

July 6, 2018

VIA E-MAIL

Dr. Scott Gottlieb  
Commissioner, Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

Dear Commissioner Gottlieb,

Each day millions of Americans are misinformed on the safety and food composition of imitation dairy products creating a public health risk. The status quo of “enforcement discretion” by FDA is not acceptable and the labeling of milk and dairy products must be addressed immediately.

The FDA is responsible for protecting public health by ensuring the safety, efficacy and security of many products including our nation's food supply. This is achieved and safeguarded by regulating how most food is processed, packaged and labeled. In general, our federal agencies, including the FDA, are tasked with providing national stability and equity by upholding the United States' important regulatory framework. This includes the labeling of dairy and non-dairy imitation products.

Farmers and milk processors must abide by strict guidelines. The existing “Standards of Identity” clearly state that terms such as milk, cheese, yogurt, ice cream, etc. apply to products made from the milk of cows (CFR Title 21 parts 100-169). Plant-based beverages are not held to the same “Standards of Identity” and yet they share in the benefits of using the term ‘milk’ on their packaging. This is misleading to the American public. Food Allergy Research and Education estimates that more than 15 million Americans have a food allergy, and of those, nearly 6 million are children under the age of 18. Mislabeling nut-based or imitation dairy beverages as ‘milk’ confuses these consumers as to the safety of these products for consumption. FDA must take accountability.

Farmers and processors are asking for fairness and clarity in the marketplace and encourage FDA to uphold and enforce the current regulations. The decision to exercise discretion in enforcement has degraded dairy's share of the marketplace and consequently has significantly harmed the financial viability of more than 40,000 dairy farm families. Dairy farm families continue to struggle with historic low farm income. Nationwide, net farm income has fallen more than 50 percent since 2013.

In your recent comments discussing the use of plant-based beverages in the dairy aisle, you acknowledge the definition of milk -- the lacteal secretion, practically free from

colostrum, obtained by the complete milking of one or more healthy cows. It was a severe disappointment to hear the admittance that FDA has not been enforcing proper labeling for plant-based imitation dairy beverages that inappropriately use the term 'milk'. FDA must take immediate action and enforce the law.

This disregard for the agency's authority represents a gross disservice of the United States' principal office of food safety to the American public. We request the agency immediately enforce the existing regulations and label non-dairy products as imitation, use the current Standard of Identity for milk and reserve 'milk' for only beverages produced using the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows. The FDA is responsible for safety and stability within the American food industry and this is a responsibility and duty the agency must uphold.

Failure of the FDA to administer current regulations runs counter to the stated goal of the White House to enforce regulations and bring accountability to those who violate the rule of law. FDA is legally required to uphold the law.

Mislabeled is a huge disservice to our consumers and a serious problem. The status quo of "enforcement discretion" by FDA is not acceptable and must be addressed immediately.

Sincerely,

Alabama Farmers Federation – Jimmy Parnell, President

Arizona Farm Bureau Federation – Stefanie Smallhouse, President

Arkansas Farm Bureau Federation – Randy Veach, President

Colorado Farm Bureau – Don Shawcroft, President

Dairy Business Association – Mike North, President

EDGE Dairy Farmer Cooperative – Brody Stapel, President

Florida Farm Bureau Federation – John L. Hoblick, President

Georgia Farm Bureau – Gerald Long, President

Hawaii Farm Bureau Federation – Randy Cabral, President

Idaho Farm Bureau Federation – Brian Searle, President

Illinois Farm Bureau – Richard Guebert, Jr., President

Iowa Farm Bureau Federation – Craig Hill, President

Indiana Farm Bureau – Randy Kron, President

Kansas Farm Bureau – Rich Felts, President

Kentucky Farm Bureau Federation – Mark Haney, President  
Louisiana Farm Bureau Federation – Ronnie Anderson, President  
Maryland Farm Bureau – Chuck Fry, President  
Minnesota Farm Bureau Federation – Kevin Paap, President  
Mississippi Farm Bureau Federation – Mike McCormick, President  
Missouri Farm Bureau – Blake Hurst, President  
Nebraska Farm Bureau Federation – Stephen D. Nelson, President  
New Hampshire Farm Bureau Federation – Denis Ward, President  
New Jersey Farm Bureau – Ryck Suydam, President  
New York Farm Bureau – David Fisher, President  
North Carolina Farm Bureau – Larry Wooten, President  
Oregon Dairy Farmers Association – Tami Kerr, Executive Director  
Oregon Farm Bureau – Barry Bushue, President  
Pennsylvania Farm Bureau – Rick Ebert, President  
Rhode Island Farm Bureau – Henry B. Wright III, President  
South Carolina Farm Bureau – Harry Ott, President  
Tennessee Farm Bureau Federation – Jeff Aiken, President  
United Dairymen of Arizona – Craig Caballero, President & Keith Murfield, CEO  
Utah Farm Bureau – Ron Gibson, President  
Washington Farm Bureau – Mike LaPlant, President  
Wisconsin Farm Bureau Federation – Jim Holte, President  
Wisconsin Farmers Union – Darin Von Ruden, President  
Wyoming Farm Bureau Federation – Todd Fornstrom, President

CC:

Lamar Alexander, Chairman, United States Senate Committee on Health, Education, Labor & Pensions

Patty Murray, Ranking Member, United States Senate Committee on Health, Education, Labor & Pensions

Greg Walden, Chairman, United States House Energy and Commerce Committee

Frank Pallone, Ranking Member, United States House Energy and Commerce Committee

Dr. Stephen Ostroff, FDA – CVM

Susan Mayne, FDA

Melinda Plaisier, FDA – ORA

Douglas Stearn, FDA

Jeff Farrar, FDA - OP