

February xx, 2011

The Honorable Margaret Hamburg
Commissioner
Food and Drug Administration
5100 Paint Branch Parkway
College Park, MD 20740-3835

Dear Commissioner Hamburg,

We write to you in support of a recent legal petition, supported by over 400 organizations and businesses, to protect consumer rights and prevent consumer deception by requiring the labeling of genetically engineered foods. FDA's regulatory regime for food labeling is inadequate and uses 19th century concepts to regulate 21st century food technologies.

As you know, in its 1992 policy statement, FDA allowed GE foods to be marketed without labeling because they were not "materially" different from other foods. In that policy statement, the agency severely limited what it considered "material" to only changes in food that could be recognized by taste, smell, or other senses. The use of novel food technologies like genetic engineering on a commercial scale has so far slipped underneath FDA's limited threshold for "materiality" because such technologies make silent, genetic, and molecular changes to food that are not capable of being detected by human senses. In its 2009 guidance to industry, FDA applied its outdated GE food labeling policy to GE animals without revisiting the scientific or legal merits of the standard. This decision is especially troubling given FDA's current consideration of a GE salmon that would be the first genetically engineered animal for human consumption.

At issue is the fundamental right consumers have to make informed choices about the food they eat. Labeling foods doesn't imply a product is unsafe or will be confusing to consumers as some may argue. The FDA requires the labeling of over 3,000 ingredients, additives, and processes; providing basic information doesn't confuse the public, it empowers them to make choices. Absent labeling, Americans are unable to choose for themselves whether to purchase GE foods. Polls have consistently shown that consumers are not only surprised to know that GE foods are not identified, but that they want the federal government to label these products. Since the labeling petition was filed in October 2011, over half a million comments have been submitted in support of labeling.

The FDA has the opportunity and authority to do right by the American public. When issuing its rule requiring irradiated foods to be labeled FDA stated in broad terms that a decision to require labeling is not just based on the physical changes to the food but also on whether consumers view such information as important, and whether the omission of label information may mislead a consumer. The fact that FDA has already adopted this broad interpretation of “material” facts demonstrates that it is a reasonable—and therefore permissible—interpretation of the Federal Food, Drug, and Cosmetic Act (FFDCA).

We urge you to fully review the facts, law, and science, and side with the American public by requiring the labeling of genetically engineered foods as is done in nearly 50 countries throughout the world. FDA has a clear opportunity to protect a consumer’s right to know, the freedom to choose what we feed our families, and the integrity of our free and open markets with this petition. Thank you for your consideration.

Sincerely,

Cc: Kathleen Sebelius, Secretary of Health and Human Services

Michael Taylor, Deputy Commissioner for Food