



FOR IMMEDIATE RELEASE

July 5, 2018

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WLF Urges USDA Not to Require “Bioengineered” Labeling for Highly Refined Foods

(In re ‘Bioengineered Food Labeling)

“As the Supreme Court reaffirmed just last week, the First Amendment protects not only the freedom to speak but also the freedom not to speak. It protects manufacturers from being required, as is being considered here, to include information on their product labels that is neither factual nor uncontroversial.”

—Richard Samp, WLF Chief Counsel

WASHINGTON, DC—Washington Legal Foundation on July 3 urged the U.S. Department of Agriculture (USDA) not to require manufacturers of highly refined food products (such as oils and sugars) to bear “bioengineered” labeling—even if the products were made from bioengineered ingredients. In formal comments filed at USDA’s invitation, WLF argued that including highly refined products within USDA’s labeling mandate would contravene Congress’s direction and would violate the First Amendment rights of food manufacturers.

“Bioengineered” food (also sometimes referred to as “genetically modified” or “GM” food) is food that contains genetic material that has been modified through *in vitro* recombinant DNA techniques. The vast majority of certain crops grown in the United States—including canola, field corn, cotton, soybeans, and sugar beets—meets the definition of “bioengineered.” However, when companies use those crops to manufacture highly refined foods such as oils and sugars, the genetic material is totally eliminated, or at least to such a great extent that the material’s presence can no longer be detected. Nevertheless, groups that oppose the use of bioengineered foods have been lobbying USDA to require manufacturers of highly refined products made from bioengineered food to bear bioengineered labeling.

The issue arises because Congress in 2016 adopted legislation (Subtitle E of the Agricultural Marketing Act (AMA)) directing USDA to establish rules governing bioengineered labeling. WLF’s comments asserted that the AMA does not authorize a labeling requirement for highly refined products because it expressly limits labeling to food products containing the requisite genetic material. Although labeling proponents insist that highly refined products do, in fact, contain trace amounts of genetic material, WLF argued that labeling is not authorized by the AMA unless there is laboratory evidence that genetic material is present. WLF also argued that labeling would violate the First Amendment by compelling manufacturers to utter speech that is neither factual nor uncontroversial.

Celebrating its 41st year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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