

## PLEASE CONTACT FDA TO SUPPORT LABELING ENFORCEMENT AGAINST NON-DAIRY IMITATORS

NMPF's ongoing pressure on the U.S. Food and Drug Administration (FDA) to take enforcement action against mislabeled, imitation dairy products has prompted action. FDA is seeking public comments on potential enforcement action against the proliferation of fake "milks." **We need your immediate help in continuing to press FDA on why it is important that it take the appropriate next steps to follow through on this important issue.**

FDA is holding a public comment period on food labeling standards governing fake "milks." This comment period is a crucial opportunity for dairy stakeholders to weigh in on the importance of accurate, consistent and legal labeling practices for dairy products, and to call out those that have unfairly misbranded themselves. The marketers of plant-based dairy imitators have exploited the long-standing lax regulatory environment to co-opt legally defined dairy terms for use on their imitations. **We need our dairy supporters to use this comment period to discuss why such practices need to be eliminated through effective enforcement by FDA.**

FDA's public comment period runs through **Tuesday, Nov. 27. We ask that you weigh in with FDA, either electronically or in print, during this comment period.**

This document is designed to assist you in composing a letter, telling you how to submit your comments and outlining several arguments for why FDA's lack of labeling enforcement must end.

**Your support and engagement is very important. Please follow the instructions below and submit your own unique comments to FDA. While we welcome all communications in support of our position on this issue, individual comments are more effective than multiple copies of the same communication. That's why we are asking you to draft your own comments. We are happy to help with any additional information you may need.**

Here are instructions for how to submit comments to FDA:

To submit comments letter to FDA, and any additional comments you might have, go to the NMPF homepage at [www.nmpf.org](http://www.nmpf.org) and click on the banner titled, "Tell the FDA to stop misleading fake-milk labels." Alternatively, go to [www.regulations.gov](http://www.regulations.gov), search for Docket "FDA-2018-N-3522- 0001," and click on the blue "Comment Now!" box.

You can either copy and paste your comments into the field provided or upload your comment document using the "Choose Files" option below the comment field. Fill out the other information fields and select your "Category" type – which would be "Food Industry" – then click "Continue."

On the next page, confirm all information is correct, check the box below your information indicating that you have read and understood the public disclosure statement, then click "Submit Comment." You should be directed to a confirmation page, where you will be provided a confirmation number for your submission. Your comments will be posted to the main docket for consideration within a few days.

If you have any questions or need assistance, please contact Clay Detlefsen at [cdetlefsen@nmpf.org](mailto:cdetlefsen@nmpf.org) or (703) 243-6111.



# THE MISUSE OF DAIRY FOOD NAMES ON PLANT-BASED IMITATORS

## EXECUTIVE SUMMARY

Consumers care about proper nutrition – but they’re in a hurry, too. Their decisions are influenced by product packaging, and they don’t have time for misleading labeling. That’s why the U.S. Food and Drug Administration (FDA) needs to immediately end the application of the term “milk” to nutritionally inferior non-dairy products. Data shows the confusion. In an IPSOS survey commissioned by Dairy Management Inc. in August:

- **73 percent** of consumers believed that almond-based drinks had as much or more protein per serving than milk, even though milk has eight times as much protein.
- **53 percent** said they believed that plant-based food manufacturers labeled their products “milk” because their nutritional value is similar. They don’t, and the manufacturers know it.
- Misinformation was even more prevalent among consumers who solely purchase plant-based beverages. Of those buyers, **68 percent** strongly or somewhat agreed that those drinks have the same nutritional content as dairy milk.

**The misappropriation of milk’s “health halo” also may have devastating consequences to the health of children.** According to media reports, vegan diets in which dairy products are substituted with less-healthy alternatives have **increased the number of malnourished children in U.S. hospitals.** Parents have been prosecuted for feeding their children non-dairy diets in which the use of woefully inadequate “substitutes” led to tragic results.

The plant-based food and beverage industry’s actions are contrary to the national goal of a healthy population and FDA’s mission to promote transparency and fairness. As the federal dietary guidelines state: Plant-based products “are not included as part of the dairy group because their overall nutritional content is not similar to dairy milk.” **U.S. consumers shouldn’t receive false signals about the products they buy.**

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## Most consumers are intelligent, rational people who care about their nutrition and their families.

But they’re also in a hurry — and they don’t have time to be misled. That’s why FDA needs to immediately end the application of the term “milk” to nutritionally inferior non-dairy products.

Data shows that, despite the presence of detailed nutrition labeling, most consumers don’t make food choices by comparing nutrients among seemingly similar items. Their perceptions are based on signals received from an item’s packaging, where that product is placed in a grocery aisle, and how equivalent it appears to other items. This happens even when, in fact, those two products are radically different.

**People rely on product indicators**, such as the name on the package, rather than the technical information on a label. This creates confusion when consumers decide between real dairy products and items masquerading as dairy alternatives. In an IPSOS survey commissioned by Dairy Management Inc.:

# 73%

of consumers believed that almond-based drinks had as much or more protein per serving than milk, even though milk has eight times as much protein.\*

# 53%

said they believed that plant-based food manufacturers labeled their products “milk” because their nutritional value is similar. It isn’t, and manufacturers know the value is less.

# 68%

of consumers who solely purchase plant-based beverages strongly or somewhat agreed that those drinks have the same nutritional content as dairy milk.

## Efforts to put plant-based beverages under the “health halo” of real milk have been succeeding, to the detriment of consumer decision-making.

Poor understanding of nutritional options isn’t just a matter of insufficient protein – in extreme cases, it can mean life and death. According to media reports, vegan diets in which dairy products are substituted with less-healthy alternatives have **increased the number of malnourished children in U.S. hospitals**. Parents have been prosecuted for feeding their children non-dairy diets in woefully inadequate “substitutes” led to tragedy. It is highly likely that there are many more cases that are less dramatic and unreported. They occur because consumers don’t know that, rather than buying a healthy dairy beverage, **they’re feeding their children nutritionally inadequate, highly-processed water**.

Consumers have a right to choose the beverages they prefer, but current labeling practices create false impressions that prompt decisions they might not otherwise make. The obvious

“Often consumers mistakenly believe [alternative milks] are healthier, which is not true. This 'health halo' has blurred the lines so much that other plant-based milks jumped on the wave and are enjoying the ride.”

USA TODAY Feb. 28, 2017

**Kim Larson**

Spokeswoman

**eat right.** Academy of Nutrition and Dietetics

#GOTREALMILK

factor is the name – people see almond or rice before the word “milk” and think it must be like a dairy product, even when their nutrition and production differ. Aggravating factors, such as placement next to dairy in grocery stores, add to this misperception.

This is the situation into which FDA must intervene, for the benefit of consumers and transparency in the marketplace. FDA should be commended for finally tackling this longstanding and growing problem.

Making necessary changes to packaging to benefit consumers is easy to do. It only requires fake milk products no longer identify themselves in ways that imply dairy equivalence, instead restricting use of the word “milk” to items that fit the agency’s existing definition. Not

**#GOTREALMILK**

It's time for FDA to get real about enforcing milk labeling laws.

Regulations in Canada and the United Kingdom don't allow the use of “milk” as a name for Almond Breeze, the same brand sold in the United States as “almondmilk.”

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“I can agree with the gripe of the dairy industry that these alternative milks that don’t have nutrition are harvesting unfairly the health halo of milk.”

Adam Lowry  
Co-founder of Ripple  
BevNet.com - Feb. 8, 2017

“You want [a plant-based yogurt] to taste good, look and feel like the real thing, and to be nutritionally equivalent, and they fail in all three.”

Dr. Neil Renninger  
Co-founder of Ripple  
Dairy Reporter - Sept. 19, 2017

“It is not easy to make a plant-based yogurt, because unlike dairy milk, which gives you whole package to work with out of the gate...plant-milk has to be creatively designed.”

Greg Steltenphol  
CEO, Califia Farms  
Food Navigator - Feb. 21, 2018

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only is it common sense, **it’s a practice that plant-based manufacturers already meet worldwide.** For example, containers of Blue Diamond almond beverage in Canada and the United Kingdom are nearly identical to their U.S. counterparts, with the same logo and largely the same visual elements and health claims – they simply omit the term “almond milk.” That distinction is small, but important, and very simple to make. In a world of incredible food variety and time constraints, FDA can aid consumers by supporting this change – one consistent with already existing policy and international practices.

Most consumers know the basic fact that a plant-based beverage isn’t cow’s milk. They know that true milk comes from a lactating animal and that almond-based drinks, for example, contain almonds (although water is the predominant ingredient, along with industrially processed nutrients, sweeteners and emulsifiers added later in manufacturing). But such knowledge isn’t universal. A survey released in October by the International Food Information Council Foundation showed that **one-quarter of consumers either thought almond milk contained cow’s milk or weren’t sure.** For coconut, rice and cashew drinks, percentages were even higher.

## The conclusion is clear.

Using “milk” as a descriptor for non-milk products blurs the lines between consumer perceptions of these products’ nutritional content, as well as their usefulness as a cooking ingredient, appropriateness as a source of protein, and other considerations in which an intelligent- but-in-a-hurry consumer may be misled. The federal government even dictates in its own dietary guidelines that these products aren’t part of the dairy group because of their nutritional profile. U.S. consumers shouldn’t receive false signals about the products they buy.

The U.S. plant-based food and beverage industry has used FDA inaction to misdirect consumers for their own financial gain, to the detriment of those consumers. **This is contrary to the national goal of a healthy population and FDA’s mission to promote transparency and fairness.** It needs to end.



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“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...”

2015-2020 Dietary Guidelines for Americans

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\* Full IPSOS/DMI study can be found at <https://www.usdairy.com/~media/usd/public/dairy-and-plant-based-beverages-research.pdf>