

Testimony of Mike Ambrosio

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**Food and Drug Administration Globalization Act
The United State House of Representatives**

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Energy and Commerce Committee
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Chairman Pallone and Members of the Health Subcommittee, I am honored to appear before you today to present our views and suggestions on the Food and Drug Administration Globalization Act Draft Legislation. I am Mike Ambrosio, Vice President, Quality Assurance, Wakefern Food Corporation. I have been in charge of food safety programs at Wakefern for the past 28 years.

Founded in 1946, Wakefern Food Corporation has grown from a small struggling cooperative into a strong regional player with significant operations in the New York metro area. Headquartered in Keasbey, New Jersey, Wakefern, along with ShopRite stores, have become one of New Jersey's largest employers with approximately 32,000 associates in New Jersey and 47,000 overall.

In 2007, retail sales totaled over \$10 billion. Wakefern operates 2.5 million square feet of warehouses and logistical distribution centers, supplying over 200 stores in New Jersey, New York, Pennsylvania, Delaware, Connecticut, Massachusetts and Rhode Island.

The Wakefern organization is the nation's largest retailer-owned (non-farm) cooperative in the United States and is comprised of 44 members who independently own and operate supermarkets under the ShopRite banner.

Mr. Chairman, I applaud you, the subcommittee and Chairman Dingell for your efforts to improve food safety in the draft legislation. We, too, believe that improvements will best be achieved through a three-tiered program that

emphasizes prevention, intervention and response. This morning I will present several of Wakefern's recommendations for revising the bill, but I ask that my entire statement be included in the record.

Strengthen Consumer Confidence in the safety of the food supply

Media coverage of recent outbreaks, recalls and food safety scares have contributed to a decline in consumer confidence and reveal new challenges for ensuring the food supply is safe in an ever-changing marketplace. I am pleased to note that in 2008, with the federal government and private sector working together to improve food safety, consumer confidence has rebounded.

In 2007, consumer confidence in the safety of food they purchase in supermarkets reached its lowest point since 1989. The Food Marketing Institute's survey of consumers, presented in the annual U.S. Grocery Shopper Trends report, found that consumer confidence dropped from 82 percent in 2006 to 66 percent in 2007. This same survey revealed that consumer confidence in restaurant food was even lower at 42 percent.

In 2008, 81 percent of those responding to the 2008 Trends survey said they are "completely" or "somewhat confident" in the safety of the food bought in supermarkets. But this confidence is fragile. Only 11 percent are "completely confident," while a full 70 percent classify themselves as only "somewhat confident."

To secure high levels of confidence, the industry and government must both address the evolving nature of the marketplace, including advances in production and distribution methods, and the growing volume and diversity of imports. These changes call for a vigorous and robust approach to protect our food from unintentional or deliberate contamination. The quality and safety of the U.S. food supply must be protected from farm to fork – throughout food production, processing, storage and distribution. This multi-sector effort requires the active participation and cooperation of producers, processors, manufacturers, retailers, government and the scientific community.

The Industry

The retail industry's trade association, the Food Marketing Institute (FMI) – working with Wakefern and its other members – is dedicated to improving food safety by working throughout the supply chain to ensure that consumers continue to receive the safe, high-quality and affordable food they have every right to continue to expect. FMI has outlined a number of the retail industry's food safety efforts and goals in a report being released today for the first time. Mr. Chairman, I would like to submit this paper, the *FMI Food Safety Paper: the Supermarket Perspective*, for the record.

Programs to Help Reduce Foodborne Illness

Enhancing the safety of the food supply requires the active effort and strong support of the business community – such as food wholesalers and retailers – as well as government. This includes our work with suppliers, especially beyond our

borders, our commitment to train our own people, our efforts to implement best food safety practices in supermarkets and our outreach to consumers. It is a farm-to-table challenge that needs a farm-to-table solution. It is both a domestic and an international problem we must address together.

Wakefern is committed to working with the supplier community to constantly improve the safety of the food they manufacture and process, and to this end participates in the Safe Quality Food (SQF) Program. SQF provides independent certification that Wakefern's suppliers' food safety and quality management systems comply with international and domestic food safety regulations.

Accredited third party certification programs, such as SQF, enable suppliers to assure their customers that food has been produced, processed, prepared and handled according to the highest possible standards, which meet or exceed the standards set by the U.S. government.

Within the domestic retail setting, training store managers and workers in food safety is an important tool for protecting public health. Currently, Wakefern makes extensive use of the SuperSafeMark program to train and certify our store-level managers and associates. SuperSafeMark is the most comprehensive food safety and sanitation instruction and certification program ever offered to food retail employees. This program includes methods for combating foodborne illness with time and temperature controls, measures to prevent cross contamination, and programs for personal hygiene and cleaning and sanitizing best practices.

The final link in the supply chain is the consumer. Wakefern has long provided consumers with practical, science-based guidance on safe food handling at home through the Partnership for Food Safety Education. The Partnership brings together consumer advocacy groups, the U.S. Food and Drug Administration (FDA), U.S. Department of Agriculture (USDA), Centers for Disease Control and Prevention (CDC), national industry associations and health and scientific groups.

The Partnership created the award-winning Fight BAC! Campaign to teach food safety to children in school. Its BAC Down! Program urges consumers to use thermometers to ensure their refrigerators remain at safe temperature levels – no higher than 40 F. Most recently, the Partnership launched the Be Food Safe campaign in cooperation with USDA to provide retailers with a wide range of resources to educate their customers about safe food practices. The campaign encourages the use of colorful, modular icons and photography to illustrate the basic and most important safe food-handling practices:

- Clean — Wash hands and surfaces often.
- Separate — Do not cross-contaminate foods.
- Cook — Heat foods to proper temperatures.
- Chill — Refrigerate foods promptly.

The Food and Drug Administration Globalization Act (FDAGA)

Mr. Chairman, Wakefern would like to compliment the work of this committee in developing the Food and Drug Administration Globalization Act (FDAGA).

Many of the proposals in the draft bill are consistent with our thinking on food safety but we must be sure that any changes meet certain criteria. They must:

- Be supported by science;
- Have measurable benefits;
- Be affordable;
- Be realistic; and
- Be implemented without unintended consequences.

Furthermore, two things are imperative when we think about the type of legislation that is needed to make our food supply safer:

- We must use risk as our guiding principle, and
- We should consider what actions will have the greatest impact in reducing foodborne illness.

All points in the food chain play an important role in food safety. As retailers, we owe it to our customers to sell the safest food. Our customers expect the foods they purchase to be safe, whether store produced, manufactured or farm grown. In supermarkets, we have many prevention programs in place to protect our customers, such as consumer education, store employee food safety training, sanitation programs, and food safety management systems. But all of these prevention programs in retail cannot assure that we deliver safe food to our customers if the food coming into our stores isn't already produced and processed to the highest standards.

I would like to outline how we are working with our suppliers to ensure safer food and at the same time I will comment on several proposals in the draft bill.

Expand the Role of Accredited Third Party Certification

We feel all of our suppliers should – must – have rigorous prevention, intervention, and response plans as outlined in your bill. As retailers, we have an obligation to make sure we are sourcing from suppliers who have food safety plans in place. Some retailers have found that accredited third party certification programs are a sound method for evaluating how suppliers are implementing and managing food safety programs. Accredited third party certification companies are objective, independent bodies that are highly qualified to evaluate manufacturing facilities and attest –if warranted – that the supplier meets (or exceeds) all federally mandated food safety standards.

One such program is SQF, which is managed by the Food Marketing Institute and recognized by the Global Food Safety Initiative, which also recognizes several other certification programs that are used by retailers. Wakefern uses SQF because SQF is a well documented validated food safety management system.

We are pleased to see that your bill recognizes this concept, but we would ask that you work with us to ensure that accredited third party certification programs do not become a substitute for FDA inspection and regulation. These programs are best used to supplement and leverage FDA resources, since FDA will never have sufficient resources to inspect every facility. Mr. Chairman we were pleased that two of your senior staff were able to attend the briefing on SQF in recognition of

the rigorous infrastructure currently in place. We encourage Congress and FDA to examine how other countries are using certification as part of an overall risk assessment plan.

Require Mandatory Recall Authority and Immediate Notification of Recall

We believe that FDA should be given the authority to mandate a recall in those cases where a company responsible for adulterating food does not act promptly to recall a food that presents a reasonable probability of causing serious health problems or death. We also believe that suppliers should be required to give retailers immediate notification when a recall action is taken.

In addition, there are several other initiatives we would like to support:

Global Sourcing Safety

Wakefern supports efforts to improve the safety of global sourcing which includes handling new sources of food, advances in production and distribution methods, and the growing volume of diversity of imports.

Rapid Testing

Another area where we agree with your draft is the development of rapid testing techniques for use in inspection of imported foods. However, lab testing has limitations and should not be used as a definitive pass fail procedure for food coming into the country.

Safety Standards for Produce

We support your position that FDA, states and foreign governments should work

together to identify prevention controls for fresh produce. Here again, as a retailer, Wakefern will be using SQF certification programs to provide an added degree of food safety assurance to our customers.

Appeal Process

The draft bill grants FDA extraordinary new powers to suspend or halt the production and distribution process of food products for a variety of reasons. It is essential that these new powers are complemented by a hearing and appeal process that is fair, reasonable and quick.

There are several other food safety initiatives that Wakefern supports but were not included in your draft.

Traceback Systems

Wakefern supports language requiring systems that will improve the capability of commodity groups to trace back foods to their source and we believe that the government should require such systems. Traceability systems would enable USDA, FDA and the industry to contain foodborne illness outbreaks more quickly and help identify the root causes of food contamination. Each commodity group should be required to create an automated traceback system that is cost-effective and complements current business operations.

Designate a Lead Food Safety Agency

We support the FMI position that it is time to designate a lead food agency with responsibility to coordinate the safety of our entire food system. Food safety regulation in the United States is governed by an uneven mosaic of laws and

regulations enforced by multiple federal, state and local agencies, which results in inefficient redundancies in some areas and gaps in others. This system must be redesigned to address the current and future challenges of our rapidly evolving food supply system. FMI believes it is time to designate a lead food safety agency with responsibility to coordinate the safety of our entire food system. The resources needed for such an agency already reside within multiple existing agencies. The challenge is primarily one of restructuring and reallocation. Eliminating the duplication that now exists could result in substantial budget savings, improve oversight performance and create a safer food supply.]

Mr. Chairman, there are also proposals in the legislation that Wakefern would not support and we have asked our industry trade association to examine more closely.

Registration Fees

Food processing facilities are already required to be registered under the Bioterrorism Act, but we do not believe that charging a fee for this registration is appropriate. We would caution about adding fees that will be passed on to the consumer as higher food prices, something we are concerned about since consumers are already feeling the pinch of rising food prices.

User Fees

Although we agree that the FDA food safety program is under-funded, we cannot support the proposal to add user fees on imported food and drugs. Not only will this raise the cost of food, but it also ignores the fact that food safety is a public

good that offers benefits to all US citizens. Because of the broad base of these benefits it is appropriate for improvements to be paid for out of the general revenue rather than imposing fees that will ultimately raise the price of food for the consumer.

Country of Origin Labeling

We are also concerned that country of origin labeling requirements in the draft legislation duplicate similar provisions currently being debated in the Farm Bill and in conflict with the Tariff Act of 1930. However, this bill also creates an impossible provision requiring manufacturers (presumably including retailers) to put origin information on their websites for every single ingredient in any given product. If our stores had to figure out and list the country of origin for every ingredient that goes into our prepared foods that we sell at store level, we would simply have to forego this part of our business. The proposed requirement ignores the fact that during any given day a manufacturer (or a retailer) may have multiple countries of origin for any given ingredient, creating literally thousands of potential combinations for a finished product. The end result is an expensive and inefficient recordkeeping nightmare. In addition, many manufacturers, particularly small ones, may not have websites on which to post this information. If we have a system in place to improve the safety of imports, then such public notification would not be necessary, and despite its potential cost to manage, it will provide no benefit to improving food safety or reducing foodborne illness.

Mr. Chairman, thank you for the opportunity to testify. We appreciate the efforts set forth in the Food and Drug Administration Globalization Act of 2008 to help restore confidence in the food safety system and reduce foodborne illness. I remain available to the subcommittee for further discussion and information should you need it.