April 9, 2020

Dr. Stephen M. Hahn
Commissioner
United State Food and Drug Administration (FDA)
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852

Submitted electronically via FDA’s Food and Cosmetic Information Center (FCIC)


Commissioner Hahn,

On behalf of the National Automatic Merchandising Association (NAMA) and its members, I would first like to thank you for your leadership to address the coronavirus disease (COVID-19) pandemic. In this challenging time for all Americans, the agencies willingness to work with industry partners and grant needed flexibility, allows the food industry to continue providing Americans with the safest food supply in the world.

I am writing today to urge the Food and Drug Administration (FDA) to allow temporary relief from requirements to provide calorie declarations for food sold from vending machines (79 FR 71259)\(^1\) during the current public health emergency.

Founded in 1936, NAMA represents the United States convenience services industry, with its core membership being comprised of owners and operators of vending machine, micro market, office coffee/tea/water, and pantry services providers, as well as the manufacturers of refrigerated vending machines used throughout the industry. With nearly 1,000-member companies – including many of the world’s most recognized brands – NAMA provides advocacy, education, research and business forums for its membership. The convenience services industry employs over 150,000 Americans nationally and provides nearly $26 billion in annual economic impact.

As you are aware, Presidential Policy Directive 21 (PPD-21)\(^2\) designates the food and agriculture sector as a critical infrastructure sector whose assets, systems, and networks are considered so vital that their incapacitation or destruction would have a debilitating effect on security, national economic security, national public health, or safety. The President’s Coronavirus Guidance published on March 16, 2020\(^3\)

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\(^1\) Food Labeling; Calorie Labeling of Articles of Food in Vending Machines
A Rule by the Food and Drug Administration; Pages 71259-71293


instructs employees of Critical Infrastructure Industries, such as the food and agriculture sector, to maintain normal work patterns during the global coronavirus outbreak.

In light of this directive, The Department of Homeland Security’s (DHS) Cybersecurity and Infrastructure Agency (CISA) published guidance on March 28, 2020\(^4\) identifying “Workers supporting groceries, pharmacies, convenience stores, and other retail (including unattended and vending) that sells human food, animal/pet food and pet supply, and beverage products, including retail customer support service and information technology support staff necessary for online orders, pickup and delivery” as critical infrastructure workers essential to the continued viability of this sector who should maintain normal work patterns pursuant to the President’s Coronavirus Guidance.

The Convenience Services Industry is uniquely equipped to assist the nation in this time of crisis. Vending machines, micro markets, pantry, and office coffee/tea/water services provide over 40 million consumers with food and beverages daily. Specifically, NAMA members keep machines and micro markets in hospitals, 911 dispatch centers, police stations, firehouses, truck stops and rest areas stocked with necessary sustenance to keep our essential response teams going at a time when social distancing is not only encouraged, but required to stop the spread of the virus. And it is all accomplished in an unattended retail environment, often with round the clock availability.

The industry is working diligently to replenish these customers and service new locations such as pop-up hospitals, set up by the Army Corps of Engineers in wake of COVID-19. Currently, the inventory of products being sold in machines are rapidly changing based on availability and demand. Due to the constantly changing landscape, the industry is facing an undue burden in ensuring that products are appropriately labeled with front of package calorie disclosures. In their absence, members are required under 79 FR 71259 to display signage declaring the calorie count of each product. This is increasingly difficult as products and their location within machine are currently changing from day to day.

Because of this, NAMA respectfully urges FDA to grant flexibility for the convenience services industry from current requirements to provide calorie declarations for food sold from vending machines the current public health emergency is under control. This vital flexibility will allow the industry to continue serving those who are most important and essential at this challenging time.

Again, I would like to thank you for your leadership and the Agency’s willingness to work with the industry during this public health emergency. We appreciate your consideration of our request and welcome the opportunity to discuss this issue further. If you have any questions, please contact me at 571-348-1214 or by email at mgoscinski@namanow.org.

Sincerely,

Michael Goscinski
Director, Federal and State Affairs
NAMA