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Dockets Management Staff (HFA-305)

Food and Drug Administration

5630 Fishers Lane, Rm. 1061

Rockville, MD 20852

**RE: Use of the Names of Dairy Foods in the Labeling of Plant-Based Products; Notice;
request for Comments; Docket No. FDA-2018-N-3522 (September 28, 2018)**

Dear Sir or Madam:

The International Dairy Foods Association (IDFA), Washington, D.C., represents the nation's dairy manufacturing and marketing industry, which supports nearly 3 million jobs that generate more than \$161 billion in wages and has an overall economic impact of more than \$628 billion. IDFA members range from multinational organizations to single-plant companies. Together they represent approximately 90 percent of the milk, cultured products, cheese, ice cream, and frozen desserts produced and marketed in the United States, many of which are sold throughout the world. The diverse membership includes numerous food retailers, suppliers, cooperatives, and companies that offer a wide variety of nutritional dairy products and dairy-derived ingredients.

IDFA commends the U.S. Food and Drug Administration (FDA) and Commissioner Gottlieb for undertaking the multi-year Nutrition Innovation Strategy to encourage industry innovation to improve the nutrition and healthfulness of food. As part of the strategy, FDA aims to provide clarity and guidance on the use of names of dairy foods in the labeling of plant-based products and has requested data and information regarding consumer use and understanding of these products to inform its approach. This issue is of great importance to the dairy industry.

Milk and dairy products provide a nutritional package that is a powerhouse of protein, vitamins, and minerals with an affordable price tag. A wide variety of plant-based foods and beverages are also being offered in today's marketplace. Unlike milk and other dairy products such as yogurt, kefir, cheese and ice cream, these plant-based products do not have federal or state standards of identity that dictate the composition and naming of the food. Many plant-based foods offered in today's supermarkets use labeling that incorporates dairy terms into their names, such as "soy milk," "almond milk yogurt," or "dairy-free mozzarella style shreds."

These plant-based products are sometimes packaged like their dairy counterparts and may be sold in the dairy section of retail stores.

We understand that consumers may choose to buy plant-based products for a variety of reasons, including milk protein allergies, lactose intolerance, environmental and animal welfare interests, and the desire to increase plant-based foods into their diets. Milk consumption and sales have been declining for decades. Most recent IRI data showed milk sales were 15.2 billion dollars for 5.6 billion units during the 52 weeks ending on September 9th in total U.S. multi-outlets. This represents a 4% decline in dollar sales and a 1.5% decline in volume sales for milk. In contrast, IRI data for milk alternatives, which include plant-based milk beverages, are up 7.7% in dollar sales and 11% in volume for the same 52 weeks. Acknowledging declining milk consumption and increased consumer interest in alternative beverages such as plant-based beverages, some of IDFA's members now produce both dairy products and plant-based foods and beverages. This mirrors consumer practices where households are dual users, purchasing both cow's milk and plant-based options.

IDFA appreciates FDA's efforts to support consumer choice and innovation in the marketplace, and we support FDA's actions to ensure that the labeling of plant-based products is truthful and does not mislead or confuse consumers. In particular, FDA's approach to food labeling should take into account the existing legal framework including Sections 403(a)(1) and 403(g) of the Federal Food, Drug and Cosmetic Act; 21 C.F.R. Sections 101.3 and 102.5; and the First Amendment. The application of these principles to the use of dairy terms on plant-based products and other labeling issues depends on understanding how these products are seen and used by consumers. Accordingly, IDFA appreciates the opportunity to provide FDA with consumer research and information pertaining to eight of the specific questions asked about consumer use and understanding about both dairy and plant-based products. With input from our members, we have provided references on consumer research about consumer perceptions of dairy milk and plant-based products to the specific questions listed below:

A. Current Market Conditions and the Labeling Costs of Plant-Based Products

IDFA has no data or information to share at this time.

B. Consumer Understanding, Perception, Purchase, and Consumption of Plant-Based Products, Particularly Those Manufactured to Resemble Dairy Foods Such As, For Example, Milk, Cultured Milk, Yogurt, and Cheese

1. *Why do consumers purchase and consume these types of plant-based products?*

Please see Appendix A, Appendix B, Appendix C, and Appendix D, for the following materials:

- **Appendix A**, McCarthy, K.S., et al. “Drivers of choice for fluid milk versus plant-based alternatives: What are consumers perceptions of fluid milk?” *Journal of Dairy Science*, 100.8 (2017): 6125-6138.
- **Appendix B**, Picciola, M., et al., *Plant-Based Products — Not Just for Vegans Anymore*, L.E.K. Consulting (Mar. 21, 2018), https://www.lek.com/sites/default/files/insights/pdf-attachments/2020-Plant-Based-Products_0.pdf.
- **Appendix C**, Cargill, *The shifting global dairy market* (2018), http://cilq.ca/wp-content/uploads/2018/09/Shifting_global_dairy_market-ilovepdf-compressed.pdf.
- **Appendix D**, DuPont, *Plant-Based Diets are Here to Stay!* (Nov. 13, 2018), <http://www.dupont.com/industries/food-and-beverage/press-releases/plant-based-eating.html>.

2. *Do consumers perceive these plant-based products as more nutritious, equally nutritious, or less nutritious than their dairy counterparts?*

During the Public Meeting on FDA’s Comprehensive, Multi-Year Nutrition Innovation Strategy, held on July 26, 2018, NDP data was presented regarding consumer trends. The presenter noted that many consumers who are buying plant-based products are not vegan or vegetarian. Please see **Appendix E** for the following presentation: The NPD Group, Inc., *Consumer Trends in Nutrition* (Jul. 26, 2018), <https://www.fda.gov/downloads/Food/NewsEvents/WorkshopsMeetingsConferences/UCM615710.pptx>.

A recent study by Dairy Management Inc. and National Dairy Council provides detailed information on “Consumer Perceptions: Dairy Milk and Plant-based Milk Alternatives.” Please see **Appendix F** and **Appendix G** for the following materials:

- **Appendix F**, National Dairy Council, *Consumer Perceptions: Dairy Milk and Plant-based Milk Alternatives* (Oct. 28, 2018), https://www.usdairy.com/~media/usd/public/dairy-and-plant-one-page-summary-10-28-2018_final.pdf.
- **Appendix G**, Dairy Management Inc., *Phase I Detailed Consumer Research Results* (Oct. 24, 2018), <https://www.usdairy.com/~media/usd/public/dairy-and-plant-based-beverages-research.pdf>.

3. *Do consumers perceive or expect these plant-based products to perform in the same manner as their dairy counterparts?*

IDFA has no data or information to share at this time.

4. *Do consumers perceive or understand labeling of these plant-based products?*

Please see **Appendix H** for the following presentation: International Food Information Council Foundation, *Consumer Attitudes About Labeling Cow's Milk, Plant Based and Non-Dairy Alternatives* (Oct. 2018), https://www.foodinsight.org/sites/default/files/Milk%20Nomenclature_PDF_1.pdf.

Additionally, please see **Appendix F** and **Appendix G** for the following materials:

- **Appendix F**, National Dairy Council, *Consumer Perceptions: Dairy Milk and Plant-based Milk Alternatives* (Oct. 28, 2018), https://www.usdairy.com/~media/usd/public/dairy-and-plant-one-page-summary-10-28-2018_final.pdf.
- **Appendix G**, Dairy Management Inc., *Phase I Detailed Consumer Research Results* (Oct. 24, 2018), <https://www.usdairy.com/~media/usd/public/dairy-and-plant-based-beverages-research.pdf>.

5. *We are aware that some plant-based manufacturers use the term “milk” while other manufacturers use terms such as “beverage” or “drink” as part of the name of the food. Do consumers perceive plant-based products to be different if the term “milk” is used instead of “beverage” or “drink”?*

IDFA has no data or information to share at this time.

C. Consumer Understanding Regarding the Basic Nature, Characteristics, and Properties of Plant-Based Products

1. *What do consumers believe to be the basic nature, characteristics, or properties of plant-based products manufactured to resemble dairy foods such as, for example, milk, cultured milk, yogurt, and cheese?*

IDFA has no data or information to share at this time.

2. *What do consumers believe are the main ingredients of plant-based products? What do consumers understand/think about the different protein sources being used to make these plant-based products?*

Please see **Appendix H** for the following presentation: International Food Information Council Foundation, *Consumer Attitudes About Labeling Cow's Milk, Plant Based and Non-Dairy Alternatives* (Oct. 2018), https://www.foodinsight.org/sites/default/files/Milk%20Nomenclature_PDF_1.pdf.

3. *What are consumers' understanding of the amount or proportion of plant-based ingredient(s) relative to other ingredients in plant-based products?*

IDFA has no data or information to share at this time.

4. *Do these plant-based products vary in ingredients, even when manufactured using the same type of plant source (e.g., soy or almond)?*

IDFA has no data or information to share at this time.

D. Consumer Understanding of the Nutritional Content of Plant-Based Products and Dairy Foods and the Effect, if Any, on Consumer Purchases and Use

1.
 - a. *What nutrients, if any, do consumers believe to be provided from dairy foods such as milk, cultured milk, yogurt, and cheese?*

Please see **Appendix F** for the following presentation: National Dairy Council, *Consumer Perceptions: Dairy Milk and Plant-based Milk Alternatives* (Oct. 28, 2018), https://www.usdairy.com/~media/usd/public/dairy-and-plant-one-page-summary-10-28-2018_final.pdf.

- b. *What nutrients, if any, do consumers believe to be in plant-based products that resemble dairy foods, such as milk, cultured milk, yogurt, and cheese?*

IDFA has no data or information to share at this time.

2. *Do parents and caregivers who purchase these plant-based products for young children or other family members believe that these plant-based products are nutritionally equivalent to their dairy counterparts and can replace them as a food choice?*

According to the following study, plant-based products are often seen as healthy options, including when purchased for young children or others with special dietary needs. However, these products do have different nutritional properties that should be understood. Please see **Appendix I** for the following study: Mäkinen, O.E., et al., "Foods for Special Dietary Needs: Non-dairy Plant-based

Milk Substitutes and Fermented Dairy-type Products,” *Critical Reviews in Food Science and Nutrition* 56 (2016): 339-349.

3. *Do these plant-based products vary in nutrient composition, even when manufactured using the same type of plant ingredients (e.g., soy or almond)?*

IDFA has no data or information to share at this time.

4. *We are interested in any data regarding the nutritional profiles of different dairy foods, such as, for example, milk, modified milk, cultured milk, yogurt, and cheese products, and any data regarding the nutritional profiles of the various plant-based products that resemble dairy foods, including fortified versions of those plant-based products.*

IDFA has no data or information to share at this time.

5. *How do the protein qualities of plant-based products compare to their dairy counterparts?*

Please see **Appendix J** and **Appendix K** for the following materials:

- **Appendix J**, Singhal, S., et al. “A Comparison of the Nutritional Value of Cow’s Milk and Nondairy Beverages” *Journal of Pediatric Gastroenterology and Nutrition*, 64.5 (2017): 799-805.
- **Appendix K**, Schuster, M.J., et al., “Comparison of the Nutrient Content of Cow’s Milk and Nondairy Milk Alternatives: What’s the Difference?” *Nutrition Today*, 53.4 (2018): 153-159.

E. The Role of Plant-Based Products and Dairy Foods in Meeting the Recommendations in the Dietary Guidelines

1. *Do consumers understand that certain plant-based products might have a nutritional content that is not adequate to place them in the dairy group as described in the Dietary Guidelines?*

The 2015-2020 Dietary Guidelines for Americans included fortified soy-based beverages, but not other plant-based alternates, in the dairy group. This exclusion is due to the nutritional differences between dairy products and plant-based products. Please refer to **Appendix L** for an excerpt from the Guidelines.

The Guidelines state:

“Soy beverages fortified with calcium, vitamin A, and vitamin D, are included as part of the dairy group because they are similar to milk based on nutrient composition and in their use in meals. Other products sold as “milks” but made from plants (e.g., almond, rice, coconut, and hemp “milks”) may contain calcium and be consumed as a source of calcium, but they are not included as part of the dairy group because their overall nutritional content is not similar to dairy milk and fortified soy beverages (soymilk).”¹

2. *Do consumers who purchase or consume plant-based products instead of dairy foods, such as yogurt or cheese, believe that these plant-based products meet the dairy group recommendation described in the Dietary Guidelines?*

IDFA has no data or information to share at this time.

* * *

IDFA hopes that FDA finds the submitted information useful as it develops its approach to plant-based products that use dairy terms in labeling. As FDA moves forward, IDFA urges FDA to outline the decision-making process it will undertake regarding appropriate labeling of plant-based alternatives. To provide transparency, IDFA asks FDA to provide an opportunity for comment about any tentative conclusions reached and proposed actions. Public input is especially important to ensure any proposed policy changes or recommendations are implemented in a practical, cost-effective way.

Thank you for your consideration of these comments. Please do not hesitate to contact me if you have any questions or if additional information would be helpful.

Respectfully submitted,



Cary Frye
Senior Vice President,
Regulatory Affairs

¹ U.S. Dep’t Agric., *Dietary Guidelines for Americans 2015-2020* (Dec. 2015) at 23, https://health.gov/dietaryguidelines/2015/resources/2015-2020_Dietary_Guidelines.pdf.

Appendices

Appendix A

“Drivers of choice for fluid milk versus plant-based alternatives: What are consumers perceptions of fluid milk?”

Appendix B

“Plant-Based Products – Not Just for Vegans Anymore.”

Appendix C

“The Shifting Global Dairy Market”

Appendix D

“Plant-Based Diets are Here to Stay!”

Appendix E

“Consumer Trends in Nutrition”

Appendix F

“Consumer Perceptions: Dairy Milk and Plant-based Milk Alternatives”

Appendix G

“Phase I Detailed Consumer Research Results”

Appendix H

“Consumer Attitudes About Labeling Cow’s Milk, Plant Based and Non-Dairy Alternatives”

Appendix I

“Foods for Special Dietary Needs: Non-dairy Plant-based Milk Substitutes and Fermented Dairy-type Products”

Appendix J

“A Comparison of the Nutritional Value of Cow’s Milk and Nondairy Beverages”

Appendix K

“Comparison of the Nutrient Content of Cow’s Milk and Nondairy Milk Alternatives: What’s the Difference?”

Appendix L

“Dietary Guidelines for Americans 2015-2020”