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*Agency of Agriculture Food & Markets*

FDA's Comprehensive, Multi-Year Nutrition Innovation Strategy  
Dr. Stephen Ostroff  
Deputy Commissioner of Foods and Veterinary Medicine  
U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993

January 4, 2019

Dear Dr. Ostroff,

The Vermont Agency of Agriculture, Food and Markets is providing additional comments regarding consumer understanding of dairy versus plant -based products to inform FDA's Comprehensive Multi-Year Nutrition Innovation Strategy. Vermont produces the majority of milk in New England which accounts for a \$2.2 billion impact to the state's economy. The dairy industry supports more than 6,000 jobs and \$360 million in wages and salaries, bolstering rural communities with steady jobs.

As the Secretary of Agriculture, I join dairy farmers, processors, cooperatives, and Members of Congress in calling for the Food and Drug Administration to enforce its own food standards to prohibit the misleading labeling of plant-based products as "milk". Milk is a food that has an established standard identity defined in 21 CFR 131.110 as "the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows." The continued use of the word milk, or association to other common milk-based products such as butter, cheese, ice cream, or yogurt, serves to create consumer confusion about the differences between true dairy products and those sourced from plants.

A robust body of research from the public and private sectors address consumer confusion and labeling in the marketplace. New England Dairy and Food Council (NEDFC) released a quantitative study of 554 consumers in April 2018 from five New England states with a focus on who purchases and consumes dairy and their thoughts on health, the environment, and attributes of dairy milk. Dairy Management Inc. (DMI) published a similar study, "Consumer Perceptions: Dairy and Plant-Based Milk Alternatives" in October 2018 in which 3,823 individuals were interviewed about purchasing habits and associations with dairy milk verses plant-based beverages.

Findings from the DMI research show that the majority of adult consumers believe that when a product is labeled "milk" the nutritional value is comparable across dairy and plant-based products. This belief is more strongly associated by consumers who already purchase plant-based products. The larger and more prominent the word "milk" appears on a plant-based beverage, the more likely consumers are to equate the value of protein, essential nutrients and vitamins with dairy milk. Additionally, plant-based beverage consumers are more likely to purchase plant-based products regardless of the label name (e.g., plant-based juice instead of soy milk, or cultured nut product instead of vegan cheese).



The NEDFC study highlights that consumers are confused about nutrition and health benefits of dairy products, with further uncertainty added when other products claim to be hormone and antibiotic free. For example, 87% of respondents answered false or ‘don’t know’ to the following, “There are no antibiotics in dairy milk” showing that the vast majority of consumers are unsure what to think regarding milk quality. In this study, a quarter of respondents thought that dairy and plant-based beverages have the same nutritional value, while over a third responded they were ‘unsure’.

Allowing plant-based beverages and food items to be labelled with names that are regulated under FDA standards of identity for milk creates a misleading environment for consumers and an uneven playing field for producers of dairy milk products. Both the DMI and NEDFC studies show conclusively that consumers think that products labelled “milk” have the same nutritional benefits as dairy milk even though dairy milk has more protein, no added sugar, and no fillers or stabilizers. Given consumer misunderstanding about milk quality, dairy companies are also tasked with educating consumers when plant-based products are labelled as being hormone and antibiotic free.

While the terms soy milk, almond milk, vegan cheese, and others have entered the familiar lexicon, the NEDFC study highlighted that consumers who already buy these products would continue to purchase if the labels were changed to reflect the absence of dairy. A label change would also ensure that new consumers were aware of the essential differences between plant-based and dairy milk products.

As dairy farmers and the dairy industry continue to struggle under the weight of volatile markets, low or negative returns, and farm consolidation, they should not also be burdened with defending their product from plant-based products and misleading label claims. FDA’s failure to enforce its own standards of identity for milk has led to the current situation, and correct labelling will start to address the issue of improved transparency and consumer awareness to make informed choices.

The Vermont Agency of Agriculture, Food, and Markets strongly urges FDA to enforce the standards of identity for milk and dairy products as soon as possible. If there are any questions concerning these comments, please feel free to contact me.

Sincerely,

*Anson B. Tebbetts*

Anson B. Tebbetts,  
Secretary