

July 20, 2020

Dockets Management Staff (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852

Re: Docket No. FDA-1995-N-0062 (formerly 1995N-0294)

Dear Dockets Management Staff:

The undersigned organizations represent the farmers, ranchers, seafood harvesters, seafood processors, and agricultural operators, who produce and market our nation's animal-based food products. From meat and poultry, to seafood, dairy and eggs, our members work hard to produce safe, affordable, and nutritious animal-based protein foods to feed families in the United States and around the world.

The Food and Drug Administration has asked for comments on general principles that would help determine when standards of identity are established, changed, or eliminated. This exercise has been moribund for 15 years, but a new interest in reviewing FDA rules in light of nutrition and health has led the agency to reopen the comment period.

While the draft general principles are for the most part sound and sensible, they stand in sharp contrast to the marketing practices of “plant-based” foods that imitate our products and, in many cases, use terms that are clearly defined by existing standards of identity in ways that both violate those standards and create significant consumer confusion. FDA should immediately prioritize the enforcement of misbranding regulations with respect to animal-based products with a standard of identity, as well as animal-based products that are marketed with a common or usual name.

Simply put, words matter – and data consistently indicates the use of animal-based product terminology and related iconography on imitation food products has resulted in significant confusion among consumers. For example when it comes to product composition, a survey by the International Food Information Council showed that when consumers were asked whether a variety of plant-based milk imitators contained cow's milk, approximately one-quarter either answered in the affirmative or said they did not know. Similarly, products like “Uncut Plant-Based Roasted Turkey Burger™”, which do not meet the USDA/FSIS definition of a poultry/turkey burger (9 CFR Section 381.160) because they are not 100% poultry, raise the question why these labels are even permissible.

The poor utility of these marketing strategies is made further evident by research demonstrating that greater confusion lies in the belief – especially among dedicated buyers of imitation products – that they are as nutritious as the animal products they imitate, if not more so. A survey by IPSOS showed, for example, that 77 percent of consumers who exclusively bought plant-based beverages thought that almond beverage has as much protein as milk or more. Similar majorities thought the imitation product was at least equivalent in vitamins and minerals, as well as “key nutrients.” In fact, however, almond beverage has only 2 grams of protein compared to the 8 grams in milk, and milk is higher in most other essential nutrients.

The health halo surrounding many plant-based imitation products is far from justifiable. Product formulations require ultra-processing and nutritional fortification in order to be considered a “complete protein.” Despite this, many products still fall short in terms of nutritional equivalence to the conventional animal-based foods they mimic, particularly with respect to micronutrients such as iron, zinc, omega-3, and vitamin B12 that are intrinsic to meat and other animal-based protein foods. Further, many of these products are substantially higher in nutrients of public health concern, including carbohydrates, sugar, and sodium.

As FDA considers standard of identity modernization, simplicity and flexibility must not come at the expense of accuracy and clarity. Trending marketing strategies that result in the consumer confusion we see today stand in sharp contrast to the principles laid out by FDA for comment. To that end, we submit that plant-based imitators’ marketing practices and labeling violate most if not all of the draft general principles, notably the following:

- **“Promotes honesty and fair dealing in the interest of consumers.”** Confusing consumers about nutritional equivalence is neither honest nor fair.
- **“Describes the basic nature of the food to ensure that consumers are not misled by the name of the food and to meet consumers’ expectations of product characteristics and uniformity.”** The use of animal-product terms – whether standardized or a usual or common name –does not accurately describe the basic nature of the imitation foods, potentially misleading consumers.
- **“Reflects the essential characteristics of the food ...”** We submit that an essential characteristic of products named with animal-based terms is that they are derived from animals, not plants.
- **“Ensures food does not appear to be better or of a greater value than it is ...”** When marketers create perceptions that plant-based foods are nutritionally equivalent or superior when they are not, they have caused consumers to believe their wares are “better” than they actually are.

We do not in any way oppose the right of corporations to formulate and market plant-based foods that imitate animal products, as long as the products are labeled and marketed in ways that are truthful and not misleading. That is hardly the case at present, however. Our organizations strongly believe that many imitation products are in violation of FDA’s regulations against misbranding.

If the agency has limited resources, then we would request that FDA prioritize the enforcement of its existing regulations over the development of general principles. We do not oppose the draft principles and feel they are, in general, sound. But principles without enforcement will do little to protect consumers and ensure honesty and fair dealing in consumers’ interest.

Sincerely,

American Farm Bureau Federation
American Sheep Industry Association
National Cattlemen’s Beef Association
National Fisheries Institute
National Milk Producers Federation
National Pork Producers Council
National Turkey Federation
United Egg Producers