Franchise Law Alert: FDA Releases New Guidance on Menu Labeling Rules

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The Food and Drug Administration recently released new, **non-binding guidance** to help with the implementation of its much-anticipated menu labeling regulations. The guidance does not change the rules or the enforcement date, which is still slated for May 7, 2018. It does add some clarification around questions the restaurant, grocery, and convenience store industries raised about specific issues.

These menu labeling rules require restaurants and retail outlets with 20 or more locations in the U.S. to post calorie information on their menus and to make other nutritional information available to consumers. The rules were first proposed in 2011 in compliance with the Affordable Care Act. Since then, the rules have undergone several revisions, comment periods, and delays of enforcement. The FDA has been working to educate businesses about compliance by drafting guidance and by offering workshops throughout the country.

The most recent guidance clarifies some issues, including:

- Noting that many marketing materials, such as posters (depending on where they're posted) and coupons may not qualify as menus;
- Providing suggestions for signage displaying calories for buffets and grab-and-go food;
- Noting flexibility in methods for displaying calories for pizza;
- Explaining their intention for compliance and enforcement;
- Explaining the "reasonable basis" for calculating calories, taking into account the natural variations of some foods and;

- Further explaining the criteria for covered establishments (including franchises) and standard menu items.

If you have questions about your businesses coming into compliance, please reach out to Gray Plant Mooty's Franchise team.