Chair. I just would like to offer two perspectives  
4 of my own; one is as the Chair of the Committee on  
5 Small Business. What I've watched is the entire food  
6 industry begin a trend of healthy options across the  
7 board and I think that that is informed by what  
8 consumers demanded, not by government's input, right,  
9 number one. Number two; for once my opinion on a  
10 bill was informed very locally, by my family, my six  
11 children, which we had a discussion about their  
12 eating habits and all of the change and my twin 8-  
13 year-olds were able to describe to me that they now  
14 take the milk and water option, they don't drink soda  
15 anymore, and the fruit, they love the apples. So for  
16 me, I am in my household attempting to raise critical  
17 thinkers about what they do and I think as a society  
18 I'd like to think that it's reasonable for consumers  
19 to be able to have a determining factor in what they  
20 eat, drink, live and all of those kinds of things and  
21 so for me those two perspectives I think are very  
22 important; you know, I don't often let my family  
23 shape my opinion on legislation, trust me, but this  
24 one was very germane to how they live their lives.



1  
2 Now, I will take into consideration the  
3 fact that my last children are 8 and potentially  
4 aging out, you know, wanting to have a toy and until  
5 there's apps present, you know, probably for them  
6 it's irrelevant, so I do understand that, but they're  
7 aging out at a time that the industry is changing, so  
8 you know, I'm watching just the industry at large  
9 make determinations driven by what consumers' demands  
10 are, not government. So that's my opinion for the  
11 record.

12 CHAIRPERSON JOHNSON: Thank you, Council  
13 Member Cornegy. Council Member Koo.

14 COUNCIL MEMBER KOO: Thank you, Chair. I  
15 just wanna make sure that Council Member Kallos [sic]  
16 that I'm against this bill a 100%; I commend his  
17 intention of bringing obesity to be a talking topic  
18 among our citizens, because obesity is really a big  
19 problem. So I'm thinking the Department of Health  
20 can do a lot of things to decrease obesity; you can  
21 work in conjunction with other agencies; we have to  
22 make sure our kids exercise because now some schools,  
23 they don't even have play pass [sic], they have no  
24 exercise, no P.E. classes and then because of the  
25 advance in technology, everybody is glued to their

1  
2 cell phone or their whatever, their smartphone or  
3 tablet to watch movies or whatever, right, the  
4 message [sic], so we have to encourage people,  
5 especially young kids, to exercise more, make it a  
6 routine for them, especially in the minority  
7 neighborhoods, because they don't have the  
8 understanding exercise is the key; you do exercise a  
9 lot, you can eat whatever you want, **[inaudible]**,  
10 that's the key and so we have to inform and make sure  
11 that... you guys and Department of Education and all  
12 the other agencies -- DYCD -- do more exercise and  
13 then teach the public about the side effects of  
14 drinking too much sugar, 'cause if you wanna pass a  
15 law like this, we might as well pass a law to say,  
16 Starbucks, you cannot sell Frappuccinos; too much  
17 calories in there; right, too much sugar. You know,  
18 a large size of Frappuccino has a lot of calories,  
19 you know... [interpose]

20 COUNCIL MEMBER KALLOS: I don't shop at  
21 Starbucks.

22 COUNCIL MEMBER KOO: Yeah. So my point  
23 is that we shouldn't legislate people's habits  
24 because those are cultures; I mean we can inform them  
25 or we can teach young kids so that when they grow up

1  
2 they know what's good nutrition; what's bad  
3 nutrition. So that's my point. Thank you. Thank  
4 you for coming here and again, hopefully we can work  
5 together on other projects how to inform the public.  
6 This is good, keeping up [sic] the subject, everybody  
7 talk about it, you know, a Happy Meal, you know, but  
8 we shouldn't target McDonald's. If you wanna target  
9 **[inaudible]**, go do it for everyone, no giveaways,  
10 Macy's, they all have giveaways.

11 CHAIRPERSON JOHNSON: Macy's?

12 COUNCIL MEMBER KOO: Yeah, buy this; get  
13 this; right?

14 CHAIRPERSON JOHNSON: Oh yeah.

15 [background comment]

16 COUNCIL MEMBER VACCA: One thing, Corey.

17 CHAIRPERSON JOHNSON: Cornegy; then  
18 Vacca.

19 COUNCIL MEMBER CORNEGY: I'm sorry, the  
20 last thought that I would like to say is that I  
21 believe... I would air on the side of a very robust  
22 continued education and outreach program as opposed  
23 to the legislation. I think that one of the things...  
24 I had the pleasure of working with the Department of  
25 Health on a very robust outlet density study that we

1  
2 did and it produced great results and used great  
3 imagery and really helped... we live in a tremendously  
4 visual society; I think we all know that, so I would  
5 air on the side of more education as opposed to being  
6 punitive or targeting small businesses, as were  
7 mentioned, so for me, education is key and education  
8 and options and a holistic approach to this; I think  
9 it was mentioned earlier that we don't have enough  
10 P.E. or opportunities for exercise and that's almost  
11 like an after thought, so to try to, you know... this  
12 all has to go hand in hand, so thank you... but thank  
13 you for being here and thank you Chairs and Ben for  
14 this very important topic.

15 CHAIRPERSON JOHNSON: Thank you, Council  
16 Member. Council Member Vacca.

17 COUNCIL MEMBER VACCA: I wanna join in  
18 thanking everyone, thanking the panel; I just...  
19 [crosstalk]

20 CHAIRPERSON JOHNSON: There's still more  
21 people to testify after this.

22 COUNCIL MEMBER VACCA: I know; I'll be  
23 here. One thing... I wanted to say that we have to  
24 include in our education effort that people cannot  
25 think that as long as they exercise they can eat

1  
2 whatever they want; they cannot, they cannot.

3 Because diet is two-thirds of the battle; exercise is  
4 great, it works, don't get me wrong; I exercise, but  
5 the thing is, the diet is very important, short-term  
6 and long-term -- cholesterol, health, blood pressure,  
7 etc., salt; we have to emphasize that. So I think  
8 what we're trying to say is that we wanna work with  
9 you, but let's get going soon. Okay?

10 MAURA KENNELLY: Thank you very much.

11 CHAIRPERSON JOHNSON: This week is week  
12 four of this season of The Biggest Loser, FYI.  
13 [laughter] Council Member Kallos.

14 COUNCIL MEMBER KALLOS: Just a point of  
15 clarification; I think the enforcement issues were  
16 not brought up during our last meeting, but one thing  
17 I will just echo a lot of my colleagues' point; we're  
18 755 days in, we have fewer days left in the  
19 administration than we did before, we have 705 days  
20 left and so I think one of the things that I was  
21 always raised with is; don't knock something unless  
22 you've got a better idea, so does... and I think  
23 everyone has already asked this, but does DOHMH have  
24 a better idea than trying to make sure that we tie  
25

1  
2 incentive items or even just all kids meals to  
3 nutrition guidelines?

4 DR. SONIA ANGELL: So we're pleased to  
5 meet with you to discuss through what the options  
6 would be.

7 COUNCIL MEMBER KALLOS: Okay, I think  
8 what you're hearing from the entire Health Committee  
9 is we wanna see something very serious, substantive  
10 that will take on this obesity crisis. I think given  
11 the high rates of childhood obesity and the emergence  
12 of Type 2 Diabetes among children in New York City,  
13 why are soda and other sugar-sweetened beverages  
14 still on kids' menus at the overwhelming majority of  
15 our restaurants?

16 DAN KASS: I mean the simple reason  
17 they're on the menu is because the restaurants are  
18 currently entitled to offer whatever they want. So  
19 again, you know we approached this bill with, you  
20 know, sympathetic to its goals; we agree that sugar-  
21 sweetened beverages are an unnecessary and leading  
22 source of excess of calories for children and we'd be  
23 happy to work with you to try to think of some other  
24 solutions.

1  
2 COUNCIL MEMBER KALLOS: And I think I've  
3 been speaking a lot about the National Restaurant  
4 Association's Kids LiveWell program -- individual  
5 companies' [sic] efforts have resulted in modest  
6 improvements to restaurant kids meals, progress has  
7 been slow, according to data from the Center for  
8 Science in the Public Interest; in 2008, 1% of kids  
9 meals were healthy; in 2012 that number had only  
10 improved to 3%; without this legislation, when can  
11 New York City parents expect that most kids'  
12 restaurants will actually have a healthy option?

13 DAN KASS: I mean I appreciate the  
14 question, so I think we have to say that, you know  
15 we're happy to work with you to find some  
16 alternatives.

17 COUNCIL MEMBER KALLOS: And I think just  
18 my final question is; in light of the fact that  
19 children consume about 25% of their calories from  
20 restaurants and that childhood is a critical time for  
21 growth and development, and even from your own  
22 report, 35% of those meals are kids meals; how do we  
23 target those meals? I feel like that's a sizable  
24 number; in your report seem to say only a third of  
25 meals, but oh my god, that's a lot of kids, that's

1  
2 20% of our city and 25% of those calories are coming  
3 from restaurants and we have an opportunity to target  
4 35% -- that's hundreds of thousands if not millions  
5 of meals and kids, so [interpose, background comment]  
6 I think those are people we wanna give a healthy  
7 option; right?

8 DAN KASS: I mean it's a third of a  
9 quarter in terms of the overall... [crosstalk]

10 COUNCIL MEMBER KALLOS: When we're  
11 talking about scale, one-sixth of our city; that's  
12 huge... [crosstalk]

13 DAN KASS: Yep. But I think... you know,  
14 as we sort of... as you give us an opportunity to think  
15 about and to discuss more with you options, you know  
16 that kind of kids meals are a component, you know we...  
17 one consequence of some of this legislation might be  
18 simply to eliminate the incentive without necessarily  
19 changing the makeup of the kids meal, so I think we'd  
20 like to talk to you about, you know, the best  
21 possible way to influence each component of a kids  
22 meal and the kids meal itself.

23 CHAIRPERSON JOHNSON: Good. I mean I  
24 look forward to having you all engage with Council  
25 Member Kallos. What's a reasonable timeframe,



1  
2 reasonable, realistic and not solely addressing  
3 Council Member Kallos' bill; you all will communicate  
4 with him about that in whatever way is best, but in  
5 actually coming up with a comprehensive plan and what  
6 council members have raised today related to obesity  
7 and childhood obesity and cross-agency coordination;  
8 maybe it's already happening but we don't know it;  
9 what's a realistic timeframe for you to come back to  
10 the Council and present that to us and for us to  
11 continue to have those conversations?

12 MAURA KENNELLY: So I think that there is  
13 already a lot of work that the Department is doing,  
14 but from what we hear from you guys today, maybe  
15 we're not doing as good of a job as we would like to  
16 promote that work, so I think that we can schedule a  
17 meeting in the next few weeks to talk through with  
18 you what we're currently doing and what our plans are  
19 for the future, if that works well for you.

20 CHAIRPERSON JOHNSON: Great. So I wanna  
21 thank you all for coming today, for being here; thank  
22 you, Dan, Dr. Angell, Tom and Maura for being here;  
23 we appreciate you coming to testify and look forward  
24 to working together on shared goals. Thank you very  
25 much.

1  
2           Okay, we're gonna call the next panel up.  
3 The next panel -- we're gonna get to everyone, so  
4 don't worry. Brian Elbel from the NYU School of  
5 Medicine; Dr. Marie Bragg from the NYU School of  
6 Medicine; Kimberly Libman from the New York Academy  
7 of Medicine; Nick Freudenberg from the CUNY School of  
8 Public Health and Dr. Charles Platline [sic] from  
9 Hunter College. [background comments]

10           So sergeant, we're gonna put the folks'  
11 testimony on a three-minute clock, so if you all  
12 could -- I'm sure there'll be questions, so if you  
13 can't get to everything in your testimony, you may  
14 have an opportunity to inject some of what you  
15 weren't able to cover in the Q&A portion of this  
16 panel. So you begin in whatever order you'd like; if  
17 you could just speak clearly into the mic; make sure  
18 the red light is on.

19           Did we get everyone; is someone not here?  
20 [background comment] Dr. Charles Platline  
21 [background comment] Sorry. Nick Freudenberg? No.  
22 Is Nick Freudenberg here? Okay. You all may begin.

23           BRIAN ELBEL: Great. Good afternoon,  
24 Chairman Johnson, Councilman Kallos and members of  
25 the committee. My name's Brian Elbel, I'm an

1  
2 Associate Professor in the Department of Population  
3 Health at NYU School of Medicine and also at the  
4 Wagner School of Policy here at NYU and I direct a  
5 Section on Health Choice Policy and Evaluation, and  
6 most of my work looks at obesity; in particular looks  
7 at food choice in relation to obesity and I'm happy  
8 to talk to you today about this bill.

9           You know, since my appointment at NYU in  
10 2007, I have a broad set of funding from the NIH and  
11 key foundations to answer very similar questions to  
12 this, including things like the impact of calorie  
13 labeling, supermarkets in high-need areas and the  
14 overall role of the food environment on childhood  
15 obesity. And today I'm gonna outline the potential  
16 health benefits of this ordinance, No. 0422 [sic] and  
17 more specifically look at the potential reduced  
18 consumption of things like calories, sodium and  
19 percentage of calories if this bill were to be  
20 implemented, and I should say that this paper is  
21 joint with Marie Bragg, who you're gonna hear from  
22 separately and you already heard it referenced by  
23 Sonia Angell from the Department of Health.

24           And so what we did with this paper is we  
25 looked at purchases made for 422 kids in 2013 and

1  
2 2014 from areas in New York City and elsewhere,  
3 focusing on sort of the three largest fast food  
4 chains in New York City that had menu options that  
5 included kids meals in particular; these were Burger  
6 King, McDonald's and Wendy's, and as you heard from  
7 Dr. Angell, among our sample about 35% of kids  
8 actually purchase a kids combination meal overall.  
9 And what we did is we first looked at these meals and  
10 said which of them meet the criteria laid out in this  
11 proposed bill right now and we found that essentially  
12 none of them did, 98% didn't meet the criteria for at  
13 least one of the standards that are proposed here.  
14 Then we looked at what would happen if the kids  
15 walked into the restaurant, they ordered the same  
16 thing that they did before and suddenly the menus  
17 actually met these criteria, the children's meals  
18 actually met this criteria and we looked at questions  
19 like, what would be the reduction in things like  
20 calories, sodium and calories from fat and we found  
21 that there would be real reductions, about 54  
22 calories for the 35% of kids that purchase these  
23 meals and about a 10% reduction in sodium and a 10%  
24 reduction in calories from fat as well.

1  
2           So again, looking at this pretty narrow  
3 but we think important question of what would be the  
4 role of, if this bill were implemented right now, in  
5 kids making the same purchases, the reduction in  
6 overall calories, calories from fat and saturated  
7 fat, we think there's some real differences here that  
8 you could see; is this a, you know, life-altering  
9 difference here? No, but I think in childhood  
10 obesity anything right now that might have a real  
11 meaningful impact we're really looking for. So  
12 that's our overall sense of what might happen if this  
13 bill were to be implemented now.

14           CHAIRPERSON JOHNSON: That was amazing.  
15 Thank you. [laughter, background comments]

16           MARIE BRAGG: Thank you for inviting me  
17 to testify at today's hearing regarding nutritional  
18 standards for distributing incentive items aimed at  
19 children. My name is Marie Bragg and I'm an  
20 Assistant Professor in the Section for Health Choice  
21 Policy and Evaluation at the NYU School of Medicine  
22 with a joint appointment at the College of Global  
23 Public Health at NYU. Most of my research focuses on  
24 food marketing geared towards children and so I'd  
25

1  
2 like to share some research findings relevant to this  
3 proposal.

4           So we heard of it earlier, some of the  
5 expenditures that food companies dedicate towards  
6 child-targeted marketing and each year companies  
7 spend \$1.8 billion targeting young people with food  
8 advertisements. Most of the unhealthy products in  
9 these advertisements are targeted towards communities  
10 of color and these sorts of advertisements have been  
11 shown to overwhelm parents' abilities to regulate the  
12 children's diet, they increase children's preferences  
13 for these products, they increase purchase requests  
14 for these products and they lead children to overeat  
15 advertised products. And so one of the areas of  
16 focus of food policy research has been the use of  
17 targeted marketing and we see that in communities of  
18 color, that there is a heavier amount of food  
19 marketing and that in fast food restaurants  
20 specifically, food marketing is highly prevalent  
21 inside fast food restaurants. Also, black and Latino  
22 adolescents and children see more advertisements for  
23 unhealthy products than their white peers. And  
24 importantly, there are numerous studies showing that  
25 cartoon characters, characters appealing to children,

1  
2 are heavily used in advertisements in supermarkets,  
3 on websites and in fast food restaurants.

4           Two research studies I wanna highlight in  
5 particular focus on the use of incentives or  
6 characters in child-targeted marketing. One was a  
7 study conducted by researchers at Yale University  
8 where they asked preschool children to rate and taste  
9 food, so if you could imagine, we had on this table  
10 packages of food that had either Shrek or Dora the  
11 Explorer or Scooby Doo stickers on them and kids were  
12 asked to rate the taste of those foods in those  
13 packages compared to food that didn't have characters  
14 on it and preschool kids actually thought that the  
15 food tasted better when there was a character like  
16 Shrek on the package; they wanted the food more; they  
17 thought it tasted better if there was a cartoon  
18 character on it.

19           CHAIRPERSON JOHNSON: That's disturbing.

20           MARIE BRAGG: These are the same kinds of  
21 characters used in many incentive items in fast food  
22 restaurants.

23           Another study in 2009 conducted by  
24 researchers at Stanford showed similar effects with a  
25 McDonald's logo. So again, preschool children were

1  
2 shown packages that either had a McDonald's logo or  
3 not, were asked to taste and rate the foods and  
4 children thought that the foods actually tasted  
5 better when they had the McDonald's logo on them.  
6 This extended to snacks that weren't even sold at  
7 McDonald's, baby carrots, which goes to show the  
8 power of the logo, these cartoon characters in child-  
9 targeted marketing.

10           So Dr. Elbel already discussed the study  
11 that we published this past year related to the  
12 changes in calorie consumption and fat consumption  
13 and so given the ties between [bell] child  
14 preferences and food-targeted marketing, we know this  
15 is an important area to address with these types of  
16 policies.

17           CHAIRPERSON JOHNSON: Thank you very  
18 much.

19           DR. KIMBERLY LIBMAN: Hi, good afternoon.  
20 My name is Dr. Kimberly Libman; I'm the Deputy  
21 Director for Prevention at the New York Academy of  
22 Medicine. On behalf of the New York Academy of  
23 Medicine I'd like to thank Council Member Johnson and  
24 Council Member Kallos for bringing this bill forward  
25 and for the opportunity to testify today.



1  
2 We support Local Law 0442 because it has  
3 the potential to positively impact health equity  
4 among New York City's children and prevent further  
5 escalation of our current epidemic of non-  
6 communicable diseases.

7 The Academy was founded in 1847 to take  
8 on the critical health problems facing New York City  
9 at that time and we continue to advance solutions  
10 that promote the health and wellbeing of people  
11 living in cities worldwide through active research,  
12 evaluation, education and policy work.

13 As the folks who have testified before me  
14 have already made clear, food marketing increases  
15 children's demand for the foods promoted.  
16 Unfortunately, the majority of restaurant foods  
17 advertised to young people are high in fat and sugar,  
18 which contributes to obesity and poor health. The  
19 Academy supports this legislation because it will  
20 begin to rebalance this equation by setting the  
21 marketing prowess of the food industry to work  
22 promoting healthy foods and dietary behavior to  
23 children in New York City, and by that market  
24 prowess, I want to specifically note that \$866  
25

1  
2 million Dr. Angell had mentioned, that goes to  
3 marketing sugar-sweetened beverages alone.

4           This act amends the Administrative Code  
5 of New York City and sets nutritional standards for  
6 distributing purchasing incentives aimed at children  
7 and is an important step towards reducing childhood  
8 obesity and its persistent disparities in our city.

9           In 2012, among all youth aged 12-19 in  
10 New York City, more than 25% were overweight or  
11 obese. New York City in the past has leveraged a  
12 coordinated effort against obesity, has been a  
13 national leader in policies to address the obesity  
14 epidemic and in 2011 was able to demonstrate a  
15 significant decline in the overall prevalence of  
16 child obesity in New York City, an amazing feat for  
17 which we should all be proud. However, that decline  
18 hides some very real disparities between children who  
19 are white and of color as well as between children  
20 who come from more substantial means and those who  
21 come from low-income backgrounds.

22           The disparities in childhood obesity  
23 among youth in New York City become very real  
24 disparities in non-communicable diseases among  
25 adults. Consider that diabetes mortality is 2.7

1  
2 times higher in high poverty than low poverty  
3 neighborhoods. National data suggests that there are  
4 also racial disparities in fast food consumption  
5 among children.

6           This legislation is in line with the  
7 evidence informed [bell] and internationally  
8 recognized best practice for preventing obesity and  
9 non-communicable diseases. This best practice is  
10 based on the premise that food policies to prevent  
11 obesity should aim to improve dietary behaviors by  
12 improving the availability, affordability and very  
13 importantly here, the acceptability of healthy diets  
14 and decreasing the availability, affordability and  
15 acceptability of unhealthy diets. A summary of the  
16 evidence from multiple systematic literature reviews  
17 finds that promotions have a direct effect on  
18 children's nutrition knowledge, preferences,  
19 purchasing behavior, consumption patterns and diet-  
20 related health. Current marketing practice  
21 predominantly promotes low nutrition foods and  
22 beverages... [interpose]

23           CHAIRPERSON JOHNSON: I need you to wrap  
24 up.

1  
2 DR. KIMBERLY LIBMAN: Okay. So I just  
3 wanna state that you know there's been some research  
4 demonstrating a Happy Meal effect that's already been  
5 mentioned here and I wanna skip ahead to the evidence  
6 from San Francisco where they've already implemented  
7 a similar policy and there were two main findings  
8 from a pre and post evaluation of that policy. The  
9 study suggested that the food industry will respond  
10 quickly; that those quick responses can have  
11 significant impacts, as Dr. Elbel had mentioned, but  
12 it also noted the importance of closing what has been  
13 called the nominal fee loophole. And so I wanna call  
14 attention to the effort that Council Member Kallos  
15 has made to close that loophole. Thank you.

16 CHAIRPERSON JOHNSON: Thank you very  
17 much.

18 DR. KIMBERLY LIBMAN: Uhm-hm.

19 CHARLES PLATKIN: Hi; how are you? My  
20 name is Charles Platkin and I'm Director of the New  
21 York City Food Policy Center at Hunter College. This  
22 is just a really abbreviated version of my written  
23 testimony that's been submitted.

24 Good afternoon and thank you to Chairman  
25 Corey Johnson and the members of the Committee on

1  
2 Health for the opportunity to speak with you about  
3 the proposed local law to amend the Administrative  
4 Code of the City of New York in relation to setting  
5 nutritional standards and distributing incentive  
6 items aimed at children. I congratulate Council  
7 Member Kallos and the co-sponsors for their work, for  
8 the innovative thinking that went into proposing this  
9 bill, which seeks to better the health of the  
10 children in the City of New York. I'd like to urge  
11 the committee and the City Council to support this  
12 important legislation.

13 I'm here on behalf of the New York City  
14 Food Policy Center at Hunter College, which I'm the  
15 Director; the Center was created in 2012 to develop  
16 collaborative, innovative and evidence-based  
17 solutions to preventing diet-related diseases and we  
18 thank the City Council and the Speaker's Office for  
19 the support of the Center.

20 Food marketing to children and more  
21 specifically, using marketing incentives that  
22 encourage children to consume unhealthy, high  
23 calorie, high fat, high sugar meals at fast food  
24 restaurants is an issue of growing national and  
25 international public health concern. It's therefore

1 natural and fitting for New York City to meaningfully  
2 address this issue through truly progressive  
3 legislation, especially given the City's history for  
4 righting social inequities and serving as a role  
5 model for other urban centers throughout the United  
6 States and beyond. In an extensive review of the  
7 research, the American Psychological Association  
8 concluded that most children under the age of 8 are  
9 unable to understand the persuasive intent of  
10 advertisements; additionally, the research  
11 demonstrated that the product references effect  
12 children's product purchase requests and that these  
13 requests in turn influence parents' purchasing  
14 decisions primarily through what is commonly known as  
15 a nag factor. In other words, this type of marketing  
16 is by definition exploitive, because young children  
17 don't have the capacity to understand that they are  
18 being manipulated to nag their parents or guardians  
19 to buy unhealthy food products. Researchers have  
20 documented this so-called nag factor and have shown  
21 that food companies even know what types and kinds of  
22 tantrums work best. Think about this; in 2009,  
23 according to a report from the Rudd Center for Food  
24 Policy and Obesity, the average child viewed 262 TV  
25

1  
2 commercials that targeted them to go to local fast  
3 food outlets and participate in toy giveaways and  
4 other promotions. In fact each year the food  
5 industry spends hundreds of millions of dollars on  
6 powerful predatory marketing of unhealthy food  
7 products to children. For example, a 2014 McDonald's  
8 TV commercial with a Happy Meal giving away 14 toys,  
9 was tied to the highest grossing film, *How to Train*  
10 *Your Dragon 2*. As in all such advertising, the toys  
11 in the McDonald's campaign were primary incentives  
12 for the purchase of this unhealthy food. The  
13 campaign typified the trend towards tying fast food  
14 kids' meal premiums to popular movies and TV shows.  
15 [bell] The aim is always the same; enticing,  
16 engaging and entertaining a young and vulnerable  
17 population into eating unhealthy fast food. One of  
18 parents' most important jobs is to provide their  
19 children with healthy foods; food marketing to  
20 children, including the use of toy giveaways and  
21 premiums undermines this parental right and  
22 privilege. It's difficult enough getting children to  
23 eat healthy and diverse diet, however, targeting them  
24 by offering toy giveaways tied to unhealthy food  
25 gives the fast food industry an unfair advantage.

1  
2           The proposed law, if enacted, will send a  
3 message to our community, making it clear that the  
4 New York City Council cares about the health and  
5 welfare of our children and about their future as  
6 citizens of this great city.

7           CHAIRPERSON JOHNSON: Thank you, Doctor.

8       So I have a few questions. So thank you for being  
9 here today, for coming to testify for... you know, this  
10 is not me saying it's not true, but you know, this is  
11 not my area of expertise, so to come here today with  
12 research, I'm going to assume it's accurate; I'm sure  
13 people are gonna testify after you who are probably  
14 gonna say it's not accurate; then it's gonna be  
15 difficult to determine what's accurate and what's not  
16 accurate, but some of it actually just sort of makes  
17 sense on its face, that if in face you use images  
18 that children have some type of affinity for, whether  
19 it be Shrek or Tony the Tiger or, you know, Snap,  
20 Crackle and Pop; whatever it is, these fictitious  
21 things that are made to try to get children to have  
22 some type of affinity towards it; what basically your  
23 research is showing is that that deliberate,  
24 repetitive marketing has a neurological impact that  
25 then draws children and sometimes maybe even their



1  
2 families to purchase that type of food, even though  
3 it's unhealthy food, and Dr. Bragg, I think you  
4 talked about the fact that even if it's not a  
5 fictitious character, it it's just the logo of a  
6 well-known brand; similar things happen here.

7 I also wanna be clear that, I mean... I  
8 don't know if Council Member Kallos agrees on this;  
9 I'm not looking to target or be punitive towards  
10 McDonald's here, I mean I don't think it's fair to  
11 make them the sole culprits and the boogeyman in all  
12 of this; I think they have areas they can improve in  
13 and I think they're probably the most well-known  
14 brand in America, so it's easy to target them, but  
15 there are plenty of large fast food restaurant  
16 companies that are behaving in similar ways. So is  
17 that really sort of the... I don't mean to denigrate  
18 all the work that you did by trying to encapsulate it  
19 into that, but that's basically what you all are  
20 saying here, right?

21 MARIE BRAGG: And I'd like to just  
22 mention that studies like these have been conducted  
23 repeatedly over the last couple of decades and so  
24 it's now in the dozens of studies capturing the  
25 amount of expenditures, capturing the impact on adult

1  
2 behavior, capturing the impact on child behavior, so  
3 it's not just one or two studies demonstrating it;  
4 it's a really robust well-done set of studies  
5 demonstrating these effects.

6 CHAIRPERSON JOHNSON: Great. Did you  
7 have something, Doctor?

8 CHARLES PLATKIN: Just that I agree and I  
9 think that is a good way of summarizing it.  
10 Basically this is a vulnerable population that is  
11 being unfairly targeted and this so-called nag factor  
12 is a real phenomenon and it should be looked at and  
13 thought about and it really helps to support what  
14 this committee has worked on.

15 CHAIRPERSON JOHNSON: So I wanna make a  
16 comparison here and this is not me trying hyperbolic  
17 or in any way to target fast food companies when I  
18 say this, because you know, smoking is different, of  
19 course, than consuming French fries, we know that; I  
20 mean, both are bad in some ways, but smoking is a lot  
21 worse, but I think we learned, and what came up for  
22 me when you had mentioned your research is what we saw  
23 that tobacco companies used to do with Joe Camel ads  
24 in trying to target young people to make it seem cool  
25 and hip and happening and the Joe Camel would be in a

1 tuxedo with a top hat on, smoking a cigarette. I  
2 mean again, I'm not saying that fast food companies  
3 are the same as tobacco companies, but the marketing  
4 is sort of similar in trying to draw people in; is  
5 that correct?

6  
7 CHARLES PLATKIN: I think that's a great  
8 comparison.

9 CHAIRPERSON JOHNSON: 'Kay.

10 MARIE BRAGG: And there's a study in  
11 Milbank Quarterly from 2009 written by Ken Warner, an  
12 expert in tobacco research and Kelly Brownell, an  
13 expert in food policy research, drawing parallels to  
14 the marketing and different actions taken by both the  
15 tobacco industry and the food industry and how  
16 similar they are in ways and different as well, but  
17 that provides a good review of those two topics  
18 juxtaposed.

19 CHAIRPERSON JOHNSON: Great. I wanna  
20 thank you all for being here today and I appreciate  
21 your testimony. Thank you. Did you have a question?

22 COUNCIL MEMBER KALLOS: Oh yeah.

23 CHAIRPERSON JOHNSON: Oh, you didn't tell  
24 me. Okay, Council Member Kallos.

1  
2 COUNCIL MEMBER KALLOS: Thank you for  
3 your testimony. Any of you; was your research funded  
4 by any fast food industry or restaurant association  
5 or other special interests?

6 CHARLES PLATKIN: No.

7 BRIAN ELBEL: No.

8 COUNCIL MEMBER KALLOS: Was any of your  
9 research funded by me or this City Council?

10 MARIE BRAGG: No.

11 CHARLES PLATKIN: Well the Food Policy  
12 Center is funded by the City Council, but has.. has  
13 funding from the City Council..

14 COUNCIL MEMBER KALLOS: Okay, but..

15 CHARLES PLATKIN: but it doesn't sway  
16 our... my opinion... [crosstalk]

17 BRIAN ELBEL: So our work is funded by  
18 the Federal National Institutes of Health and the  
19 Robert Wood Johnson Foundation.

20 COUNCIL MEMBER KALLOS: Okay. So there  
21 are no healthy food industry special interests saying  
22 we want you to do research on healthy food options.  
23 Thank you.

24 So my first question is for Brian; thank  
25 you for doing the study; I think it's incredibly

1  
2 important that we actually make decisions in our  
3 city, whether it's Uber or fast food, following  
4 scientific research and studying; actually, in the  
5 Uber situation we learned that it wasn't what we  
6 thought it would be. So just to be clear, among your  
7 sample, 35% of the children ate children's  
8 combination meals that included a toy?

9 BRIAN ELBEL: That's right.

10 COUNCIL MEMBER KALLOS: And currently,  
11 98% of the meals would not meet our nutrition  
12 criteria proposed by the bill?

13 BRIAN ELBEL: That's right; that looked  
14 at exact purchases by these kids and 98% didn't meet  
15 criteria; that's right.

16 COUNCIL MEMBER KALLOS: Do you know how  
17 many would've... Did you look at the Kids LiveWell at  
18 all or was that... [crosstalk]

19 BRIAN ELBEL: No, we didn't look at that.

20 COUNCIL MEMBER KALLOS: Thank you. And  
21 then one question I had is; it says, children whose  
22 purchases include such a meal would see a 9%  
23 reduction and then it continues and then said, there  
24 would be an overall 3% reduction in calories consumed  
25 by children at these restaurants regardless of

1 purchase. What are you distinguishing here...?

2 [crosstalk]

3  
4 BRIAN ELBEL: Yeah, so the two  
5 distinctions there; among the 35% that actually ate a  
6 kids combo meal, which this policy, at least as  
7 currently considered, would actually impact, so it  
8 looks at those kids and then said taking into account  
9 that almost two-thirds of the kids didn't purchase a  
10 combo meal, what would be the overall impact  
11 averaging over all those kids.

12 COUNCIL MEMBER KALLOS: So this would  
13 actually impact kids not eating the combo meal or?

14 BRIAN ELBEL: No, it assumes that the  
15 kids not eating the combo meal are gonna get exactly  
16 what they got before and it just sort of takes that  
17 impact over and above everyone else.

18 COUNCIL MEMBER KALLOS: Okay. The next  
19 question is for Kimberly Libman from New York Academy  
20 of Medicine. You got cut off right before you were  
21 getting to the interesting stuff about what happened  
22 in San Francisco. So if you could spend 30 second or  
23 less just summarizing what happened in San Francisco  
24 when they passed very similar legislation.

25 [background comments]

1  
2 DR. KIMBERLY LIBMAN: Thank you.

3 Alright, so the legislation in San Francisco, the  
4 study there basically found that the food industry  
5 did not change their children's meals as a direct  
6 result or immediately following the City Council's  
7 policy, but it did happen sort of concurrently and it  
8 seemed to encourage the industry to move in a  
9 direction of providing healthier children's meals in  
10 general. What the researchers in California found is  
11 that the industry also moved to make the toys or  
12 incentive items available for a nominal fee; in their  
13 case it was 10 cents. And so what the Academy is  
14 suggesting is that the Council -- we wanna commend  
15 you for including a clause in the bill to try and  
16 close that loophole on the nominal fee, but we think  
17 the language could be stronger and could be more  
18 specific in terms of defining what level of fee is  
19 considered nominal.

20 COUNCIL MEMBER KALLOS: Do you have  
21 specific language you propose?

22 DR. KIMBERLY LIBMAN: I don't have  
23 specific language on that that we have proposed, but...  
24 [crosstalk]

25

1  
2 COUNCIL MEMBER KALLOS: If you would  
3 consider amending your testimony to include the  
4 specific language, I am very interested [sic].

5 My next question is for Dr. Marie Bragg.  
6 Thank you for compelling information. So one  
7 question; this might be speculative, but it seems  
8 like a lot of the things you're telling us about in  
9 terms of advertising and its impacts are things that  
10 you've researched, but it seems like a \$1.8 billion  
11 investment in advertising would demonstrate that the  
12 industry believes your research.

13 MARIE BRAGG: The fact that they spend so  
14 much money suggests, in a business and you know, what  
15 they decide is a good investment and is not at all my  
16 area of expertise, but I think... my own commonsense  
17 suggests that if they are spending \$1.8 billion on  
18 these target marketings; they thing something within  
19 it is working. And so the research that examines  
20 that has been consistent over time and there have  
21 been a variety of outlets that have demonstrated  
22 child-targeted marketing, but they hold onto their  
23 data, so we can't... we don't know studies that they've  
24 done that might be similar to ours and what those  
25 outcomes were.



1  
2 COUNCIL MEMBER KALLOS: Who is they, the...  
3 [crosstalk]

4 MARIE BRAGG: Oh, the food industry.

5 COUNCIL MEMBER KALLOS: Okay. Is there  
6 any research out there that says spending \$1.8  
7 billion showing 4700 food ads each year to children  
8 doesn't get them to buy the product?

9 MARIE BRAGG: Not that I'm aware of.

10 COUNCIL MEMBER KALLOS: Okay. And with  
11 regards to this, this seems to... Multiple of you have  
12 said that children are in a different place  
13 cognitively and they have different decision-making;  
14 have there been any studies with regards to what  
15 happens when an adult is shown 4700 ads versus a  
16 child; is there a different impact based on their  
17 cognitive ages?

18 MARIE BRAGG: Several studies conducted  
19 by Halford and Jennifer Harris have demonstrated that  
20 adults will over-consume in response to seeing food  
21 ads compared to a sample of adults that sees neutral  
22 ads and that this is more prominent for unhealthy  
23 products as opposed to healthy products.

24 COUNCIL MEMBER KALLOS: Thank you. Is  
25 there any question I didn't ask that I should've?

1  
2 Thank you very much coming and really the research  
3 you are doing will shape public health in our city,  
4 in our nation; please keep up the great work.

5 CHAIRPERSON JOHNSON: Thank you all very  
6 much. Next up we have Gerald Fernandez from  
7 McDonald's; Dr. Cindy Goody from McDonald's; Tony  
8 Herbert from the New York State Minority Restaurant  
9 and Nightlife Association, and Thomas Green [sic]  
10 from the Queens Chamber of Commerce. Yep, Council  
11 Member Kallos wants to read something into the record  
12 as folks come up.

13 COUNCIL MEMBER KALLOS: Thank you, while  
14 we're waiting for the panel in opposition, I did  
15 wanna take a moment to note that New York State  
16 Senator Gustavo Rivera has similar companion  
17 legislation in the State of New York; his full  
18 testimony has been entered into the record; I will  
19 read one paragraph from it.

20 Senator Gustavo Rivera truly believes  
21 that to combat obesity, diabetes and other health  
22 issues that are plaguing our youth, we must put forth  
23 policies that create an environment that encourages  
24 children to develop healthy habits. The goal of  
25 Council Member Kallos' Healthy Happy Meals bill and

1  
2 my bill in the State Senate is the same, to allow  
3 children to make healthy food choices without any  
4 misguided influence, while holding restaurants  
5 accountable for the food they are advertising to  
6 children; this type of policy has proven to do both.

7 CHAIRPERSON JOHNSON: Thank you. So you  
8 may begin in whatever order you'd like, just speak  
9 directly into the mic and make sure the red light is  
10 on. Go ahead, sir.

11 TONY HERBERT: First, my name is Tony  
12 Herbert, Community Advocate Tony Herbert; I am the  
13 President and CEO of the New York State Minority  
14 Restaurant and Nightlife Association, although I sit  
15 here wearing three different hats; I'm also the Vice  
16 President of Youth Step USA, which is a national  
17 program and also the Chair of the African American  
18 International Chamber of Commerce.

19 I thank you guys for this opportunity to  
20 offer testimony. So let me say by saying good  
21 afternoon again; I'll read my statement [sic].

22 My name is Tony Herbert; I am the  
23 President and CEO, as said, of the New York State  
24 Minority Restaurant and Nightlife Association; as  
25 such, I work to identify and advocate for small

1  
2 business owners in the restaurant and nightlife  
3 industries here in New York. I'm also a community  
4 activist based in Brooklyn; it is in this capacity  
5 that I've had the opportunity to work with McDonald's  
6 franchisees in New York City over the past year  
7 following an incident which is well-known involving  
8 some young people at one of Brooklyn's locations.  
9 Since my introduction to these owners/operators, I've  
10 found them to be good, upstanding small business  
11 owners who are involved in their communities and  
12 wanna do right by the people they serve each and  
13 every day.

14 All over the city young people congregate  
15 in McDonald's restaurants after school and on  
16 weekends; they use McDonald's as gathering places  
17 because they're warm and inviting, they offer a  
18 variety of menu options which now include more and  
19 more healthier items. The other reason so many young  
20 people assemble in McDonald's restaurants, I believe,  
21 is the tremendous lack of City-sponsored recreational  
22 facilities available in all neighborhoods for our  
23 school children. If this committee or the City  
24 Council really wanted to help our young people, it  
25 should invest in providing safe places for them to

1  
2 spend their time and energies positively and  
3 constructively. We have a responsibility as a  
4 society to nurture and foster these energies, to  
5 harness them for the good of these kids and with no  
6 outlet for the future of our city; that is despair.  
7 At a time when crimes involving young people appear  
8 almost daily on our televisions, do we really need  
9 our elected officials to mandate what kind of toys  
10 quick-service restaurants like McDonald's can give  
11 away or do we need our leaders to be providing hope  
12 and opportunity to the kids all over this city, some  
13 of whom are one bad decision away from a lifetime of  
14 being behind bars or dead. The good men and women  
15 who own McDonald's restaurants employ thousands of  
16 our city's young people, minorities alike, giving  
17 them pride that comes with a job as well as  
18 opportunities for career training and advancement.  
19 To target these owners/operators is nothing more than  
20 a hindrance to our community and overreach of a city  
21 government that should instead be focusing on the  
22 most vital of our needs; the education and growth of  
23 our kids and the health and safety of all our people.  
24 I ask this committee to focus on what's important and  
25

1  
2 please leave the toys alone. Thank you for your  
3 consideration and your time this afternoon.

4 CHAIRPERSON JOHNSON: Thank you,  
5 Mr. Herbert.

6 TOM GRECH: Good afternoon. Thank you,  
7 Councilman Johnson and the members of the Health  
8 Committee. My Name is Tom Grech, Executive Director  
9 of the Queens Chamber of Commerce. I'm here today  
10 not just as the Director of the Queens Chamber of  
11 Commerce, but wholly and jointly representing all the  
12 other chambers of commerce of the City of New York,  
13 including the Brooklyn Chamber of Commerce, the Bronx  
14 Chamber of Commerce, Manhattan Chamber of Commerce  
15 and the Staten Island Chamber of Commerce.

16 Keeping residents healthy is a great  
17 objective and we are pleased to see the City work to  
18 educate the public on what they can do to stay fit  
19 and eat right. Studies have shown that having a  
20 healthy workforce increases productivity and many  
21 companies encourage their employees to be active and  
22 inform them of what they can do during the day to  
23 stay fit. The five Chambers of Commerce applaud  
24 these efforts and we look forward to working with you  
25 to help educate the public on these initiatives.

1  
2           When it comes to Int 0442, however, we  
3 believe it goes too far and puts an undue burden on  
4 small businesses. While McDonald's corporate  
5 headquarters are in Oak Brook, Illinois, over 90% of  
6 the McDonald's in New York City are locally owned  
7 franchisees. These are small to medium size  
8 businesses owned and operated by independent business  
9 men and women who live, raise families and hire local  
10 residents, anchoring business corridors throughout  
11 the City. These franchises must develop their own  
12 business plan, are in charge of ensuring their own  
13 stores succeed. By passing Int 0442, it will impede  
14 small businesses that generate more than a \$100  
15 million in sales taxes and more than \$32 million in  
16 property taxes for the City of New York.

17           Like any business, McDonald's has changed  
18 the way they operate; my working with organizations  
19 such as the Alliance for a Healthier Generation, co-  
20 founded by the American Heart Association and the  
21 Council of Better Business Bureaus, they have changed  
22 the way they serve meals based on the latest  
23 nutritional information, as well as customer  
24 feedback. McDonald's Happy Meals currently offer  
25 child size portions of an entrée, a kid size fry and

1  
2 a choice of low-fat yogurt, apple slices and beverage  
3 choices that include milk and juice. Alternatively,  
4 McDonald's regular menu offers standard meals  
5 intended for older customers; this has resulted in  
6 healthier meals for all of McDonald's customers and  
7 between 2013 and 2014, orders of fruit served as part  
8 of Happy Meals increased by nearly 50%. The toys  
9 offered with Happy Meals are only an incentive to  
10 purchase an appropriately sized and balanced meal for  
11 a child and has no correlation with the health of the  
12 meal they're ordering.

13 The five Chambers of Commerce  
14 respectfully request this introduction be voted down.  
15 Thank you.

16 CHAIRPERSON JOHNSON: Thank you,  
17 Mr. Grech.

18 TOM GRECH: Thank you.

19 GERALD FERNANDEZ: Good afternoon. My  
20 name is Gerry Fernandez; I'm President and Founder of  
21 MFHA, the Multicultural Foodservice & Hospital  
22 Alliance. For 20 years we have been making the case  
23 for why the restaurant industry is a good place to  
24 work for people who look like me, people of color,  
25 people who come from low-income and in my case, a



1  
2 widowed family. I started as a dishwasher when I was  
3 in high school and I spent most of my time in the  
4 dish room and today I spend my time in the boardroom  
5 helping companies figure out the value of diversity  
6 and inclusion; how do we sell, market and serve to  
7 customers of color in ways that are culturally  
8 responsible; how do we engage with the community in  
9 ways that helps build the businesses, help minority  
10 franchisees grow? And in every one of these  
11 instances it's been McDonald's who's been the leader  
12 with us. So I stand here as a father, as a  
13 grandfather who regularly serves my grandkids a Happy  
14 Meal as a way to reward them for doing well in  
15 school; I raised three boys doing that. McDonald's  
16 is the leader and I feel, listening to these  
17 proceedings, as if they've been targeted, as if they  
18 were the enemy. Our industry needs to do more, I  
19 work with the restaurant associations; we do need to  
20 do more, but McDonald's is the leader and I really  
21 feel anger about the way that they've been targeted  
22 across this country, maybe not particularly with this  
23 group, but across the country McDonald's has been in  
24 the forefront.

1  
2 I also think that we have to remember  
3 that the government does not change behavior, people  
4 change behavior; when seat belts changed, it was  
5 people's behavior that changed, it's not laws that  
6 are gonna change it. Our industry does a tremendous  
7 amount to move the needle on these things around  
8 health and our industry has made a move; we think  
9 that the marketplace will speak for this; I agree  
10 with what was said earlier, that small franchisees  
11 are gonna get hurt if there's too much regulation and  
12 the role of government and industry working together,  
13 as has been suggested here today, is a really good  
14 idea, but unfortunately we don't see enough of that.

15 So I would like to remind all the people  
16 in the session here that the companies that are in  
17 the forefront of their industries ought to be in the  
18 forefront of solving and working in the communities;  
19 no company has done a better job in my view on  
20 advancing diversity, minority franchisee development,  
21 of supply development and for women and people of  
22 color and I'm proud to say that they've been a  
23 supporter of ours and I'm happy to be here to support  
24 them today.

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CHAIRPERSON JOHNSON: Thank you, sir.

Dr. Goody.

DR. CYNTHIA GOODY: Thank you. Good afternoon. My name is Cynthia Goody and I lead [sic] McDonald's nutrition for McDonald's USA. Thank you for the opportunity to speak with you.

I've been on this journey with New York City starting in July of 2011 with then City Council Member Leroy Comrie. At that time I had a 6-month-old; we're here five years later almost and my child will turn 5 on Sunday; she eats a Happy Meal regularly; she's also active and fit. Let's talk about McDonald's.

As one of the oldest and most recognized quick-service restaurants in the world today, McDonald's has more than 14,000 locations in the U.S. and 230 restaurants here in New York City. As a nutritionist I'm here to speak not about the tremendous economic impacts of our restaurants, nor the strength of our supply chain; rather, the great strides in nutrition over the past few years.

It may have been a while since members of the committee may have had a Happy Meal, so I brought some with me today, several combinations for you to

1  
2 see because... ah-hah, here we go. My esteemed  
3 gentlemen will assist as I spill the water, but  
4 that's okay, we're a restaurant company, we'll wipe  
5 it up.

6 So let me show you what we have here. In  
7 one box, Gerry, we have a hamburger, a kids' fry,  
8 apple juice and apple slices. My friend here to my  
9 left will show you that we have a four-piece  
10 McNugget, kids' fries, 1% low-fat white milk and  
11 apple slices. Quick quiz; which one of these meals  
12 meets the proposed criteria for Int 0442, which meal;  
13 this meal or this meal?

14 CHAIRPERSON JOHNSON: We're not playing  
15 games; tell us... [crosstalk]

16 DR. CYNTHIA GOODY: Alright, we won't  
17 keep you [sic]. Okay. This one meets the criteria;  
18 this one does not meet the criteria.

19 Imagine you have two children in the back  
20 seat; one wants this meal, one wants this meal; this  
21 child would get the toy; this child would get no toy  
22 at all. So let me refresh. As you may recall, in  
23 2011 then City Council Member, now State Senator  
24 Leroy Comrie introduced legislation very similar to  
25 that being debated here today. His legislation

1  
2 sought to prohibit restaurants from distributing  
3 incentive items aimed at children. We worked with  
4 the council member on the rollout of significant  
5 changes to Happy Meals. [bell] As a result of our  
6 partnership, Council Member Comrie later stood with  
7 executives from McDonald's in support of the  
8 substantial steps we've taken to provide balanced  
9 Happy Meal offerings. The proposal today links the  
10 sale of toys caloric intake, fat, added sugar and  
11 sodium; an overwhelming majority of McDonald's meals,  
12 much like the ones I've presented today, fall well  
13 below the suggested aggregate calorie count as  
14 proposed in this bill. In New York City McDonald's  
15 serves one million meals per months; in New York  
16 City, the New York City public schools serve five  
17 million meals a month. Limiting kids' meals offer  
18 with a toy to a set of arbitrary nutrition standards  
19 could result in reducing the amount of fresh fruit,  
20 low-fat and fat-free dairy and juice provided to  
21 children and move customers, young customers to  
22 choose options that will not include these  
23 nutritional and child size portion menu items.

24 Here's why we're opposed to this  
25 proposal: 1. the proposed criteria are not based on

1 science or generally accepted nutrition standards;  
2 2. it could result in unintended consequences,  
3 driving kids to consume more calories and less  
4 produce and less dairy; 3. today more than 95% of  
5 restaurants around the world offer fruit, vegetables;  
6 low-fat dairy as an option in Happy Meals, so we're  
7 already addressing the goals of this legislation by  
8 providing calorie-appropriate meals with low-fat  
9 dairy, low sugar and fruit options. We've worked  
10 very closely with external partners and subject  
11 matter experts to ensure that we are offering a  
12 nutritionally sound menu. And fifth and final, this  
13 proposed has limited impact and only applies to chain  
14 restaurants offering toys to kids.

16 CHAIRPERSON JOHNSON: I don't believe  
17 that's accurate, but we can talk more about that.

18 DR. CYNTHIA GOODY: 'Kay. Here are more  
19 details. The U.S. Department of Agriculture mandates  
20 guidelines for nutritional value of public school  
21 lunches; these meals before you are well within the  
22 USDA's current acceptable range of school lunches and  
23 most are lower than a sampling of some of the lunches  
24 consumed today in New York City public schools.

25

1  
2 I can tell you that we and others have  
3 researched targeted goals in the proposal and can  
4 find nothing from a federal agency or non-  
5 governmental organization that these restrictions are  
6 linked to. The calories, the fat, the sodium are not  
7 aligned with government and/or medical organizations,  
8 official recommendations, research and science.

9 McDonald's has worked diligently to  
10 become the industry leader through the evolution of  
11 our Happy Meals and related programs to promote  
12 produce, low-fat dairy to children as well as the  
13 inclusion of nutrition and/or active play messages in  
14 all advertisements directed to children. The most  
15 recent example of this is the added choice of Cuties  
16 Clementine in Happy Meals, a fresh whole fruit  
17 offered again this year, after having served 38  
18 million pieces of fresh fruit while in season a year  
19 ago. We worked closely with external partners and  
20 subject matter experts, such as the Alliance for a  
21 Healthier Generation, co-founded by the American  
22 Heart Association and the Council of Better Business  
23 Bureaus. We also have a Global Advisory Council on  
24 nutrition and wellbeing, as well, collaborating with  
25

1 industry experts as well as internal experts to  
2 ensure we're offering a nutritionally sound meal.

3 We will continue to positively evolve the  
4 offerings in the Happy Meal based on consumer  
5 feedback, nutrition experts and science and when we  
6 narrow that offering to something that is not  
7 appealing to customers, it creates unintended  
8 consequences of driving families to purchase meals  
9 for their kids off our regular menu, a menu that's  
10 intended for grownups and these particular menu  
11 items, because of their difference in portion size,  
12 may not be well-suited for children. For example,  
13 our Happy Meal bundle currently offers child size  
14 portions of an entrée, a kids' fry, a choice of low-  
15 fat, reduced sugar Go-Gurt, apple slices or a Cuties  
16 Clementine. Important, we only promote milk and  
17 juice as beverages for Happy Meal...

18 CHAIRPERSON JOHNSON: As of when?

19 DR. CYNTHIA GOODY: As of the summer of  
20 2014.

21 CHAIRPERSON JOHNSON: Thank you.

22 DR. CYNTHIA GOODY: We only promote milk  
23 and juice as beverage choices for Happy Meal in our  
24 national advertising and on our menu boards. We have  
25



1  
2 also removed antibiotic, rBST, from our milk. Just  
3 as I mentioned, more than 95% of our restaurants  
4 around the world offer fruit, vegetables or low-fat  
5 dairy as Happy Meal options. I know of no other  
6 restaurant that has our reach and drive to increase  
7 fruit and low-fat dairy choices in the meals of our  
8 youngest customers.

9           Again, we've committed to offering, in  
10 the U.S., offering produce or low-fat dairy in every  
11 Happy Meal. Importantly, this year, 2016, we will  
12 achieve a key milestone of serving more than two  
13 billion sides of packaged apple slices and the low-  
14 fat reduced sugar Go-Gurt combined since 2012. Again  
15 in January, Cuties Clementines are offered as a  
16 choice in Happy Meals as an ala carte menu item.

17           We have been told by a council member  
18 that having a whole fruit in our Happy Meal will  
19 provide some of their New York City constituent  
20 residents their first chance to have a whole fruit.  
21 In addition, we've worked with our suppliers to  
22 reformulate our 1% low-fat chocolate milk to be fat-  
23 free chocolate milk and recently added Go-Gurt low-  
24 fat strawberry yogurt as an additional side. Made  
25 exclusively for McDonald's, this Go-Gurt contains 25%

1  
2 less sugar than the leading kids' yogurt and is a  
3 good source of Vitamin D and Calcium. During the  
4 period of June 2014 until October of 2015, McDonald's  
5 served 232 million Go-Gurt tubes around the country.  
6 Since 2006 McDonald's has been a charter member of  
7 the Council of Better Business Bureaus Children's  
8 Food and Beverage Advertising Initiative. This means  
9 in McDonald's in the United States we only advertise  
10 Happy Meals to children that meet strict nutrition  
11 criteria for calories, saturated fat, sodium and  
12 sugar. Since this time our national Happy Meal  
13 advertisements have included produce and not soda.

14 We have also made other nutritional  
15 enhancements to our children's favorite, Chicken  
16 McNuggets. A number of years ago we formulated the  
17 McNuggets to be made with all white meat and since  
18 2003 we reduced sodium by about 20%. Within two  
19 years McDonald's USA will only source chicken that is  
20 raised without antibiotics that are important to  
21 human medicine. In a partnership with the Alliance  
22 for a Healthier Generation, McDonald's announced the  
23 2013 Clinton Global Initiative annual meeting held  
24 here in New York City a commitment to action to  
25 increase consumers access to produce and dairy to

1 help families and children make informed nutrition  
2 choices. Specifically, McDonald's committed to only  
3 promote and market water, milk and juice as the  
4 beverage in Happy Meals on menu boards, in  
5 restaurants; external advertising, using the Happy  
6 Meal and other packaging innovations and designs to  
7 generate excitement for fruit, low-fat or reduced fat  
8 dairy or water options for kids. Also, dedicating  
9 the Happy Meal box or bag panels four times annually,  
10 annually to communicate a fun nutrition or a  
11 children's wellbeing message, ensuring that 100% of  
12 all national advertising directed to children  
13 included a fun nutrition or children's wellbeing  
14 message. In addition, this commitment also includes  
15 the option for consumers to substitute a side salad,  
16 fruit or other produce for French fries in Value  
17 Meals.  
18

19 The Clinton Global Initiative commitment  
20 covers McDonald's top markets globally, representing  
21 more than 85% of McDonald's global sales and spans  
22 through the year 2020. Year one progress was  
23 measured independently by a third-party economics  
24 firm, Keybridge and was released in 2015. The  
25 members of this committee have a copy of the

1 executive summary of the report and a couple of key  
2 areas of progress include; more customers are  
3 selecting 100% juice and milk. In the first 11  
4 months since sodas were removed from the Happy Meal  
5 section of the menu board in the restaurant in 2014,  
6 milk and juice selections rose nine points;  
7 specifically what means is, before the change 37% of  
8 Happy Meal orders included milk or juice; after the  
9 change Happy Meal orders that included milk and juice  
10 increased to 46%. During the same time period, Happy  
11 Meal orders with soda decreased from 56% to 48%. Let  
12 me say that again, during the same period Happy Meal  
13 orders with soda decreased from 56% to 48%. In sum,  
14 this contributed to serving 21 million additional  
15 milk jugs and juice boxes in Happy Meals and ala  
16 carte in the same time period.

17  
18 This proposal only applies to chain  
19 restaurants offering toys with kids' meals; it does  
20 not apply to all other restaurants in New York City  
21 serving food to kids and therefore will have a  
22 limited impact. For example, some nutritional  
23 experts feel that pizza is a major contributor to  
24 children's caloric intake, but this proposal will not  
25 apply to pizza chains because I'm unaware of any

1 offering kids' meals with toys. This is not to say  
2 they aren't out there, but I do not know of any.  
3 Again, McDonald's has made significant strides in  
4 offering apples in every Happy Meal as well as a  
5 choice of Cuties Clementine, low-fat Go-Gurt, choice  
6 of milk, fat-free chocolate milk, apple juice and not  
7 advertising soda. We feel that this bill punishes  
8 McDonald's for doing the right thing, for working  
9 with leading nutritionists, world-leading non-  
10 governmental organizations, federal agencies and a  
11 former New York City Council Member to offer balanced  
12 kids meals that parents and kids are happy and  
13 excited to eat.

14  
15 McDonald's takes great pride in our food  
16 and our nutrition progress. We believe the path that  
17 this proposal is progressing on is a mistake and will  
18 not achieve its desired goals. Limiting kids meals  
19 offered with a toy or a set of arbitrary nutrition  
20 standards will result in reducing the amount of  
21 fruit, low-fat or fat-free dairy and juice provided  
22 to children and move young customers to choose  
23 options that will not include these nutritional and  
24 child portion projects. I ask that you do not move  
25 forward with this proposal. Thank you again.

1  
2 CHAIRPERSON JOHNSON: Thank you,  
3 Dr. Goody; I hope you feel like you were heard.

4 DR. CYNTHIA GOODY: Yes, sir. Thank you.  
5 Thank you... [crosstalk]

6 CHAIRPERSON JOHNSON: I wanted to give  
7 you the opportunity to read your entire testimony  
8 because I know a lot was said here today and I wanted  
9 you to have the opportunity respond. So I'm glad  
10 you're here; I learned a lot..

11 DR. CYNTHIA GOODY: Thank you.

12 CHAIRPERSON JOHNSON: from your  
13 testimony. I just wanna clear one thing up; it's my  
14 understanding, though Council Member Kallos could  
15 correct me if I'm wrong, that this piece of  
16 legislation applies to all restaurants, not only  
17 chains. So I don't think that makes it anymore  
18 palatable for you, but I just wanna be clear that  
19 that's the case.

20 So you know, I'll come out as someone who  
21 eats at McDonald's from time to time and you know,  
22 usually I don't feel good about myself afterwards  
23 because I look at those calorie counts and feel like  
24 oh my god, why did I do that, but it does make a  
25 difference now that I see that I can substitute

1  
2 healthier options on the menu; that actually is  
3 meaningful to me that I have that choice.

4           One of the points I made earlier with the  
5 Health Department was related to soda, sugary  
6 beverages; you spoke a lot about that in your  
7 testimony, that it's not being advertised, it's not  
8 on the menu boards for Happy Meals; would you support  
9 eliminating soda, eliminating sugary drinks being  
10 sold with Happy Meals?

11           DR. CYNTHIA GOODY: So it's a choice;  
12 again, we don't advertise it; however, families and  
13 children have a choice of balanced beverage options  
14 at McDonald's -- water, 1% low-fat white milk, fat-  
15 free chocolate milk and apple juice.

16           CHAIRPERSON JOHNSON: You didn't answer  
17 the question. Would you support eliminating that  
18 choice?

19           DR. CYNTHIA GOODY: Again, we offer a  
20 choice...

21           CHAIRPERSON JOHNSON: I heard what you  
22 said; would support eliminating soda; it sounds like  
23 no, you wouldn't support that.

24

25

1  
2 DR. CYNTHIA GOODY: I think that you're  
3 putting words into my mouth and so I think you know...  
4 [laugh]

5 CHAIRPERSON JOHNSON: It's a yes or no  
6 question; would you support eliminating soda from  
7 kids' meals?

8 DR. CYNTHIA GOODY: No; it's a choice.

9 CHAIRPERSON JOHNSON: Okay. So what is  
10 your... you're the chief nutritionist for McDonald's?

11 DR. CYNTHIA GOODY: Yes.

12 CHAIRPERSON JOHNSON: So what is the  
13 dietary value of sugary drinks?

14 DR. CYNTHIA GOODY: I'm not sure I... when  
15 you say dietary... [crosstalk]

16 CHAIRPERSON JOHNSON: Are sugary drinks  
17 healthy for you? Drinking a Coca-Cola loaded with  
18 sugar; is that healthy; does that contribute to  
19 diabetes or other potential obesity-related problems?

20 DR. CYNTHIA GOODY: I don't know that I  
21 wanna get into the science... [crosstalk]

22 CHAIRPERSON JOHNSON: Why not?

23 DR. CYNTHIA GOODY: and the physiology  
24 here today... [crosstalk]

25 CHAIRPERSON JOHNSON: Why not?



1  
2 DR. CYNTHIA GOODY: Because sugar does  
3 not cause diabetes. I will answer the question in  
4 saying that, you know, this is choice of parents or  
5 adult caregivers; it's about balancing the diet and  
6 the context, the holistic diet. It's up to a parent  
7 whether they choose to offer soda to their child.

8 CHAIRPERSON JOHNSON: Doesn't the  
9 government get involved in things all the time; you  
10 know, we say that, you know it's not up to a parent  
11 if they wanna put a seat belt on their child when  
12 they're driving in a car; the government says this is  
13 a public health issue; you're exposing your child to  
14 potential danger by not doing that. So we regulate  
15 things all the time, even though there's choice  
16 involved. The point I'm trying to make is, and I'm  
17 someone, again, lots of coming out moments here  
18 today; I drink way too much Diet Coke; I feel bad  
19 about how much Diet Coke I consume; I go into a Diet  
20 Coke shame spiral most days because of how much Diet  
21 Coke I consume; it's Diet Coke so it's better than  
22 regular Coke, but kids don't really have much of a  
23 choice, they see it, their parents give it to them  
24 and we see that obesity rates are higher; there's no  
25

1  
2 real nutritional value to sugary beverages, they're  
3 bad.

4 DR. CYNTHIA GOODY: Depends on how much  
5 is consumed.

6 CHAIRPERSON JOHNSON: You could say that  
7 with anything though really; right?

8 DR. CYNTHIA GOODY: Calories.

9 CHAIRPERSON JOHNSON: It's calories.

10 DR. CYNTHIA GOODY: It's calories.

11 CHAIRPERSON JOHNSON: But... [interpose]

12 DR. CYNTHIA GOODY: Our body treats...  
13 [interpose]

14 CHAIRPERSON JOHNSON: But nutritionists  
15 use terms such as like empty calories, you know,  
16 these are empty calories that don't really have any  
17 nutritional value and I would say that sugary  
18 beverages are empty calories.

19 DR. CYNTHIA GOODY: So it's the position  
20 of the Academy of Nutrition and Dietetics that we  
21 wanna look to the total diet and everything eaten has  
22 calories more or less; a calorie's a calorie, whether  
23 it's calories from fat, whether it's calories from  
24 protein, whether it's calories from sugar...

25 [crosstalk]

1  
2 CHAIRPERSON JOHNSON: All calories are  
3 created equal?

4 DR. CYNTHIA GOODY: Technically, if they  
5 come from fat or protein or carbohydrate, which sugar  
6 is from, fat has more calories per gram than does  
7 protein or carbohydrate. So we could talk about...  
8 [crosstalk]

9 CHAIRPERSON JOHNSON: Should New York  
10 City not have regulated trans fats because it  
11 should've been parents' choice if they wanted to give  
12 their kids trans fats?

13 DR. CYNTHIA GOODY: With much due  
14 respect, you know McDonald's adhered to the  
15 legislation proposed and had to.. [crosstalk]

16 CHAIRPERSON JOHNSON: Did you support it  
17 at the time; do you know...? [crosstalk]

18 DR. CYNTHIA GOODY: Yes. No artificial  
19 trans fats; we adhered to the legislation.

20 CHAIRPERSON JOHNSON: Okay. I mean the  
21 point here, and I think you saw the council members  
22 that were present, were pretty hard on the Department  
23 of Health in saying we want a plan to reduce  
24 childhood obesity in New York City and obesity  
25 generally; I have sort of more focused on the sugary

1  
2 drink aspect because I think it's an out of control  
3 problem and something we have to actually work on and  
4 regulate and do something about. We're seeing what  
5 happens with diabetes, we see what the costs are  
6 related to diabetes and public health, but you know,  
7 as a nutritionist it's just hard for me to hear that  
8 sugary drinks, I mean the research is out there, the  
9 science is out there; it's not good for people to  
10 consume sugary drinks.

11 DR. CYNTHIA GOODY: So to an earlier  
12 point made by Dr. Angell, and I'll say it  
13 differently, but it's the same sentiment. It's not  
14 about where you eat but what and how much you choose  
15 to eat. If you're going to eat, move your feet;  
16 energy in needs to be superseded or exceeded by  
17 energy, you know, expended through physical activity  
18 and whether it's... [crosstalk]

19 CHAIRPERSON JOHNSON: Yeah, but...

20 DR. CYNTHIA GOODY: fat, whether it's  
21 sugar, whether it's protein, whether it's an  
22 excessive amount of food.

23 CHAIRPERSON JOHNSON: I can't cite it,  
24 and I could be wrong and if I am I apologize, but  
25 it's my understanding that there's research out there

1  
2 that shows that when you start to feed a child a  
3 certain type of food at a young age, it actually  
4 effects their taste buds, you know neurologically  
5 they then tend to become more attracted to a certain  
6 type of food; maybe I eat from McDonald's from time  
7 to time now because my parents brought me to  
8 McDonald's a lot and I ate a lot of Happy Meals  
9 growing up, that could be; I just think that we have  
10 to be honest about what is actually hurting children  
11 and people in New York City and what the health  
12 impact is. And as I said before you testified, this  
13 is not really just about you guys, and I wanna be  
14 clear about that; I mean I'm not the author of the  
15 bill, I'm a prime sponsor, but I didn't write the  
16 legislation, but I don't think this about, at least  
17 it's not my intention here today, to target  
18 McDonald's. When I talk about sugary drinks, I'm not  
19 just talking about you guys, I'm talking about all  
20 the chains, I'm talking about movie theaters where  
21 you can get basically a bucket of soda when you walk  
22 in; I'm talking about everyone. So I don't wanna  
23 unfairly target you and I think what you taught me  
24 today in your testimony is you guys have made some  
25 pretty incredible strides -- apple slices,

1  
2 clementines, sugar-free yogurt, decreasing  
3 advertising for soda and other related items to your  
4 people, so no one should take that credit away from  
5 you for voluntarily making those changes and adopting  
6 those practices where we've seen more consumption of  
7 healthy options, and I wanna say that because this is  
8 not... I'm not here to bash you or to attack you or to  
9 make you the poster child; I think it's easy to go  
10 after McDonald's because you guys are the most well-  
11 known brand, one of the most well-known brands in the  
12 entire world, but this is not just about McDonald's,  
13 it's about us being honest about the impact that  
14 sugary beverages, unhealthy foods have on public  
15 health in New York City, on disadvantaged and  
16 marginalized communities, on children, on poor people  
17 and on folks who may not have access to fresh fruits  
18 and vegetables and other nutritional choices in their  
19 neighborhoods. And so I just wanna say that it's not  
20 about targeting you; I'm glad you're here, I know  
21 this legislation would impact you, which is why you  
22 oppose it and why you gave us this information, but I  
23 wanna say it doesn't apply to only chain restaurants,  
24 it applies to all restaurants; this is not solely

25

1  
2 about McDonald's. I wanna turn it over to Council  
3 Member Kallos.

4 COUNCIL MEMBER KALLOS: Sure. I think  
5 one of the panelists did not submit written  
6 testimony; is that correct? Sir, did you submit  
7 written tes... [background comment] if I could have  
8 that.

9 So my first question across the board,  
10 similar to the first panel; do you receive funding  
11 for McDonald's or its franchisees?

12 [background comment]

13 COUNCIL MEMBER KALLOS: Sir?

14 TOM GRECH: Not presently, no.

15 COUNCIL MEMBER KALLOS: So you have never  
16 received any funding from McDonald's, its franchisees  
17 or any affiliates or... okay.

18 Next question for everyone. Do you  
19 support a \$15 minimum wage for fast food workers?

20 GERALD FERNANDEZ: I'm not involved in  
21 minimum wage discussions; we'd like to see higher  
22 wages whenever that can be worked out by legislation...

23 [background comments]

24 So as I said, I'm not a wage guy, I'm a  
25 jobs guy, an opportunities guy...

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COUNCIL MEMBER KALLOS: Yep.

GERALD FERNANDEZ: so the wage issue is being addressed at the state level; like most people, we don't... [crosstalk]

COUNCIL MEMBER KALLOS: And the city level.

GERALD FERNANDEZ: Excuse me?

COUNCIL MEMBER KALLOS: And the city level; we just... [crosstalk]

GERALD FERNANDEZ: And... I'm sorry, I agree...

COUNCIL MEMBER KALLOS: set a minimum wage for all of our public employees... [crosstalk]

GERALD FERNANDEZ: We... we'd love to see minimum wage, but it has to be balanced in ways that allow the franchisee to... [crosstalk]

COUNCIL MEMBER KALLOS: So you support \$15 minimum wage?

GERALD FERNANDEZ: I support what the state and city is going to pass as a reasonable wage and... [crosstalk]

COUNCIL MEMBER KALLOS: I think we're aiming for \$15. Next, McDonald's; do you support a \$15 minimum wage for your workers?



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DR. CYNTHIA GOODY: [background comment]  
[background comment]

DR. CYNTHIA GOODY: Thank you for your question. As a nutritionist, we'll take that question back and respond to you. Thank you...  
[crosstalk]

COUNCIL MEMBER KALLOS: As a nutritionist, do you believe that if somebody earns \$15 an hour instead of \$8 or \$9 or \$10 an hour that they will have more money to spend on healthy food?

DR. CYNTHIA GOODY: Unfair for me to speculate at this time. I'm the Chief Nutritionist, it's nutritioning [sic]... [crosstalk]

COUNCIL MEMBER KALLOS: Have you ever...  
Sure...

DR. CYNTHIA GOODY: Thank you.

COUNCIL MEMBER KALLOS: Next. Do you support a \$15 minimum wage?

TOM GRECH: Not over the condensed time period which has been promulgated; I don't think to go to \$15 an hour over the very short-term would be beneficial to lots of the business owners in our city and our state and our country.

1  
2 COUNCIL MEMBER KALLOS: How much funding  
3 does McDonald's and its franchisees currently devote  
4 to out-of-school programs in their local communities?

5 DR. CYNTHIA GOODY: Again, that would be  
6 a question that we can take back to our corporate and  
7 respond to you.

8 COUNCIL MEMBER KALLOS: Multiple folks  
9 have said that we need to invest in our out-of-school  
10 programming; the City Council has put unprecedented  
11 levels into after school programming with the Mayor,  
12 so I'm curious about the... and I think one of the  
13 panelists who is no longer here was talking about the  
14 amount of investment, so what is the investment that  
15 was testified to?

16 GERALD FERNANDEZ: I don't know about  
17 him, but I can speak on our behalf. McDonald's has  
18 supported Showcase of the Stars where we go into  
19 urban and inner city, talk to kids about career  
20 opportunities, what they need to do to get into  
21 college and... [interpose]

22 COUNCIL MEMBER KALLOS: But what about  
23 for health programming, the specific testimony on  
24 point saying that we need to do more for... I believe  
25 if you eat you should move your feet, so what is

1  
2 McDonald's or franchisees doing in local communities  
3 to help give children a place other than McDonald's  
4 to congregate?

5 GERALD FERNANDEZ: I can't speak for the  
6 franchisees; I can speak that the programs that we do  
7 where we talk about all those things in schools  
8 across this country; McDonald's has been our largest  
9 and longest supporter.

10 COUNCIL MEMBER KALLOS: Sure. Has  
11 McDonald's lobbied on this legislation?

12 DR. CYNTHIA GOODY: We'll respond to that  
13 question separately.

14 COUNCIL MEMBER KALLOS: So I think one of  
15 the folks... [crosstalk]

16 CHAIRPERSON JOHNSON: Wait; what was your  
17 question?

18 COUNCIL MEMBER KALLOS: I'm asking  
19 whether or not McDonald's has lobbied on this  
20 legislation.

21 CHAIRPERSON JOHNSON: What do you mean  
22 lobbied... on which legislation; on this legislation?

23 COUNCIL MEMBER KALLOS: Right.

24 CHAIRPERSON JOHNSON: We know they have...  
25 [crosstalk]

1  
2 COUNCIL MEMBER KALLOS: So... Well we know  
3 that; I'm hoping that McDonald's may have brought  
4 somebody in the room who engaged in that lobby and  
5 can answer that question who's currently just looking  
6 at his phone. Okay. So I think that both of us  
7 could say that there was lobbying; one of my  
8 questions is just why McDonald's has spent, I think  
9 since 2011, \$526,000 lobbying and whether it was on  
10 this legislation or the budget and where those two  
11 overlap. If you could bring somebody up from  
12 McDonald's who can answer that question.

13 DR. CYNTHIA GOODY: Do you know why...  
14 [crosstalk]

15 DR. CYNTHIA GOODY: No, I... I have no idea  
16 what you're talking about, I mean...

17 COUNCIL MEMBER KALLOS: Sure. In the  
18 City of New York... [crosstalk]

19 DR. CYNTHIA GOODY: I'm here... I'm just  
20 here to be speaking on the bill... [crosstalk]

21 COUNCIL MEMBER KALLOS: Sure, I'll get to  
22 it, but I guess one piece is folks have been talking  
23 about why McDonald's is Burger King's not here  
24 testifying or lobbying, Wendy's isn't, as far as I  
25 know, but McDonald's is here and you're spending

1  
2 \$526,000 lobbying in 2011 on McDonald's and 2012, 13,  
3 14, 15 on budget and so I'm kind of curious about why  
4 there's so much opposition from McDonald's to this  
5 legislation, why it's worth half-a-million dollars.  
6 Could we get a response on how much you spent  
7 directly on this bill?

8 DR. CYNTHIA GOODY: I mean I'm at a loss  
9 here, I... I mean we're opposed to this proposal  
10 because as I've outlined already, it's not based on  
11 science or generally accepted nutrition standards.

12 COUNCIL MEMBER KALLOS: Sure. So I guess  
13 it's just... I'm curious about how opposed, so I think  
14 it's half-a-million dollars in New York City and I'm  
15 curious about lobbying in San Francisco and anywhere  
16 else where this is going and curious why you're so  
17 opposed to it and... [interpose]

18 CHAIRPERSON JOHNSON: Just if I man  
19 interject. You just said it's not based on science..

20 DR. CYNTHIA GOODY: The proposed criteria  
21 here, it's not based on any sort of science or  
22 established standards.

23 CHAIRPERSON JOHNSON: But when I asked  
24 you a question earlier, you told me I don't wanna get  
25 into the science.

1  
2 DR. CYNTHIA GOODY: I think it was in the  
3 context of Type 2 Diabetes, sugar being the cause of  
4 Type 2 Diabetes; that's what I meant. Thank you.

5 CHAIRPERSON JOHNSON: Okay.

6 COUNCIL MEMBER KALLOS: So just speaking  
7 to that, in your professional opinion as a  
8 nutritionist, with the entire world that's watching  
9 today, does reducing sugar from a diet help prevent  
10 diabetes?

11 DR. CYNTHIA GOODY: It may. It may help  
12 to prevent... [crosstalk]

13 COUNCIL MEMBER KALLOS: Okay, so... so the...  
14 [crosstalk]

15 DR. CYNTHIA GOODY: If there are genetic  
16 factors...

17 COUNCIL MEMBER KALLOS: So there's a  
18 link... So reducing sugar from a diet may help prevent  
19 diabetes?

20 DR. CYNTHIA GOODY: May help to prevent  
21 diabetes.

22 COUNCIL MEMBER KALLOS: Okay. And just  
23 so you know, the Department of Health and Human  
24 Services and other federal folks have come out pretty  
25 strongly saying that you wanna prevent Type 2

1  
2 Diabetes; not having a good diet, consuming foods  
3 with high levels of sugar and added sugar, that that  
4 is a good way, so and along that in terms of... You  
5 mentioned a lot about feeling like we are only  
6 targeting fast food; you get that this is... you agree  
7 that this legislation targets all restaurants that  
8 serve children's meals with incentive items?

9 DR. CYNTHIA GOODY: I would need to look  
10 at the introduction again, but so.

11 COUNCIL MEMBER KALLOS: Sure. Would you  
12 support... It seemed like both you and the Department  
13 of Health were talking about impact and incentive  
14 items versus non-incentive items; would McDonald's  
15 support expanding it to folks like pizza places or  
16 whatnot that might have a children's menu and just  
17 dropping the incentive piece and just saying we're  
18 going to require certain health criteria for any  
19 children's meal?

20 DR. CYNTHIA GOODY: Essentially we do not  
21 support this proposal.

22 COUNCIL MEMBER KALLOS: Would you support  
23 the proposal more if we decoupled it from incentives  
24 and just said any child's meal?

25 DR. CYNTHIA GOODY: No.

1  
2 COUNCIL MEMBER KALLOS: Okay. And just  
3 for... And how much does McDonald's spend on  
4 advertising in the New York City market?

5 DR. CYNTHIA GOODY: Again, I'm with  
6 nutrition rather than marketing from an advertising  
7 standpoint; again, that would be something that we  
8 could...

9 COUNCIL MEMBER KALLOS: Who is here with  
10 you from McDonald's? Who else is here with you today  
11 sitting in this room for me?

12 DR. CYNTHIA GOODY: There are two people  
13 from McDonald's with me today; I'm not sure if  
14 they're here... [crosstalk]

15 COUNCIL MEMBER KALLOS: And what...

16 DR. CYNTHIA GOODY: they may have been  
17 departed and they may have gone to the airport.

18 COUNCIL MEMBER KALLOS: If you take a  
19 look behind you and if you can tell me their names  
20 and titles.

21 DR. CYNTHIA GOODY: [background comments]  
22 So Ed Conklin is with me today who is a McDonald's  
23 employee.

24 COUNCIL MEMBER KALLOS: Do you know what  
25 his title is?



1  
2 DR. CYNTHIA GOODY: He's a Senior  
3 Director of the McDonald's Corporation.

4 COUNCIL MEMBER KALLOS: Sure. Ed, would  
5 you please join us at the table? Perhaps you might  
6 have some of the answers to the questions.

7 [background comment] Say again. [background  
8 comment] You're not authorized to speak for the  
9 public? [background comment] Okay, so let the  
10 record reflect that the additional employees are  
11 unable to speak in public and many of our questions  
12 are continuing to go unanswered. So no knowledge of  
13 how much we're spending on advertising to children.  
14 Do you know how many children eat... So you were saying  
15 there are one million children's meals sold every  
16 month my McDonald's in the New York City market?

17 DR. CYNTHIA GOODY: That is to... my  
18 correct, yes.

19 COUNCIL MEMBER KALLOS: Okay. Do you  
20 know how many of those meals include toys?

21 DR. CYNTHIA GOODY: They all would  
22 include toys.

23 COUNCIL MEMBER KALLOS: And do you know  
24 how many meals are being served to children that are  
25 adult meals that children are getting?

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DR. CYNTHIA GOODY: I have no idea.

COUNCIL MEMBER KALLOS: Sure. And did you know that New York has a population of about 8.4 million?

DR. CYNTHIA GOODY: I thought it was more than that, but okay.

COUNCIL MEMBER KALLOS: 8,491,079, according to the U.S. Census in 2014 and 21.6% of that is under 18, so we have 1.8 million children in our city, so at 12 million meals a year, that's actually six meals to every single child in our city, so would you acknowledge that that's quite an impact that McDonald's has in the New York City marketplace?

DR. CYNTHIA GOODY: Our consumers tell us that they visit McDonald's twice a month, so that's two times of 90-meal occasions.

COUNCIL MEMBER KALLOS: Last piece again, sorry.

DR. CYNTHIA GOODY: Our customers tell us that they visit McDonald's twice a month.

COUNCIL MEMBER KALLOS: Thank you. And in terms of it, you got to hear research from Brian Elbel about tying incentives; do you agree with... were you here for that testimony?

1  
2 DR. CYNTHIA GOODY: I was here for that  
3 testimony.

4 COUNCIL MEMBER KALLOS: Do you agree with  
5 that testimony?

6 DR. CYNTHIA GOODY: I would have to  
7 review it again to provide further comment.

8 COUNCIL MEMBER KALLOS: Had you reviewed  
9 it before?

10 DR. CYNTHIA GOODY: Have I reviewed it  
11 before?

12 COUNCIL MEMBER KALLOS: The study that  
13 came out on fewer meals and coupling them together;  
14 do you agree with that as a professional, as a  
15 nutritionist?

16 DR. CYNTHIA GOODY: I have not... there's  
17 many studies that I reviewed; I may have or I may not  
18 have reviewed it; I don't recall.

19 COUNCIL MEMBER KALLOS: Sure. Marie  
20 Bragg gave testimony about advertising and children;  
21 do you believe that testimony to be accurate?

22 DR. CYNTHIA GOODY: There were two women  
23 who presented and I don't know which one was...  
24 presented to... I'd have to review it again...

25 [crosstalk]

1  
2 COUNCIL MEMBER KALLOS: She... She was the  
3 one who said that marketing to children actually  
4 works. Do you believe that marketing to children  
5 works?

6 DR. CYNTHIA GOODY: It depends on... it  
7 could be anything, sometimes it works, sometimes it  
8 doesn't work; I think for adults... [crosstalk]

9 COUNCIL MEMBER KALLOS: Do you have  
10 research that shows that marketing Happy Meals to  
11 children doesn't work?

12 DR. CYNTHIA GOODY: We have... There have  
13 been a number of times throughout my time with  
14 McDonald's where we've tried to look at vegetables,  
15 as an example, you know, different wants of serving  
16 them; our research suggests that children are not yet  
17 ready for McDonald's to provide them with vegetables.

18 COUNCIL MEMBER KALLOS: You were just  
19 sharing that you have incredible results when it  
20 comes to milk and juice and changing from a default  
21 of soda and you don't believe that we would have that  
22 same impact with whole fruit, clementines; things  
23 like that?

24 DR. CYNTHIA GOODY: We do with fruit;  
25 with milk... [crosstalk]

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COUNCIL MEMBER KALLOS: Okay.

DR. CYNTHIA GOODY: juice and water;  
vegetables we've not yet cracked the code in.

COUNCIL MEMBER KALLOS: And did  
McDonald's decision to make these changes, was that a  
result of the introduction of this legislation here  
as well as the passage of similar legislation in San  
Francisco?

DR. CYNTHIA GOODY: No, we look to our  
customers to tell us how we should go here in the  
context of championing children's wellbeing..  
[crosstalk]

COUNCIL MEMBER KALLOS: Did those changes  
follow the introduction of this legislation?

DR. CYNTHIA GOODY: Some of them did;  
some of them... we had other things that preceded this  
that were not predicated on the legislation.

COUNCIL MEMBER KALLOS: I have a second  
round after you, if you have any additional..  
[interpose]

CHAIRPERSON JOHNSON: I don't have  
anything else.

COUNCIL MEMBER KALLOS: Give me one  
moment; let me just... So just I think couple questions

1 wrapping up. Given high rates of childhood obesity  
2 and the emergence of Type 2 Diabetes among children  
3 in New York City, why are soda and other sugar-  
4 sweetened beverages still on kids' menus at the  
5 overwhelming majority of your locations?  
6

7 DR. CYNTHIA GOODY: We are not  
8 advertising in the Happy Meal section on our menu  
9 boards.

10 CHAIRPERSON JOHNSON: Yeah, no I... I asked  
11 the question before and she said that... [crosstalk]

12 COUNCIL MEMBER KALLOS: Yeah.

13 CHAIRPERSON JOHNSON: she believes it's a  
14 choice and they're not advertising generally and on  
15 the menu boards.

16 COUNCIL MEMBER KALLOS: So...

17 DR. CYNTHIA GOODY: Externally. Uhm-hm.

18 COUNCIL MEMBER KALLOS: Burger King,  
19 Wendy's are participating in Kids LiveWell; why isn't  
20 McDonald's?

21 DR. CYNTHIA GOODY: Because the Kids  
22 LiveWell criteria preclude menu items that are cooked  
23 in oil.

24 COUNCIL MEMBER KALLOS: So I have the  
25 Kids LiveWell...

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DR. CYNTHIA GOODY: Uhm-hm.

COUNCIL MEMBER KALLOS: standards that are actually on their website...

DR. CYNTHIA GOODY: Uhm-hm.

COUNCIL MEMBER KALLOS: do they have a different standard for you than they have public posted?

DR. CYNTHIA GOODY: I'm not sure if they do, but they do not allow for foods that are cooked in oil; at least that's what they have told us when we engaged with them in July of 2011.

COUNCIL MEMBER KALLOS: It's been almost five years, you haven't come back... the coalition has grown to 155 restaurants; will McDonald's join the Kids LiveWell program?

DR. CYNTHIA GOODY: Not to my knowledge at this time.

COUNCIL MEMBER KALLOS: As a nutritionist, do you think it would be a good idea for you to join the rest of the industry and the National Restaurant Association as part of the Kids LiveWell program?

DR. CYNTHIA GOODY: We are part of a program that predicated or that existed prior to the

1  
2 Kids LiveWell program; this is the Council of Better  
3 Business Bureaus Children's Food and Beverage  
4 Advertising Initiative; we've been a part of that  
5 since 2006; we have consumer package good companies  
6 as well as our competitor that you've mentioned and  
7 there are certain nutrition criteria that meals must  
8 fulfill in order to be advertised to children under  
9 the age of 12. We're already a part of another  
10 program.

11 COUNCIL MEMBER KALLOS: So Burger King  
12 thinks that this would be a good idea, 600 calories  
13 or less; would McDonald's support having kids' meals  
14 of 600 calories or less?

15 DR. CYNTHIA GOODY: We do already.

16 COUNCIL MEMBER KALLOS: So that would be  
17 your default kids' meal; you wouldn't have any meals  
18 that exceed that?

19 DR. CYNTHIA GOODY: No.

20 COUNCIL MEMBER KALLOS: Okay. And 35%  
21 are calories from total fat or less?

22 DR. CYNTHIA GOODY: That's not part of  
23 the Children's Food and Beverage Advertising  
24 Initiative.

25



1  
2 COUNCIL MEMBER KALLOS: Well I'm talking  
3 about Kids LiveWell which 155 other fast food and  
4 other restaurants, including Wendy's, Burger King,  
5 Arby's; I mean these are not the places I think of  
6 when I wanna go somewhere healthy, Applebee's, Boston  
7 Market... [crosstalk]

8 DR. CYNTHIA GOODY: We're not interested...

9 COUNCIL MEMBER KALLOS: Bob Evans...

10 DR. CYNTHIA GOODY: We're not interested  
11 in participating in the Kids LiveWell program at this  
12 time.

13 COUNCIL MEMBER KALLOS: As a  
14 nutritionist, do you believe that it's something  
15 worth doing? Do you think the other competitors are  
16 headed on the wrong track because they're... Sure.

17 In light of the fact that children  
18 consume about 25% of their calories from restaurants  
19 and that childhood is a critical time for growth and  
20 development, how do you justify how out of sync your  
21 kids' meals are with expert recommendations for what  
22 kids should be eating during childhood?

23 DR. CYNTHIA GOODY: I'm not sure... can you  
24 repeat the question, please?

1  
2 COUNCIL MEMBER KALLOS: The rest of the  
3 industry, all the advocates, researchers are all  
4 trying to push you in the right direction; how do you  
5 justify being so far out of sync with everyone else?

6 DR. CYNTHIA GOODY: I'm not sure that  
7 we're out of sync in that we offer apples in every  
8 Happy Meal, we offer a kid size fry at 110 calories,  
9 we offer Cuties, we offer low-fat Go-Gurt, we've  
10 reformulated our chocolate milk, we offer apple  
11 juice, we offer water and we don't advertise sodas on  
12 menu boards in our restaurants or in external  
13 advertising. We offer millions and billions.. I mean  
14 I talk to the milestone of two billion servings of  
15 apples and yogurt along.. [crosstalk]

16 COUNCIL MEMBER KALLOS: I've got your  
17 testimony; I think just in closing I've asked a lot  
18 of questions you did not give answers to; I expect an  
19 answer to myself and our co-sponsoring committee  
20 chair in the next two weeks.

21 DR. CYNTHIA GOODY: 'Kay.

22 CHAIRPERSON JOHNSON: Thank you, Council  
23 Member Kallos. Thank you all for being here today..  
24 [crosstalk]

25 DR. CYNTHIA GOODY: Thank you.

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2 CHAIRPERSON JOHNSON: Okay, our last  
3 panel. Diana Torres-Burgos from the National  
4 Hispanic Health Foundation; Robin Vitale from the  
5 American Heart Association; Michael Davoli, of course  
6 Michael, from the American Cancer Society, and Hazel  
7 Dukes from the NAACP. [background comments] You may  
8 begin in whatever order you'd like, just speak  
9 directly into the mic, introduce yourself and make  
10 sure the red light is on. And sergeant, if you can  
11 put three minutes on the clock. Thank you.

12 DR. DIANA TORRES-BURGOS: Hi, Chairman  
13 Johnson and members of the Health Committee, good  
14 afternoon and thank you for the opportunity to  
15 testify today. I'm Dr. Diana Torres-Burgos, Advisor  
16 for Hispanic Health for the National Hispanic Health  
17 Foundation. The Foundation is a nonprofit foundation  
18 that was established in 2005; its mission is to  
19 improve the health of Hispanics and other underserved  
20 populations through research, education and  
21 charitable activities; it's the philanthropic arm of  
22 the National Hispanic Medical Association which  
23 represents the interests of over 50,000 license  
24 Hispanic physicians in the U.S. and is affiliated

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2 with the Robert Wagner Graduate School of Public  
3 Service at the New York University.

4           The National Hispanic Health Foundation  
5 supports this proposal 0442 regarding setting  
6 nutritional standards for distributing incentive  
7 items aimed at children because it can be a positive  
8 impact towards children's food choices and take a  
9 step towards reducing childhood obesity and prevent  
10 future chronic diseases.

11           In our communities in New York and across  
12 the nation, the Hispanic, African American and other  
13 poor children are the first generation in our nation  
14 due to the obesity epidemic that are projected by the  
15 CDC to suffer diabetes and renal failure in early  
16 adulthood and die before their parents. This can  
17 reverse and we need to reverse this trend through  
18 prevention policy.

19           Food marketing targeted to children is a  
20 huge industry; in 2009 \$341 million were spent on  
21 toys to distribute with children's meals. Studies  
22 have shown that food marketing targeted to children  
23 is successful in increasing children's preferences  
24 for foods advertised. A major problem is that the  
25 majority of those foods are unhealthy and they're

1  
2 high in sugar and fat which we known contributors to  
3 childhood obesity.

4           As we heard previously, a recent study  
5 evaluating the nutritional value of meals purchased  
6 at multiple fast food sites in New York City and New  
7 Jersey of those children who ate a combination meal  
8 and that is a main dish, side and drink and toy; 98%  
9 of those meals would exceed nutritional standards for  
10 fat, sugar and sodium.

11           Another evaluation looking at meals in  
12 fast food chains found that only 33 out of 5400 plus  
13 possible meals, less than 1% of all kids' meal  
14 combinations met recommendation nutrition standards.  
15 This is very concerning because as mentioned before,  
16 children are now eating more outside the home and  
17 have few healthy options in the restaurants.

18           There is something encouraging on the  
19 other hand; there was a study done looking at the  
20 impact of toy incentives on eating among children and  
21 it showed that children were more likely to choose  
22 healthy meals when the toys were only offered with  
23 meals that met nutritional standards.

24           And lastly, Hispanic and African American  
25 children are more highly targeted by the fast feed

1  
2 and beverage marketers. Hispanic children have the  
3 highest prevalence of obesity, at 17% compared to  
4 non-Hispanic white, 3.5%; African American, 11.3% and  
5 Asian [bell] 3.4% children. This is a significant  
6 risk factor for development of chronic disease in the  
7 population.

8           This proposal provides a key opportunity  
9 that we cannot ignore, to promote children's choices  
10 for healthier meals and reduce risks for childhood  
11 obesity and related diseases. Moreover, it could  
12 also provide a teaching moment for both the parents  
13 and a child to learn about healthy food choices and  
14 help guide the standardization of fast food  
15 restaurants in promoting healthier choices. We need  
16 to change the existing negative incentive we have for  
17 rewarding unhealthy eating into a positive one, one  
18 that instills healthy eating and food choices in our  
19 society. Thank you again for this opportunity to  
20 testify and for your attention to this very important  
21 issue.

22           CHAIRPERSON JOHNSON: Thank you. Thank  
23 you for being patient and for waiting to testify  
24 today; we really appreciate you being here.

25           DR. DIANA TORRES-BURGOS: Thank you.

CHAIRPERSON JOHNSON: Robin.

ROBIN VITALE: Thank you, Chair. My name is Robin Vitale; I serve as Senior Director of Governmental Relations for the American Heart Association here in New York and I have been very actively slicing and dicing my testimony really based upon the panel that went before us until the panel just prior, so I feel at this point I do have to defend the connection between diet and chronic disease; I was hoping not to, but for the good of the group, there is a connection between diet and chronic disease. Studies link eating out with obesity, higher amounts of body fat and higher BMIs and increased consumption of fast food meals is associated with consuming more calories, fat and saturated fat. The corollary between this increased consumption and the alarming rate of heart disease, stroke, diabetes and other related disease is apparent and there are numerous studies that confirm that, so I would encourage you all to look at my testimony that outlines that in greater detail.

We also mentioned and in the opening panel with the Health Department around the good work that has been taking place here in the city.

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2 Currently we have about 21% of our young people in  
3 New York that are labeled unfortunately as obese.  
4 While the study demonstrates a slight decrease in  
5 obesity for the city, the statistic is still far too  
6 high and the study points to the need for continued  
7 public health intervention; among other  
8 possibilities, P.E. being one that was referenced  
9 quite prolifically, the effort to improve access to  
10 healthy, nutritious food for children has to be a key  
11 target; this is not something that in and of itself  
12 is going to cure the obesity problem in New York City  
13 for our children, but it is part of the solution.

14           We are just making it far too difficult  
15 for parents to provide appropriate meals to their  
16 children; our schedules are busy, it's very  
17 complicated to make sure that we are gathering around  
18 the table; it's kind of that Pollyanna aspect from  
19 the 1970s where we all had dinners at home; that's  
20 not the reality anymore, more and more often we see  
21 that we are dependent upon the restaurant industry to  
22 serve our families; indeed nearly half of all food  
23 dollars, about 48%, are spent on restaurant foods,  
24 which is up from 26% in 1970.

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2                   Unfortunately the majority of restaurants  
3 are serving our kids meals that are alarmingly poor  
4 in nutrition. We heard from the previous panel how  
5 some are making progress but unfortunately the  
6 industry's progress as a whole has been slow. Since  
7 2008 the percentage of kids' meals that met evidence-  
8 based nutrition standards increased from just 1% to  
9 3%.

10                   For all these reasons and many more that  
11 are outlined in my written testimony, the American  
12 Heart Association supports the intention of the New  
13 York City Council to implement a requirement whereby  
14 any restaurant meal marketed to children should  
15 achieve the benchmark of nationally recognized  
16 evidence-based nutritional standards for both food  
17 and beverage items found on children's menus. We do  
18 share some recommendations which we go into at length  
19 in written form; primarily we would like to see the  
20 policy incorporate the Rand Corporation's performance  
21 standards for restaurants, as well as the Healthy  
22 Eating Research recommendations for healthier  
23 beverages; we believe this will help with some of the  
24 implementation that was mentioned before. [bell]



1  
2 "Good afternoon. My name is Hazel Dukes  
3 and I am the President of the NAACP New York State  
4 Conference. The NAACP is the oldest, boldest, most  
5 effective and most respected civil rights  
6 organization in the nation. The NAACP New York State  
7 Conference has played a pivotal role in moving the  
8 agenda for freedom and equality forward under the  
9 leadership of dynamic state conference presidents,  
10 each of whom address many critical issues during  
11 their tenure.

12 As a direct consequence of the bill  
13 before you today children across this city will be  
14 disproportionately denied the toys they love and the  
15 nutrition they need. Every day young families rely  
16 on their neighborhood McDonald's to provide  
17 affordable healthy menu options for their children.  
18 The Happy Meals offered today are not the Happy Meals  
19 offered maybe that you remember from your childhood,  
20 they have evolved to offer fruit and dairy options;  
21 more recently McDonald's offered not only apple  
22 slices and also clementines as a Happy Meal option  
23 and now instead of soda McDonald's only promotes  
24 milk, juice or water as beverage options for Happy  
25 Meals. These healthy choices, among others, are what

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2 excites parents who bring their kids to McDonald's;  
3 the toys which serve as a focal point for the  
4 children, encourage them to choose a healthy option  
5 offered in McDonald's Happy Meals. Some children in  
6 this city, especially many minorities and  
7 economically disadvantaged communities have limited  
8 access to healthy food and toys; McDonald's offers  
9 both. Removing the toy would only deprive children  
10 of the enjoyment it provides; this bill is a  
11 misguided attempt to solve a nutrition crisis by  
12 unfairly targeting McDonald's, a key ally and a  
13 friend of children and minority communities around  
14 the city.

15           Members of the committee, each one of you  
16 has a McDonald's in your district and each one of  
17 these restaurants employ hundreds of people;  
18 nationally more than 60% of McDonald's crew members  
19 are either women or minorities; this legislation,  
20 aimed at hurting the bottom line of McDonald  
21 franchises, will affect a large number of women- and  
22 minority-owned businesses in New York City, not to  
23 mention the employees who have benefited from the  
24 skills and the opportunities for advancement that  
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1  
2 these jobs provide. Thank you for taking my comments  
3 into consideration today."

4 CHAIRPERSON JOHNSON: Thank you very  
5 much. Council Member Kallos has some questions.

6 COUNCIL MEMBER KALLOS: As I asked all  
7 the other panels; do any of you take money from  
8 special interests such as the fast food industry or  
9 McDonald's? I need you to say it into the record.

10 DR. DIANA TORRES-BURGOS: No.

11 ROBIN VITALE: No.

12 COUNCIL MEMBER KALLOS: Sir?

13 BARRY LEE BURKE: As a person reading the  
14 testimony, I don't have any knowledge of that, sir.

15 COUNCIL MEMBER KALLOS: The NAACP  
16 receives funding from McDonald's, I believe.

17 BARRY LEE BURKE: I... I don't have any  
18 knowledge of that... [crosstalk]

19 COUNCIL MEMBER KALLOS: No, I... I'm  
20 telling you; I do.

21 BARRY LEE BURKE: Oh okay, sir.

22 COUNCIL MEMBER KALLOS: So I just wanted  
23 to make sure that the record reflects that. On the  
24 flip side, are there any healthy food special  
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1  
2 interests that are providing funding to your  
3 organizations?

4 DR. DIANA TORRES-BURGOS: We're funded  
5 through W. Kellogg for prevention of pediatric  
6 obesity.

7 COUNCIL MEMBER KALLOS: Okay.

8 ROBIN VITALE: The American Heart  
9 Association does receive donations from a multitude  
10 of sources, many which share our focus on healthy  
11 food policy.

12 BARRY LEE BURKE: Again sir, I have... I'm  
13 not a...

14 COUNCIL MEMBER KALLOS: No worries. The  
15 panel before you said that the standards set forth,  
16 whether it's in the LiveWell program or in this  
17 legislation are not based on science; if you could  
18 speak to that. Are the numbers we've set forth based  
19 on science; is there any science to all this calorie  
20 counting and limitations on amount of fat?

21 ROBIN VITALE: I suppose I can take that  
22 question. There certainly is a tremendous amount of  
23 science; we've had the privilege of working with the  
24 sponsor as well as many other interested council  
25 champions on this issue; we have shared some of the

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2 criteria that we've loosely referenced in my verbal  
3 testimony and certainly I went deeper in the written  
4 testimony, whether it's connected into the Institute  
5 of Medicine or the Rand Corporation or the Healthy  
6 Eating Research, there's a lot of science and  
7 evidence behind the bill as it's currently drafted  
8 and we also believe that there can be a greater  
9 alignment moving forward as we look at some possible  
10 changes.

11 COUNCIL MEMBER KALLOS: With regard to  
12 possible changes, well actually just with regards to  
13 San Francisco or others, have you heard of any issues  
14 with implementation and enforcement of legislation  
15 like this or similar?

16 ROBIN VITALE: So with the San Francisco  
17 enforcement from several years ago, I think the  
18 biggest concern were some of the loopholes that did  
19 exist and kudos to your team and yourself and the  
20 championship in trying to close that loophole here; I  
21 think the Davis policy is perhaps too new to really  
22 think about the implementation aspect, but we're all  
23 quite excited for the potential of the health  
24 outcomes there.

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2 COUNCIL MEMBER KALLOS: So and it also  
3 seems like DOHMH would support or based on their  
4 testimony seems to support removing the incentive  
5 item and just focusing on child meals; the panel of  
6 academics seemed to indicate that children make  
7 decisions very differently and then even McDonald's  
8 seemed to be crying afoul to them being targeted with  
9 their toys versus just everyone. Do you have an  
10 opinion on whether we should expand from just toys to  
11 everything, to all children's meals?

12 ROBIN VITALE: So as I very quickly  
13 mentioned at the conclusion of my verbal testimony  
14 but certainly outlined more deeply in the written  
15 version, we absolutely would be supportive of that  
16 focus; we think that there is a tremendous potential  
17 for the City to have a great impact on health and if  
18 you look at some of those restaurants that would not  
19 currently be targeted 'cause they don't include  
20 incentives that are targeted at children, there's a  
21 lot of egregious examples of menu items that are on  
22 the kids' menu, so we think the potential is quite  
23 clear that the City could move forward in that  
24 direction.

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2 COUNCIL MEMBER KALLOS: All my questions.  
3 Thank you for sitting through a quite long hearing  
4 and I am incredibly disappointed by the fact that  
5 McDonald's didn't have any answers for any of our  
6 questions, including ones that involved things like  
7 science. Thank you to my prime co-sponsor on this,  
8 Council Member Johnson as well as for chairing and  
9 absolutely amazing hearing.

10 CHAIRPERSON JOHNSON: Thank you all very  
11 much for being here; I appreciate everyone coming and  
12 testifying; I really appreciate you all being patient  
13 and sticking around and we look forward to looking at  
14 your recommendations. With that, this hearing is  
15 adjourned.

16 [gavel]  
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C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date February 8, 2016