

Congress of the United States
Washington, DC 20515

January 30, 2019

The Honorable Scott Gottlieb
Commissioner
U.S. Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Re: Docket No. FDA-2018-N-3522-4873

Dear Commissioner Gottlieb:

As newly-elected members of Congress, we look forward to working with you to ensure a safe, affordable, and abundant food supply that provides consumers with clear information about the products they are choosing. In this context, we are pleased that your agency is acting to enforce U.S. Food and Drug Administration (FDA) regulations defining what may be labeled a dairy product, to combat the proliferation of imitation and substitute dairy products in the marketplace that undermine FDA regulations by using standardized dairy terms on non-dairy products.

Last fall, several of our colleagues wrote to you in a letter dated October 3, 2018 on this very issue, and we wish to associate ourselves with the views they shared. As they noted, the ongoing lack of enforcement of existing dairy product terms in 21 Code of Federal Regulations parts 131, 133, and 135, pertaining to milk and cultured milk products, cheeses, and frozen dairy desserts, respectively, has undermined consumer confidence, the very purposes of standards of identity for foods.

In the last several years, more and more products have come to be labeled with standardized dairy terms, even though they are imitations or substitutes of actual dairy products. The use of the term “milk” by manufacturers of plant-based beverages and other products is a clear, straightforward violation of milk’s standard of identity, and this practice has extended to other plant-based offerings mimicking butter, yogurt, cheese and ice cream.

Dairy product terms convey specific information for consumers on nutritional content and ingredient performance. Put simply, imitations and substitutes do not meet these standards, nor do they have any standardized requirements for nutritional content, composition, and processing, unlike the dairy products they seek to imitate. Most importantly, they are not sourced from cows or other lactating mammals as required by the standards we referred to up above.

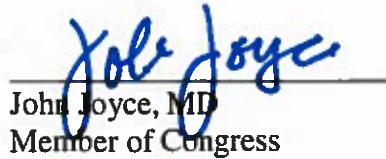
Given this ongoing problem, we are pleased that FDA now plans to act. We urge you to make crystal clear that dairy imitators will not be considered in compliance with standards of identity if they merely add the name of a plant material in front of a standardized dairy term, or otherwise reference dairy terms. Modifying the word “milk” with a plant product descriptor does not make the label accurate or appropriate, as these products simply do not contain milk or milk ingredients and the plant-based liquids are not permitted ingredients in milk.

In closing, as our colleagues pointed out last year, we note that similar standards are the rule around the world, and unsurprisingly, U.S. manufacturers of plant-based foods already comply with these regulations when they export their products. Uniform standards will help create more certainty in the market for both businesses and consumers. We appreciate your attention to this matter and your decision to act and look forward to working with you on this issue.

Sincerely,



Anthony Brindisi
Member of Congress



John Joyce, MD
Member of Congress



Antonio Delgado
Member of Congress



Daniel P. Meuser
Member of Congress



Angie Craig
Member of Congress



Dusty Johnson
Member of Congress



Ben Cline
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