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WLF Urges FDA to Drop Nonsense “Ultra-Processed Food” Talk *(In re Ultra-Processed Food Definition)*

“FDA wants us to believe that *how* food is made matters more than what’s actually *in* it. That’s unscientific nonsense.”

— Zac Morgan, WLF Senior Litigation Counsel

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the Food and Drug Administration (FDA) to drop its efforts to create a category of “ultra-processed food.” WLF’s comments were filed in response to the agency’s request for information from the public on how best to define “ultra-processed food.” Such requests are typically the first step before the agency begins a comprehensive regulatory process around the new definition.

WLF’s comments note that the proposed term has serious flaws that cannot be redeemed. While “ultra-processed food” seems to be a new synonym for food that is “unhealthy,” the definitions FDA is considering would fail to isolate unhealthy foods. For example, WLF’s comment notes that virtually any “ultra-processed food” definition would end up labeling nutrient supplements or baby formula—literal life-saving products—as hazards to be avoided. At the same time, unhealthy foods might escape pejorative labeling simply by avoiding certain additives or processing techniques.

Given this over- and under-inclusivity, WLF also warns that any subsequent FDA effort to inject a new “ultra-processed food” definition into the FDA’s mandatory nutrition labeling regime would violate the First Amendment. WLF concludes by advising FDA to spend its scarce resources elsewhere and “abandon using the term ‘ultra-processed’ entirely.”

Celebrating its 48th 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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