



Serving the Vending and Refreshment Services Industry

## Calorie Disclosure Requirements

### ISSUE:

With an understanding of the current obesity situation in the United States, NAMA takes seriously its commitment to deliver the tools needed for the refreshment services industry to provide consumers with nutritional information and a variety of food and beverage choices. Directly related is the Affordable Care Act (ACA) language requiring businesses that own or operate 20 or more vending machines to disclose the caloric content of food and beverages prior to purchase at the point of sale. In December 2014, the Food and Drug Administration (FDA) issued the final calorie disclosure rule, as required by the ACA.

Important provisions in the final rule provide:

- Calorie information may be displayed by front of pack, front or adjacent to machine or electronic disclosure;
- Calorie information must be disclosed by amount of calories per package, not per serving;
- Rule applies to all items sold in vending, including industry-described “small package” items;
- Two year implementation period;

In addition to FDA’s regulatory action, as a result of NAMA’s efforts, Congress included report language in its fiscal year 2015 funding bill signed by President Obama that the FDA “**accept a clear, visible display of calories on the front of the package of articles of food sold from a vending machine or on the front of the vending machine as meeting such requirements.**” This amendment has been helpful in assisting efforts to clarify front of pack disclosure requirements in the FDA’s pending guidance documents.

### NAMA POSITION:

- NAMA urges the FDA to clarify the final rule’s front of pack (FOP) font size disclosure language by stating that current FOP industry-led disclosure programs meet the requirements and intent of the rule as long as they are clear and visible to the potential purchaser at the point of sale.
- NAMA requests the FDA clarify that electronic disclosure on retrofit vending machines be consistent with that for new machines.
- NAMA requests the FDA clarify that vending machine owners and operators are exempt from liability through regulatory enforcement channels when acting in good faith to disclose calories to purchasers in a clear and visible way at the point of sale.
- NAMA supports Congress amending the Food, Drug and Cosmetic Act to include specific language providing a safe harbor and exempting vending machine owners and operators from liability when acting in good faith to disclose calories to purchasers in a clear and visible way at the point of sale.