

November 25, 2002

Mr. Joseph A. Levitt, Director  
Food and Drug Administration  
Center for Food Safety and Applied Nutrition  
5100 Paint Branch Parkway  
College Park, Maryland 20740

Re: Proposed Rule and Reopening of Comment Period Regarding Trans Fatty Acids in Nutrition Labeling, 67 Fed. Reg. 69171, Friday, November 15, 2002

Dear Mr. Levitt:

The undersigned associations request a 30 to 60 day extension of the comment period for the above-referenced proposal. We seek this extension because (1) the proposal departs from past FDA practice by adding a warning statement to the nutrition panel, (2) the proposed new label format may cause consumers to choose foods with greater amounts of saturated fat, and (3) the proposed footnote statement is the type of labeling which potentially violates the Constitution's First Amendment, which is the subject of a separate, recent FDA solicitation of comments.

The proposed rule and reopening of the comment period only allow 30 days for comment and this 30-day comment period becomes even more restrictive because it includes the Thanksgiving holiday. The preparation of responsive comments will not be simple because of the major issues identified above. The asterisked footnote statement, "Intake of *trans* fat should be as low as possible," combined with the absence of a % Daily Value for *trans* fat implies that *trans* fat is less desirable than saturated fat, for which FDA has established a % Daily Value. As a result,

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consumers may well choose to substitute foods with higher levels of saturated fat for foods that have any amount of *trans* fat. As will be more fully explained in comments, this warning label approach departs from longstanding agency policy for nutrition labeling. In addition, comments need to address First Amendment implications of this proposal.

The preparation of appropriate comments on both the direct implications of the new proposal and on its First Amendment implications cannot be adequately completed during a 30-day period, especially when the comment period includes a major national holiday. Therefore, we request that FDA extend the comment period for at least thirty and preferably sixty days.

Respectfully submitted,

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cc: Joyce Saltsman

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