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Food & Consumer Packaged Goods Litigation

## Constitutionality of Nutrition Facts Proposal Questioned

The FDA called for public comments on its proposed changes to nutrition facts labeling by August 1, and comments they have received. The Washington Legal Foundation (WLF) has identified two First Amendment concerns with the proposed revisions. First, FDA's proposal to require identification of "added sugars," according to WLF, "raises serious First Amendment concerns in light of FDA's longstanding acknowledgement that added sugars are not physiologically distinguishable from naturally occurring sugars." Second, the FDA's proposal to require nutrition facts information on a per serving and per package basis presents issues under the First Amendment because, according to WLF, FDA has failed to show that such "dual column labeling" would directly advance its interest in promoting consumer health and preventing over-eating of certain foods. Read WLF's comments [here](#). Read all submitted comments [here](#).

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