



National Milk Producers Federation

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"Connecting Cows, Cooperatives, Capitol Hill, and Consumers"

April 28, 2010

Margaret A. Hamburg, Commissioner
Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993-0002

Dear Commissioner Hamburg:

The National Milk Producers Federation (NMPF)¹ requests that the Food and Drug Administration (FDA) significantly increase enforcement efforts to prevent the misbranding of certain food items that are imitations of standardized dairy products. FDA has clear legal authority in this area pursuant to section 403 of the Food, Drug and Cosmetic Act (hereinafter, "FDCA"), 21 U.S.C. § 343. A number of food items are now being marketed to consumers using terms like "milk", "cheese", "ice cream", "yogurt" in their product names, even though these products do not meet the legal standard of identity for those standardized dairy products. For example, attached to this letter is a list of several hundred products currently on the market that are misbranded as "soymilk", "rice milk", "Muscle Milk[®]", "soy yogurt", "dairy-free ice cream", etc. This list is not necessarily comprehensive; NMPF believes there are other misbranded products also on the market today.

Over recent years, it has become increasingly commonplace to find products on the market that use the names of standardized dairy products, when in fact those products do not meet the legal standards of identity of those products as established under FDA regulations. In most cases, the products are not even derived from dairy products; they are plant-derived imitation products that have been developed in an effort to capitalize on the high degree of popularity and appreciation of nutritional

¹ NMPF, based in Arlington, VA, is a national trade association and a Capper-Volstead Cooperative representing 30 national and regional dairy cooperatives and the nearly 40,000 dairy farmers members of those cooperatives on federal government policy issues. The members of NMPF cooperatives are from nearly every State in the Union and produce the majority of the milk supply in the United States. NMPF's mission is to advance the well-being of dairy producers and the cooperatives they own. NMPF is the voice of the U.S. dairy farmer on Capitol Hill and with government agencies.

Agri-Mark, Inc.
Arkansas Dairy
Cooperative Association
Associated Milk
Producers, Inc.
Continental Dairy
Products, Inc.
Cooperative Milk
Producers Assn.
Dairy Farmers of
America, Inc.
Dairymen's Marketing
Cooperative, Inc.
Dairylea Cooperative Inc.
Ellsworth Cooperative
Creamery
Farmers Cooperative
Creamery
First District
Association
Foremost Farms USA
Just Jersey
Cooperative, Inc.
Land O'Lakes, Inc.
Lone Star Milk
Producers, Inc.
Manitowoc Milk
Producers Coop.
MD & VA Milk
Producers Cooperative
Association, Inc.
Michigan Milk
Producers Assn.
Mid-West Dairymen's
Company
Northwest Dairy
Association
Prairie Farms
Dairy, Inc.
St. Albans Cooperative
Creamery, Inc.
Scioto County Co-op
Milk Producers' Assn.
Select Milk
Producers, Inc.
Southeast Milk, Inc.
Swiss Valley Farms, Co.
Tillamook County
Creamery Assn.
United Dairymen
of Arizona
Upstate Niagara
Cooperative, Inc.
Zia Milk Producers

quality that dairy products enjoy among consumers. However, they illegally mislead the public by inappropriately employing names and terms reserved by law for standardized dairy products, thereby creating false impressions that these products provide comparable quality, taste, or nutritional benefits. NMPF would not object to these products being placed on the market if they were appropriately identified; however, as they are currently presented, these products are misbranded in clear violation of the law, and FDA has the authority and the responsibility to enjoin such practices.

The Food Drug & Cosmetic Act and FDA Regulations Prohibit Misbranding of Dairy Products.

The FDCA clearly and expressly prohibits the misbranding of any food product placed in interstate commerce [21 U.S.C. § 331(b)]. A product is misbranded within the meaning of the Act if it purports to be a food for which a definition or standard of identity has been prescribed by regulation, but fails to conform to such definition or standard [21 U.S.C. § 343(g)]. The FDCA's prohibition on misbranding is particularly relevant for the dairy sector because standards of identity exist in FDA regulations for most dairy products, including milk, yogurt, cheeses, and ice cream (see 21 C.F.R. Parts 131, 133, and 135).² Products for which no standard of identity has been established may be placed on the market under an apt "common or usual name" so long as that name does not cause confusion regarding the true nature of the product; however, if the name is likely to cause confusion, the product is misbranded, within the meaning of section 403(g).³

² By contrast, there are no standards of identity for non-dairy substitutes for milk, cream, cheese, or other dairy products. In 1978, FDA proposed standards for some of these products [43 FR 42118 (Sept. 19, 1978)]. However, the proposal was controversial and the comments that FDA received demonstrated a lack of consensus in the food industry about the most appropriate standards and nomenclature for these products. After several years when it became apparent that the proposed standards were not widely acceptable, FDA withdrew its proposal [48 FR 37366 (August 19, 1983)].

³ This is a long-established principle of FDCA law. See e.g., *United States v. 30 Cases...Strawberry Fruit Spread*, 93 F. F.Supp. 764 (S.D. Ohio 1950) (holding that a product labeled as "fruit spread" purported to be "strawberry preserves" and therefore the name of the product caused confusion with a standardized product). Of course, manufacturers who clearly and properly labeled their product as an "imitation" of a standardized product have historically been able to do so. See e.g., *62 Cases of Jam...v. United States*, 340 U.S. 593 (1951). For years, FDA routinely required foods that resembled standardized foods, but did not conform in all respects to the standard, to be labeled as "imitation." See Merrill, R.A. et al., *Like Mother Used to Make: An Analysis of Food Standards of Identity*, 74 Colum. L. Rev. 561, 577-81 (1974). Eventually, FDA developed regulations concerning the marketing of substitutes for traditional foods, standardized as well as non-standardized, that articulated principles concerning "imitation" labeling and the establishment of "common or usual

For example, a product is misbranded if the product name includes a standardized food name, e.g., “milk”,⁴ as part of a name for that product, e.g., “soymilk.” The FDA has so ruled on a number of occasions, issuing warning letters to several manufacturers who have misbranded foods by misusing names of standardized dairy products. For example, in its warning letter of August 8, 2008, FDA informed Lifesoy, Inc. of San Diego, California that several of its products being marketed as “soymilk” were illegally misbranded. In that letter, FDA stated:

Your Lifesoy...products use the term “milk” as part of their common or usual name. Milk is a standardized food defined as the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows [21 CFR 131.110]. Therefore, we do not consider “soy milk” to be an appropriate common or usual name because it does not contain “milk.”⁵

FDA very recently issued a similar warning letter to Awesome Foods, Inc. of Lancaster, Pennsylvania, which had misbranded a non-dairy product as “Raw Parmesan Cheeze.” In December, 2009, FDA admonished Awesome Foods that its product name contravened the Act:

The product is also misbranded under section 403(g) of the Act [21 U.S.C. 343(g)] if it purports to be a food for which a definition and standard of identity has been prescribed by regulation, but fails to conform to such definition and standard. FDA regulations prescribe a definition and standard of identity for parmesan cheese. 21 CFR 133.165. Among other things, the standard requires a parmesan cheese product to contain milk, an ingredient that is not present in

names.” The regulations provided that “a substitute for a standardized food may properly be labeled with a distinctive common or usual name or descriptive term or phrase *if it is sufficiently informative to prevent confusion with the standardized product.*” For a discussion of this history, see *Federation of Homemakers v. Schmidt*, 539 F.2d 740, 741-43 (D.C. Cir. 1976).

⁴ Milk is defined at 21 CFR 131.110(a) as the “lacteal secretion, practically free of colostrum, obtained by the complete milking of one or more healthy cows.” The regulatory standard of identity further defines milk in terms of its percentage content of milk solids and milk fat, and identifies certain permissible ingredients, such as flavorings, that may be included as added ingredients.

⁵ FDA Warning Letter dated August 8, 2008 from Alonza E. Cruse, District Director, FDA Los Angeles District to Mr. Long H. Lai, Lifesoy, Inc.

your product. Simply changing the letter “s” in cheese to a “z” is not adequate to distinguish your product from the standardized food.⁶

Also, a product is misbranded if it uses a name that is confusingly similar to the name of a food for which there is an established standard of identity, e.g., using the name “cheeze” for a food item that does not conform to the standard of identity for “cheese.” In the warning letter issued only four months ago, FDA ruled that a product being marketed by Awesome Foods, Inc. as “raw parmesan cheeze” was misbranded in contravention of section 403(g) of the Act because:

... raw parmesan cheeze is not the common or usual name for this food. The common or usual name of a food must accurately describe the basic nature of the food, and may not be confusingly similar to the name of another food. [21 CFR 102.5(a)]. The basic nature of cheese is that it is a food using milk as the starting ingredient. According to the ingredient statement...your...product does not contain milk. Moreover, “Raw Parmesan Cheeze” is confusingly similar to the name “parmesan cheese” which describes the dairy product “parmesan cheese” [see 21 CFR 133.165].

FDA’s position with respect to products that misuse the term “milk” or the name of other standardized dairy products in connection with non-standard products has been clear: those products are illegally misbranded and producers have been warned to cease and desist. FDA has historically enforced the law with respect to the misbranding of dairy products, but unfortunately this enforcement has been sporadic. NMPF is aware of several instances, dating back as early as the 1980s, where FDA issued similar warning letters to companies who had misbranded their products by including the term “milk” or the names of other standardized dairy products in the names of products that did not conform to the appropriate standard of identity.⁷ NMPF is also aware of several recent enforcement efforts, as indicated by the letters quoted above. The problem has been that FDA’s efforts to enforce these clear provisions of law have been intermittent and, as a result, ineffective. This is evident from the significant expansion of products placed on the market in the past few years – largely vegetable-based products – that are misbranded as a type of “milk” or “yogurt” or “cheese,” but fail to meet the legal standards of identity. In

⁶ FDA Warning Letter 10-PHI-03 dated December 15, 2009 from Kirk Sooter, District Director, FDA Philadelphia District to Bruce S. Weinstein, President, Awesome Foods, Inc.

⁷ See, e.g., Letter dated September 29, 1983 from James R. Taylor, Jr., Assistant to the Director, Division of Regulatory Guidance, Bureau of Foods to Mr. Kok Ee Lynn, Senior Officer, Singapore Institute of Standards and Industrial Research; Letter dated July 18, 1985 from Lillie Taylor, Assistant to the Director, Division of Regulatory Guidance, CFSAN to C. Hwang, Dr. Chung’s Foods Company, Ltd.

several instances, FDA has taken the correct action, but those occasions have not been nearly frequent enough.

Unfortunately, the resulting lack of engagement by FDA on this issue has resulted in an ever-increasing array of misbranded foods entering the marketplace. This expansion in the number of falsely-labeled products has now reached epidemic proportions and an “anything goes” attitude now pervades the marketplace, making a mockery of existing federal food standard and labeling regulations for dairy products. Marketers of these products have brazenly co-opted the names of federally standardized milk and dairy products without regard to existing regulations designed to protect consumers from false and misleading labeling and without concern for regulatory intervention or penalty. *A policy which allows misbranded products to linger in the marketplace until such time it can be argued that the products have a history of human familiarity and, therefore, a common or usual name, is the equivalent of no policy at all.* NMPF contends that FDA has the legal responsibility to make a comprehensive effort to address this problem, and must send a clear and consistent message to all manufacturers of these products that continued illegal misbranding of non-dairy substitutes will not be tolerated.⁸

Ingredient Labeling for Milk

Similarly, NMPF maintains that any product which does not meet the standard of identity for milk as defined in 21 CFR 131.110, or does not contain an ingredient that may be collectively identified as milk by 21 CFR 101.4, should not be permitted to use the term “milk” in the product’s labeling whether as part of the name of the food or in the ingredient labeling.

With respect to the labeling of ingredients on formulated foods, FDA has provided for labeling provisions relating to the utilization of dairy product

⁸ NMPF previously urged FDA to take corrective action in 2000 when it filed a trade complaint (*see* Letter dated February 14, 2000 from Dr. Robert Byrne, Vice President, Regulatory Affairs, NMPF to Joseph Levitt, Director, CFSAN); and subsequently in 2001 when it filed comments on a petition of the Soyfoods Association of North America (hereafter “Soyfoods Association”) to establish a common or usual name for “soymilk” and related names (Docket FDA-1997-P-0016) (*see* Letter dated November 2, 2001 from Dr. Robert Byrne, Vice President, Regulatory Affairs, NMPF to Dr. Christine Lewis, Director of Office of Nutritional Products, Labeling and Dietary Supplements.) In the latter case, FDA noted that NMPF’s concerns would be addressed in the proceedings of that docket sometime in the “near future”. As far as NMPF is aware, FDA has never taken action on the Soyfoods Association petition.

terminology. These regulations are described in 21 CFR 101.4 (b)(4) and specify that “Milk, concentrated milk, reconstituted milk, and dry whole milk may be declared as ‘milk’”. NMPF urges vigorous and consistent enforcement of these regulations concerning the use of dairy products as ingredients.

Misbranded Non-Dairy Plant-Based Beverages and Powders

Among the plethora of improperly labeled imitation dairy products, the category of plant-based beverages continues to grow unabated. The basis of these drinks is the aqueous extraction of various plant sources (e.g., “soymilk” or “almond milk”). These products use the term “milk” in the name of the food, but do not meet the standard of identity or composition of ingredients as described above by 21 CFR 131.110 or 21 CFR 101.4 and, as such, are misbranded [21 U.S.C. § 343(c) and (g)].

A very broad view of the term “milk” has currently taken hold in the marketplace, contradicting the statement of identity for milk on its most basic level – i.e., the source of milk must be an animal, specifically, a lactating cow. While there are provisions for products made from the milk of goat, sheep, and water buffalo for specific cheeses and/or ice cream (21 CFR 133 and 135, respectively), in all cases, the term “milk” refers to the lacteal secretion from a mammal. NMPF fully recognizes the suitability of a qualifier such as “goat” or “sheep” being used to distinguish among various types of mammalian lacteal secretions. Similarly, use of descriptive terms such as “rye” or “oat” are appropriately qualified terminology to differentiate among bread products anchored by the standard of identity for bread (21 CFR 136.110). However, it is both illogical and disingenuous to employ the same argumentation by linking the name of an animal-based standardized food with a plant-based descriptor.

The filtered extract of a homogenized plant substance does not meet the standard of identity for milk, does not provide the source for any ingredients that may collectively be called milk, and is not an optional ingredient that may be added to milk. Therefore, these foods should not be permitted to be labeled as such in the product name on the principal display panel or in the ingredient statements of any food products containing the plant-based food substance.

Inappropriate common or usual names of misbranded non-dairy beverages.

The common or usual name of a food must not be confusingly similar to the name of another food and it must describe the basic nature of the food [21 CFR 102.5

(a)]. NMPF maintains the basic nature of “milk” is that it is the lacteal secretion from a mammal, not the liquid separated from a slurried plant mixture, and maintains the names of these misbranded products are confusing and misleading to the consumer. NMPF supports the re-naming of these products as “drinks” or “beverages” (e.g., “soy beverage”, etc.), which is consistent with previous enforcement efforts of the agency which were cited previously.

A food does not conform to the standard of identity for a food if it contains an ingredient for which no provision is made in the standard (21 CFR 130.8). The standard of identity for milk does not include filtered plant extractions as among the permitted optional ingredients [21 CFR 131.110 (c)]. The standard for milk allows for the inclusion of flavorings [21 CFR 131.110 (c)(2)] and their designation on the label in the product name (e.g., the qualified name “chocolate milk”). However, the terms associated with the misbranded products referenced previously do not represent flavorings in dairy beverages – for example, the misbranded product “almond milk” does not refer to dairy milk flavored with almonds. We would further contend that the use of terms such as “almond milk”, “peanut milk”, and “hazelnut milk” on products made from tree nuts and legumes (see Table 1 for examples) are particularly misleading to consumers due to consumers’ familiarity with these substances as flavorings in many food products. We question the ability of consumers to readily discern among such non-dairy products and traditionally flavored milks (such as “chocolate milk”) sourced from dairy cows, especially as the variety of flavored milks from dairy cows continues to grow. Adding the name of a plant material in front of the word “milk” does not result in an appropriate name for non-dairy products, as these products do not contain milk or milk ingredients, the plant-based liquids are not permitted ingredients in milk, nor do they represent the common or usual names of these beverages.

A non-comprehensive list of examples of misbranded products using “milk” in the names of the food appears in Table 1, separated by category. A non-comprehensive list of examples of mislabeled products including “milk” in the names of non-dairy ingredients (e.g., soymilk, ricemilk) in the ingredient statement appears in Table 2. Ingredients are to be listed by their common or usual name [21 CFR 101.4 (a)(1)]. However, for the reasons described above, “milk” is not the common or usual name for plant-based liquids.

While soy-based beverages may have most commonly employed the practice of inappropriately using “milk” in their labeling, it is now possible to find similarly-named beverages made from extractions of other plants (e.g., rice, almond, and hemp) in main-stream grocery stores and other retail outlets nationwide. Based on current marketing practices, it seems as if it is possible for any food substance to be ground and filtered to remove solids, with the resulting liquid being named “milk”. In

fact, in regional and specialty stores or through online distributors, it is possible to find beverages made from aqueous extractions of other grains (barley, oat, wheat), legumes (peanut, pea), nuts (cashew, hazelnut, walnut), seeds (sesame, sunflower) and potatoes, as well as the dried forms of these products (e.g., “soy milk powder”). NMPF requests that appropriate enforcement measures be taken to correct the names of these misbranded products before the false concept of “milk” becomes more common and involves even more plant-based substrates.

Nutritional inferiority of misbranded non-dairy beverages compared to dairy milk.

The labeling for these plant-based beverages often suggests they are the “perfect substitute”⁹ for dairy milk or a “nutritious milk replacement”¹⁰ and compare levels of their nutrients to those in dairy milk (e.g., “as much calcium as dairy milk”¹¹). Many of these products are sold in the refrigerated section of the grocery store, directly beside and competing with dairy milk. *Given their liquid state, similar packaging, images on the label, recommended uses, product literature and website information, along with the inclusion of the term “milk” in the name of the product, NMPF asserts consumers are being misled into thinking these products are nutritionally comparable to dairy milk.* In reality, many of these non-dairy plant-based beverages are little more than water and soluble carbohydrates, with little to no nutrient value. There can be no doubt that these products have been formulated and positioned to mimic the positive quality attributes of milk from lactating cows and, because of this, are nothing more than imitation milks that should be labeled as such.

Although many of these products indicate they are fortified with calcium and other nutrients associated with milk, commonly, they are still nutritionally inferior to milk (see Table 3). Often only certain nutrients are fortified and/or the level to which they are fortified is below that of dairy milk. When customers see a product with the term “milk” in its name, and when the label indicates the product is enriched with the same nutrients as milk, and the product is recommended as a substitute for milk, it is deceptive and misleading when the nutrient profile of the product is not equivalent to dairy milk.

Soy-based beverages naturally contain only one-fifth the amount of calcium as cow’s milk. To serve as a more significant non-dairy calcium source, some of these beverages are fortified with calcium to a level comparable to that of cow’s milk. However, the amount of nutrient present in a food and the amount absorbed by the

⁹ WestSoy® and Vitasoy® soy beverage product packaging.

¹⁰ Harris Teeter® soy beverage product packaging.

¹¹ Silk® soy beverage product packaging.

body are not equal. In fortified foods, the ultimate bioavailability of the nutrients depends on the interactions among a variety of formulation parameters, including the composition of the food matrix, the form of the fortificant, and the level of fortification. While the nutrition facts panel may indicate an equal level of calcium present, depending on the specific conditions and the delivery mechanism¹², calcium from a soy beverage may be up to 25% less absorbed than calcium from cow's milk¹³.

Regardless of whether or not a particular food system is optimized for bioavailability of a nutrient, calcium-fortified beverages suffer from the additional technological challenge of keeping the calcium in suspension¹⁴. As a result, the fortificant has a tendency to settle out to the bottom of the container. Therefore, it is irrelevant if calcium bioavailability for two products is equivalent, if the fortificant is not actually being consumed. Even with vigorous shaking, significant amounts (as much as 80%) of the calcium in a fortified soy beverage may remain as sediment in the container¹⁵.

FDA's own regulations state that addition of a nutrient to a food is appropriate only when the nutrient "is stable in the food under customary conditions of storage, distribution, and use" and it "is physiologically available from the food" [21 CFR 104.20 (g)(1) and (2)]. Plant-based beverages vary in terms of their level of calcium fortification and the type of fortificant employed (see Table 3), which affects the bioavailability of calcium from these products, and, as mentioned above, the degree of sedimentation will affect the amount of calcium actually ingested. Therefore, because of the issues with stability and bioavailability, the practice of adding calcium to plant-based beverages is not in compliance with FDA's fortification policy. Further, it is misleading and deceptive to the consumer, especially when the level of fortification and marketing of the product suggest it serve as a substitute for dairy milk. A consumer may think he or she is both ingesting and absorbing an amount of calcium declared on the nutrition label that is comparable to dairy milk, but the actual amount would be measurably less.

¹² Heaney, R. P., K. Rafferty, and J. Bierman. 2005a. Not all calcium-fortified beverages are equal. *Nutrition Today* 40:39-44; Heaney, R. P., K. Rafferty, M. S. Dowell, and J. Bierman. 2005b. Calcium fortification systems differ in bioavailability. *Journal of the American Dietetic Association* 105:807-809; Zhao, Y., B. R. Martin, and C. M. Weaver. 2005. Calcium bioavailability of calcium carbonate fortified soymilk is equivalent to cow's milk in young women. *Journal of Nutrition* 135:2379-2382.

¹³ Heaney, R. P., M. S. Dowell, K. Rafferty, and J. Bierman. 2000. Bioavailability of the calcium in fortified soy imitation milk, with some observations on method. *American Journal of Clinical Nutrition* 71:1166-1169.

¹⁴ Heaney, R. P., *et al.* 2005a.

¹⁵ Heaney, R. P., and K. Rafferty. 2006. The settling problem in calcium-fortified soybean drinks. *Journal of the American Dietetic Association* 106:1753.

These non-dairy beverages share the same physical form as traditional fluid milk beverages and are often marketed as alternatives to milk through images on product packaging, recommended product uses, and traditional dairy wording on labels (e.g., “pasteurized”, “1% fat”). However, they do not provide the full nutritional profile of milk, and instead rely on consumers’ awareness of and familiarity with dairy milk and its numerous health benefits. As stated above, at best, these plant-based beverages are imitations [21 CFR 101.3 (e)] of real milk. Table 3 lists some of the commercially available plant-based beverages and reveals most are nutritionally inferior to milk with respect to protein, potassium, calcium, vitamin A, and vitamin D, including beverages made from soy (14 of 15 brands were nutritionally inferior), almond (2 of 2 brands), rice (6 of 6 brands), hemp (3 of 3 brands), and peanut (1 of 1 brand). Specifically, 13 of the 15 soy beverages contained less protein than an equal amount of milk, and all of the 12 other non-dairy beverages contained less protein than milk. In fact, 11 of the 12 other non-dairy beverages contained 4 grams of protein or less per serving (\leq 50% of milk).

“Milk” is a standardized product; consumers know what to expect from the composition of this product and can expect it to be consistent within the category of “milk”, regardless of brand. Even with fortification, the true nutrient profile of these non-dairy products is not equivalent to dairy milk (for the reasons described above and as illustrated in Table 3) and the nutrient profiles of the products vary considerably, both among and within the categories of non-dairy beverages. Although marketing of non-dairy products suggests they are comparable to dairy milk, most are nutritionally inferior and, not being standardized in their composition, confuse the consumer as to how to interpret the nutritional value of these non-dairy beverages that all share the term “milk” in their names. If these products continue to use the term “milk” on their labels as part of a product name, they should be clearly and prominently labeled as “imitations”, per section 403 (c) of the Act, to inform consumers that the nutritional profiles of these products are different from that of dairy milk.

Misbranded Nutrition Shakes and Powders

Recently, a variety of misbranded nutrition drinks and powders have emerged in the marketplace using the dairy term “milk” in the brand name of the product. Two such specific product lines manufactured by CytoSport™ (Benicia, CA) – Muscle Milk® and Monster Milk™ – use the term “milk” in their brand names despite a complete lack of milk as described above by 21 CFR 131.110 or ingredients permitted to be labeled as “milk” as described in 21 CFR 101.4.

Muscle Milk[®] and Monster Milk[™] products are formulated using fractions of milk, specifically, sodium and calcium caseinates, milk protein isolate, whey, and whey protein isolates. Caseinates are derived through the acid precipitation of casein from milk, followed by treatment with either calcium hydroxide or sodium hydroxide to form their respective salts; whey is a byproduct of cheese manufacture; milk/whey protein isolates are concentrated protein sources of milk or whey, from which lactose, salts, and other solids have been removed. Although caseinates, whey, and protein isolates are derived from milk, they do not contain the other solid components that are inherently found in milk. Because these protein fractions do not represent real milk as defined either by the standard of identity or the ingredient labeling provisions of 21 CFR 101.4, these products should cease using the term “milk” in their brand names.

NMPF also maintains that a company should not utilize prominent principal display panel labeling, incorporating the name of a standardized food, when doing so misleads and deceives the consumer. The word “milk” appears prominently on the principal display panels of these products, in the largest font size on the package. Based on the product name and label design, consumers may purchase this product thinking it is a fortified or flavored milk, when the product does not contain any milk at all. Again, NMPF maintains that the use of the term “milk” in a position of prominence on the product label (e.g., “Collegiate Muscle Milk[®] Chocolate Milk Shake” or Monster Milk[™] Chocolate Milk Powder) represents a misbranded product, violating section 403 (a), (f), and (g) of the Act.

The principal display panel of a representative Muscle Milk[®] product appears in Figure 1. Per 21 CFR 101.3 (d), the statement of identity for a product shall be presented in bold type on the principal display panel and shall be in a size “reasonably related to the most prominent printed matter”. In this example, “Muscle Milk[®]” is the most prominent text on the label, approximately five times as large as the descriptive “Nutritional Shake”, a disparity of type-size which does not seem reasonable.

According to 21 CFR 102.5 (c)(1), the common or usual name of a food shall include a statement of absence of characterizing ingredients that might otherwise mislead consumers as to the composition of the food. The statement indicating an absence of milk should be not less than one-half the height of the largest type appearing in the part of the common or usual name of the food [21 CFR 102.5 (b) (ii)]. Although the current labeling for this product includes the declaration “contains no milk”, its size is only one-tenth that of “Muscle Milk[®]”.

NMPF contends this product is misbranded by use of the word “milk” in the name of the product, and is mislabeled by the undue prominence given to the name “Muscle Milk®” relative to the term “Nutritional Shake” and, by extension, to the declaration that the product does not contain milk. The naming and labeling of this product illustrates an attempt to identify this product as milk and mislead the consumer in a deceptive manner.

Other Misbranded Non-Dairy Foods

The very broad view of “milk”, which has been taken advantage of by plant-based beverages, has expanded to the misuse of other dairy terms for products that are made from non-milk liquids. These products mimic traditional dairy products (yogurt, ice cream, cheese, etc.) in physical form and in suggested uses, but differ in their composition, being made from aqueous plant extracts instead of milk or dairy ingredients.

Standards of identity have been defined for yogurt (21 CFR 131.200), sour cream (21 CFR 131.160), and ice cream (21 CFR 135.110), as well as for various types of cheese (21 CFR 133). Each of these standards explicitly states milk is among the required ingredients and does not include plant-based beverages among the required or optional ingredients that may be used in their manufacture. The foods in question are made from various plant-based liquid extracts and do not contain any real milk. These non-dairy products with dairy terminology on their packaging do not meet the standard of identity associated with their product names and, therefore, are misbranded according to Section 403 (a), (c), and (g) of the Act. A non-comprehensive list of examples of products and manufacturers appears in Table 4.

These misbranded non-dairy foods are marketed using various forms of product names which are inappropriate since they do not represent the common or usual names for these types of products in that they are confusingly similar to the names of other foods [21 CFR 102.5 (a)]. Specifically:

1. Products are marketed using names which are combinations of the plant material and the dairy product for which it is trying to substitute (“soy yogurt”, “rice cheese”, etc.). As stated above for the non-dairy beverages, adding the name of a plant material in front of a standardized dairy product does not result in an appropriate common or usual name for these products.

The common or usual name must describe the basic nature of the food [21 CFR 102.5 (a)] which, for dairy products, is that milk is a significant component. These

misbranded foods contain no dairy ingredients and confuse the consumer as to whether the prefix indicates the base material in a dairy analog or the characteristic flavor in a true dairy product. For example, the misbranded product “cashew nut cream cheese” does not refer to cream cheese flavored with cashew nuts, but rather to an ersatz cream cheese-like product made from cashew nuts.

2. Products are marketed using names that alter the spelling of the standardized food that it is trying to mimic. Subtle variations of a letter or two in the product name (e.g., “cheeze”, “sheese”, or “chreese”) do not sufficiently distinguish the non-dairy food from the traditional, standardized dairy product.

As referenced above, in a December 2009 warning letter¹⁶ to Awesome Foods, Inc., FDA stated that a “Raw Parmesan Cheeze” product was misbranded. FDA determined the product was confusingly similar to the name of another food [21 CFR 102.5 (a)] and claimed to be a food for which a definition and standard of identity had been established but, without dairy ingredients, it did not conform to the standard [Section 403 (g) of the Act].

Based on this precedent, non-dairy products that use variations in the spelling of standardized dairy foods are misbranded, whether the product in question is a dairy analog (e.g., “soy cheeze”) or if the product is a combination food that uses the analog as an ingredient (e.g., “soy cheeze pizza”).

3. Products are marketed using names that pair dairy terminology with qualifiers indicating a lack of dairy ingredients. Such action does not result in appropriate common or usual names for these products as these analogs are not made from milk.

Products are marketed with adjectives “vegetarian”, “vegan”, “dairy-free”, “milk-free”, etc. (e.g., “vegan cream cheese”, “dairy-free ice cream”) that are contradictory to the base part of the name and do not meet the composition defined by the standard of identity for the dairy product. These product names are confusingly similar to the name of other foods for which standards of identity have been established and, therefore, are misbranded [21 CFR 102.5 (a) and Section 403 (a) and (g) of the Act].

NMPF emphasizes that these non-dairy foods must be re-named to more accurately describe the nature of the product, without using the names of standardized dairy products. With respect to cultured dairy products, the process

¹⁶ Letter dated December 15, 2009 from Kirk Sooter, District Director, FDA Philadelphia District to Bruce Weinstein, President, Awesome Foods, Inc.

by which milk is manufactured into specific products is dependent, among other variables, on the characteristics of the ingredients used. While the same species of starter cultures or types of organic acids used in dairy product manufacture can be introduced to plant-based beverages, the biochemical processes that occur in fermented dairy products and the protein coagulation that occurs in both cultured and directly acidified dairy products is specific to milk and its unique composition (e.g., carbohydrates, proteins, lipids, etc.). Only products using milk in their manufacture and meeting the standards of identity cited above may be labeled “yogurt”, “cheese”, or “sour cream”.

As valid alternative labeling, NMPF supports the use of the term “cultured” in conjunction with the starting material (e.g., “cultured soy product” or “cultured rice gel”) in the common names of products that are fermented with bacterial cultures, or use of the term “acidified” (e.g., “acidified rice gel”) for products that are directly acidified. However, inclusion of “milk” or “cream” (e.g. “cultured rice milk”, “acidified soy cream”) in the common names of these products would not be supported. Likewise, ice cream analogs made from plant-based beverages should be correctly re-labeled with a generic term such as “non-dairy frozen dessert” – the product name should not include “milk” or “cream” (e.g., “soy milk ice cream”) nor should it be contradictory (e.g., “non-dairy ice cream”). In fact, many non-dairy product manufacturers do appropriately comply by naming non-dairy foods with general descriptive terms (e.g., “cultured soy” or “non-dairy frozen dessert”), demonstrating it is not necessary to market these products by employing the names of standardized foods.

4. Products are marketed using deceptive labeling practices, for example, where the name of the standardized dairy product being mimicked is followed by the term “alternative” in a much smaller font (e.g., “sour cream alternative”).

While they may to some degree resemble traditional dairy products in their physical form, appearance, and recommended uses, these plant-based products are nutritionally inferior to their dairy counterparts, lacking in one or more important nutrients. These products are not alternatives or substitutes for dairy foods, as the FDA has defined substitute foods as being nutritionally equivalent to the foods they resemble [21 CFR 101.13 (d)]. They do, however, meet the definition of imitation products which are nutritionally inferior [21 CFR 101.3 (e)(1)]. For example, “Vegan Gourmet™ Cream Cheese Alternative” contains no vitamin A or calcium, while real cream cheese provides 8% and 2% of the Daily Value for these nutrients, respectively. (See Table 5 for additional comparisons of some commercial dairy analogs and the true dairy products they imitate.)

These products are misbranded based on the prominence given to the dairy

product name [FD&C Act Section 403 (f)], which often appears in a font size that is four or five times as large as a term to differentiate it from the true dairy product (for example, the term “alternative” in Figure 2). The lack of emphasis given to the term that designates these products as anything other than a real dairy product is misleading to consumers reading the package. As these products are imitations [21 CFR 101.3 (e) (1)], these products should be re-labeled such that the true nature of the product is clear, including the word “imitation”, with all terms in the product name of a consistent size on the label.

Conclusion

As a result of the lack of enforcement by the Food and Drug Administration of the long-standing labeling provisions of various standards of identity for milk and dairy products and other pertinent federal labeling regulations, the traditional retail dairy case has become a chaotic center of misbranded products and false and misleading labeling. The problem continues to grow with each passing year as products are nationally marketed and available across the country in major grocery store chains, club and warehouse stores, and through Internet distributors and retailers. This development does not merely encompass a single category or brand of non-dairy beverages and other imitation dairy foods, but an extensive variety of plant-based beverages (from grains, nuts, seeds, potatoes, etc.), manufactured by many different companies, representing a wide range of formulations and nutrient compositions.

Through their packaging, labeling, and location in the refrigerated section, these products directly compete with and are marketed as substitutes for fluid milk and other traditional dairy products. While consumers may choose dairy analogs for any of a variety of reasons – including personal preference, health, religion, or ethics – it is inappropriate for manufacturers of these products to continue to mislead consumers by capitalizing on dairy terminology for standardized foods and applying it to non-standardized, nutritionally inferior products.

The main focus of this submission is the use of the names of standardized dairy foods in the name of a product, on its label, or in the ingredient statement – when the product does not conform to the standard of identity of the dairy food – resulting in a misbranded and/or mislabeled product.

In summary:

- Non-dairy beverages using the term “milk” in their product names contradict the most fundamental nature of milk (i.e., that it is from a mammal) and, by failing to meet the standard of identity for milk, are misbranded. The lack of enforcement of the provisions of the standard of identity for milk up to this point has allowed this term to be used in the marketing of a wide variety of aqueous extractions from plants. This current practice must not be allowed to continue.
- Non-dairy beverages vary wildly in their composition and are inferior to the nutrient profile of dairy milk – although they are marketed as replacements for a food that consumers are familiar with and which has a nutritious and healthful image. Non-dairy beverages should be re-named more accurately as “drinks”, “beverages” or, at best, “imitation milk”. Fanciful or common names for these products should not include the term “milk”, which is a standardized product.
- Formulated foods (e.g., Muscle Milk®) that use “milk” in a product name, even if some of the ingredients may be dairy-derived (like fractionated components of milk), result in misbranded products when they do not contain any real milk. Use of the term “milk” in the names of these types of products is misleading the consumer as to the composition of the product and should be restricted to foods containing real dairy milk.
- The broad view of “milk” in the marketplace has resulted in further corruption of other dairy terminology, which is now being used in the names of products manufactured from non-dairy liquids. Each of the categories of products discussed – sour cream, yogurt, ice cream, and cheese – has a standard of identity. Implicit in those standards is that each includes milk as a required ingredient. These plant-based dairy analogs, by use of names of standardized foods, are misbranded.
- Products using dairy terminology, variant spellings of dairy terminology, or contradictory product names on their labels are misbranded. These products should be relabeled to more accurately describe the nature of the food (e.g., “non-dairy frozen dessert”) or through a fanciful name, provided it does not include the name of a standardized dairy product.

Use of the term “milk” in the names of non-dairy beverages does not constitute a common or usual name for these analogs. As mentioned above, being composed of solids from a plant is contradictory to “milk” on its most elementary level. Additionally, through previously mentioned warning letters, the FDA has stated “soymilk” is not the common name for a food that does not comply with the standard of identity for milk.

Recent research indicates that the diets of a significant proportion of the American population are lacking in essential nutrients, like calcium and potassium (which are present in high levels in dairy foods, with lower amounts in many non-dairy beverages), with less than 30% and 3% of the population consuming the recommended levels of these minerals, respectively¹⁷. Product labels can play a role in providing relevant nutrition information to consumers and NMPF commends the actions of FDA to review front-of-package labeling and health claims of food products. In addition to these efforts, ensuring that food products are named so as to clearly identify the true nature of the food to the consumer, rather than to confuse and deceive, will play a role in supporting the current activities of the agency and encourage consumers to make informed food selections and develop healthy dietary patterns.

Based on the long-standing standards of identity, the definitions of milk and other dairy products are not ambiguous, although recent trends in the names of non-dairy foods in the marketplace would suggest otherwise. Because of this trend, it is critical that FDA take appropriate and immediate action against these expanding categories of misbranded and mislabeled products, to protect consumers against mistakenly making purchases of imitation dairy products which are nutritionally inferior or which do not bear informative, non-misleading information. This must be done before this practice becomes even more pervasive.

To assist with this request and to provide evidence of these misbranded products, tables and supplemental figures have been attached which include product information and photos or images from product websites of foods using dairy terminology in the name of the food, on the principal display panel, or in the ingredient statement.

¹⁷ Nicklas, T. A., C. E. O’Neil, and V. L. Fulgoni, III. 2009. The role of dairy in meeting the recommendations for shortfall nutrients in the American diet. *Journal of the American College of Nutrition* 28:73S-81S.

Thank you for your prompt attention to this matter. Please feel free to contact me if you have any questions or if further information is needed.

Sincerely,

A handwritten signature in black ink that reads "Jerry Kozak". The signature is fluid and cursive, with the first name "Jerry" and last name "Kozak" clearly distinguishable.

Jerry Kozak
President and CEO

Cc: Michael Taylor, Deputy Commissioner, Office of Foods
Stephen Sundlof, Director, Center for Food Safety & Applied Nutrition

Figure 2. Principal display panel from Vegan Gourmet™ Cream Cheese Alternative. The dairy product name “Cream Cheese” appears in a font size that is much larger than the term to differentiate it from the true dairy product and, therefore, is misleading to the consumer. (Image obtained from <http://store.followyourheart.com/product-p/54008.htm>)



Table 1. List of Misbranded Non-Dairy Plant-Based Beverages and Powders.

Products are misbranded by use of the word “milk” in the name of the product.

Manufacturer or Distributor	Product Name ¹
Soy-Based Products	
ALDI	Fit & Active [®] Original Organic Soymilk Fit & Active [®] Chocolate Organic Soymilk Fit & Active [®] Vanilla Organic Soymilk
Eden Foods	Edensoy [®] Original Soymilk Edensoy [®] Vanilla Soymilk Edensoy [®] Carob Soymilk Edensoy [®] Chocolate Soymilk Edensoy [®] Unsweetened Soymilk Edensoy [®] Extra Original Soymilk Edensoy [®] Extra Vanilla Soymilk Edensoy [®] Light Low Fat Vanilla Soymilk Edensoy [®] Light Low Fat Original Soymilk
Foodhold USA	Nature’s Promise [®] Organic Original Soymilk (shelf-stable) Nature’s Promise [®] Organic Original Soymilk (refrigerated) Nature’s Promise [®] Organic Vanilla Soymilk (shelf-stable) Nature’s Promise [®] Organic Vanilla Soymilk (refrigerated) Nature’s Promise [®] Naturals Chocolate Soymilk (shelf-stable) Nature’s Promise [®] Naturals Chocolate Soymilk (refrigerated)
Full Circle [™]	Original Soymilk Vanilla Soymilk Chocolate Soymilk
Hain Celestial Group	WestSoy [®] Plus Plain Soymilk WestSoy [®] Plus Vanilla Soymilk WestSoy [®] Low Fat Plain Soymilk Drink WestSoy [®] Low Fat Vanilla Soymilk Drink WestSoy [®] Lite Plain Soymilk Drink WestSoy [®] Lite Vanilla Soymilk Drink WestSoy [®] Non Fat Plain Soymilk WestSoy [®] Non Fat Vanilla Soymilk WestSoy [®] Organic Original Soymilk WestSoy [®] Organic Unsweetened Original Soymilk WestSoy [®] Organic Unsweetened Chocolate Soymilk WestSoy [®] Organic Unsweetened Vanilla Soymilk WestSoy [®] Organic Unsweetened Almond Soymilk WestSoy [®] Soy Slender [™] Plain Soymilk WestSoy [®] Soy Slender [™] Chocolate Soymilk WestSoy [®] Soy Slender [™] Vanilla Soymilk WestSoy [®] Soy Slender [™] Cappuccino Soymilk WestSoy [®] Longevity [™] Plain Soymilk Vitality Blend WestSoy [®] Longevity [™] Vanilla Soymilk Vitality Blend Soy Dream [®] Classic Vanilla Soymilk (shelf stable) Soy Dream [®] Enriched Chocolate Soymilk (shelf stable) Soy Dream [®] Enriched Original Soymilk (shelf stable) Soy Dream [®] Enriched Vanilla Soymilk (shelf stable) Soy Dream [®] Classic Original Soymilk (refrigerated)

Manufacturer or Distributor	Product Name ¹
Hain Celestial Group (continued)	Soy Dream [®] Enriched Original Soymilk (refrigerated) Soy Dream [®] Enriched Vanilla Soymilk (refrigerated)
Harris Teeter [®]	Organic Vanilla Soymilk Organic Original Soymilk Organic Chocolate Soymilk
Kikkoman	Pearl [®] Original Soy Milk Pearl [®] Creamy Vanilla Soy Milk Pearl [®] Green Tea Soy Milk Pearl [®] Chocolate Soy Milk Pearl [®] Unsweetened Soy Milk Pearl [®] Coffee Soy Milk
NOW [®] Foods	Instant Soy Milk Powder
Odwalla [®]	Super Protein [®] Pumpkin Soymilk Protein Drink Super Protein [®] Vanilla Al'mondo [®] Soymilk Protein Drink
Pacific [™] Natural Foods	Enriched Chocolate Soy Milk Enriched Plain Soy Milk Enriched Vanilla Soy Milk Enriched Original, Unsweetened Soy Milk
Pulmuone Wildwood [™]	Wildwood [™] Plain Soymilk Wildwood [™] Unsweetened Soymilk Wildwood [™] Vanilla Soymilk Wildwood [™] Probiotic Pomegranate Soymilk Wildwood [™] Probiotic Blueberry Soymilk Wildwood [™] Probiotic Vanilla Soymilk Wildwood [™] Plain Soymilk Creamer
Roundy's Supermarkets	Original Soymilk Vanilla Soymilk Chocolate Soymilk
Safeway Inc.	O [™] Organic Plain Soymilk O [™] Organic Vanilla Soymilk O [™] Organic Chocolate Soymilk O [™] Organic Plain Light Soymilk O [™] Organic Vanilla Light Soymilk
Stremick's Heritage Foods	8 th Continent [®] Complete Soymilk 8 th Continent [®] Original Soymilk 8 th Continent [®] Vanilla Soymilk 8 th Continent [®] Chocolate Soymilk 8 th Continent [®] Light Original Soymilk 8 th Continent [®] Light Vanilla Soymilk 8 th Continent [®] Light Chocolate Soymilk 8 th Continent [®] Fat Free Original Soymilk 8 th Continent [®] Fat Free Vanilla Soymilk 8 th Continent [®] Premium Original Soymilk 8 th Continent [®] Premium Vanilla Soymilk
Target Corporation	Archer Farms [®] Plain Soymilk Archer Farms [®] Vanilla Soymilk Archer Farms [®] Chocolate Soymilk Archer Farms [®] Plain Light Soymilk Archer Farms [®] Vanilla Light Soymilk

Manufacturer or Distributor	Product Name ¹
Trader Joe's®	Unsweetened Organic Soy Milk Vanilla Organic Soy Milk Original Organic Soy Milk
Vitasoy® USA	Plain Soymilk Vanilla Soymilk Chocolate Soymilk Unsweetened Soymilk
Wakefern Food Corp	Shop Rite® Vanilla Soymilk Shop Rite® Original Soymilk Shop Rite® Chocolate Soymilk
Wegmans Food Markets	Organic Vanilla Soymilk Organic Original Soymilk Organic Chocolate Soymilk Reduced Fat Organic Vanilla Soymilk Reduced Fat Organic Original Soymilk
Weis Markets	Organic Original Soy Milk Organic Vanilla Soy Milk
WhiteWave Foods	Silk® Vanilla Soymilk (refrigerated) Silk® Vanilla Soymilk (shelf-stable) Silk® Chocolate Soymilk (refrigerated) Silk® Chocolate Soymilk (shelf-stable) Silk® Original Soymilk (refrigerated) Silk® Original Soymilk (shelf-stable) Silk® Unsweetened Soymilk (refrigerated) Silk® Unsweetened Soymilk (shelf-stable) Silk® Very Vanilla Soymilk Silk® Heart Health Soymilk Silk® Enhanced Soymilk Silk® DHA Omega-3 & Calcium Soymilk Silk® Organic Vanilla Soymilk Silk® Organic Original Soymilk Silk® Organic Unsweetened Soymilk Silk® Light Vanilla Soymilk Silk® Light Chocolate Soymilk Silk® Light Original Soymilk Silk® Single Serve Chocolate Soymilk (refrigerated) Silk® Single Serve Chocolate Soymilk (shelf-stable) Silk® Single Serve Original Soymilk (shelf-stable) Silk® Single Serve Vanilla Soymilk (refrigerated) Silk® Single Serve Vanilla Soymilk (shelf-stable) Silk® Single Serve Very Vanilla Soymilk (shelf-stable) Silk® Soymilk Nog Silk® Soymilk Pumpkin Spice
Whole Foods® Market	365 Everyday Value™ Organic Original Soymilk 365 Everyday Value™ Organic Unsweetened Soymilk 365 Everyday Value™ Organic Vanilla Soymilk 365 Everyday Value™ Organic Chocolate Soymilk

Manufacturer or Distributor	Product Name ¹
Wild Harvest [®] Organic	Wild Harvest [®] Organic Chocolate Soy Milk Wild Harvest [®] Organic Original Soy Milk Wild Harvest [®] Organic Plain Soy Milk Wild Harvest [®] Organic Vanilla Soy Milk
ZenSoy	ZenSoy Plain Soy Milk ZenSoy Vanilla Soy Milk ZenSoy Chocolate Soy Milk ZenSoy Cappuccino Soy Milk
Rice-Based Products	
B.R.A.T. [™] Diet LLC	B.R.A.T. [™] Chocolate Honey Ricemilk B.R.A.T. [™] Original Ricemilk B.R.A.T. [™] Vanilla Ricemilk B.R.A.T. [™] CinnaBanApple Ricemilk B.R.A.T. [™] Cinnamon Toast Ricemilk
Don Jose Foods	Cereal Match [®] Non-Dairy Rice Milk
Foodhold USA	Nature's Promise [®] Organic Enriched Original Ricemilk Nature's Promise [®] Organic Enriched Vanilla Ricemilk
Good Karma Food Technologies	Organic Whole Grain [®] Original Ricemilk Organic Whole Grain [®] Vanilla Ricemilk Organic Whole Grain [®] Chocolate Ricemilk
Harris Teeter [®]	Organic Vanilla Ricemilk Organic Original Ricemilk
Wakefern Food Corp	Shop Rite [®] Vanilla Ricemilk Shop Rite [®] Original Ricemilk
Whole Foods [®] Market	365 Everyday Value [™] Organic Original Ricemilk 365 Everyday Value [™] Organic Unsweetened Ricemilk 365 Everyday Value [™] Organic Vanilla Ricemilk
Wild Harvest [®] Organic	Wild Harvest [®] Organic Original Rice Milk Wild Harvest [®] Organic Vanilla Rice Milk
Almond-Based Products	
Blue Diamond [®] Growers	Almond Breeze [®] Original Almondmilk (refrigerated) Almond Breeze [®] Vanilla Almondmilk (refrigerated) Almond Breeze [®] Chocolate Almondmilk (refrigerated) Almond Breeze [®] Unsweetened Vanilla Almondmilk (refrigerated)
WhiteWave Foods	Silk [®] Pure Almond [™] Original Almondmilk Silk [®] Pure Almond [™] Vanilla Almondmilk
Hemp-Based Products	
Living Harvest [®] Foods	Tempt [™] Original Hemp Milk Tempt [™] Vanilla Hemp Milk Tempt [™] Chocolate Hemp Milk Tempt [™] Unsweetened Original Hemp Milk Tempt [™] Unsweetened Vanilla Hemp Milk

Manufacturer or Distributor	Product Name ¹
Manitoba Harvest Hemp Foods and Oils	Unsweetened Original Hemp Bliss [®] Hempmilk Original Hemp Bliss [®] Hempmilk Vanilla Hemp Bliss [®] Hempmilk Chocolate Hemp Bliss [®] Hempmilk
Pacific [™] Natural Foods	Vanilla Hemp Milk Original Hemp Milk
Peanut-Based Products	
Trinity Products LLC	Signs & Wonders [®] Peanut Milk
Other Misbranded Nutrition Shakes and Powders	
CytoSport [™]	Muscle Milk [®] Banana Crème Powder Muscle Milk [®] Orange Crème Powder Muscle Milk [®] Mocha Latte Powder Muscle Milk [®] Blueberries 'n Crème Powder Muscle Milk [®] Chocolate Peanut Butter Powder Muscle Milk [®] Chocolate Caramel Pecan Powder Muscle Milk [®] Cookies 'n Crème Powder Muscle Milk [®] Chocolate Banana Crunch Powder Muscle Milk [®] Peach Mango Powder Muscle Milk [®] Chocolate Mint Chip Powder Muscle Milk [®] Strawberry Banana Powder Muscle Milk [®] Chocolate Malt Powder Muscle Milk [®] Cinnamon Bun Powder Muscle Milk [®] Dark Chocolate Powder Muscle Milk [®] Cake Batter Powder Muscle Milk [®] White Chocolate Mousse Powder Muscle Milk [®] Root Beer Float Powder Muscle Milk [®] Rocky Road Powder Muscle Milk [®] Chocolate Caramel Swirl Powder Muscle Milk [®] Pineapple Banana Powder Muscle Milk [®] Crème Brulee Powder Muscle Milk [®] Vanilla Crème Powder Muscle Milk [®] Brownie Batter Powder Muscle Milk [®] Strawberries 'n Crème Powder Muscle Milk [®] Chocolate Milk Powder Muscle Milk [®] Naturals Vanilla Crème Powder Muscle Milk [®] Naturals Real Chocolate Powder Muscle Milk [®] Naturals Fresh Strawberry Powder Muscle Milk [®] Ready-to-Drink Chocolate Nutritional Shake Muscle Milk [®] Ready-to-Drink Vanilla Creme Nutritional Shake Muscle Milk [®] Ready-to-Drink Banana Nutritional Shake Muscle Milk [®] Ready-to-Drink Chocolate Malt Nutritional Shake Muscle Milk [®] Ready-to-Drink Strawberry Nutritional Shake Muscle Milk [®] Ready-to-Drink Tetra Pak Chocolate Nutritional Shake Muscle Milk [®] Ready-to-Drink Tetra Pak Vanilla Nutritional Shake Muscle Milk [®] Ready-to-Drink Tetra Pak Cookies 'n Creme Nutritional Shake Muscle Milk [®] Ready-to-Drink Tetra Pak Cake Batter Nutritional Shake Muscle Milk [®] Ready-to-Drink Tetra Pak Banana Nutritional Shake Muscle Milk [®] Ready-to-Drink Tetra Pak Strawberry Nutritional Shake Muscle Milk [®] Ready-to-Drink Tetra Pak Chocolate Malt Nutritional Shake

Manufacturer or Distributor	Product Name ¹
CytoSport™ (continued)	<p> Muscle Milk® Light Chocolate Powder Muscle Milk® Light Vanilla Creme Powder Muscle Milk® Light Cake Batter Powder Muscle Milk® Light Strawberries 'n Creme Powder Muscle Milk® Light Banana Creme Powder Muscle Milk® Light Cookies 'n Creme Powder Muscle Milk® Light Chocolate Mint Powder Muscle Milk® Light Dark Chocolate Powder Muscle Milk® Light Chocolate Peanut Butter Powder Muscle Milk® Light Ready-to-Drink Chocolate Shake Muscle Milk® Light Ready-to-Drink Vanilla Shake Muscle Milk® Chocolate Peanut Caramel Bar Muscle Milk® Vanilla Toffee Crunch Bar Muscle Milk® 'n Oats Vanilla Muscle Milk® 'n Oats Maple & Brown Sugar Muscle Milk® 'n Oats Apple Cinnamon Muscle Milk® 'n Oats Banana Nut Muscle Milk® Light Chocolate Peanut Caramel Bar Muscle Milk® Light Vanilla Toffee Crunch Bar Muscle Milk® Light 100 Calorie Ready-to-Drink Chocolate Shake Muscle Milk® Light 100 Calorie Ready-to-Drink Vanilla Crème Shake Muscle Milk® Light 100 Calorie Ready-to-Drink Strawberries 'n Crème Shake Muscle Milk® Tropix Refuel Protein Power Shot Muscle Milk® Raspberry Refuel Protein Power Shot Muscle Milk® Fruit Sour Refuel Protein Power Shot Muscle Milk® Light Ready-to-Drink Vanilla Crème Nutritional Shake Muscle Milk® Light Ready-to-Drink Chocolate Nutritional Shake Muscle Milk® Light Ready-to-Drink Cafe Latte Nutritional Shake Muscle Milk® Strawberry Powder Packets Muscle Milk® Banana Creme Powder Packets Muscle Milk® Cookies 'n Crème Powder Packets Muscle Milk® Vanilla Creme Powder Packets Muscle Milk® Chocolate Powder Packets Monster Milk™ Chocolate Milk Powder Monster Milk™ Strawberries 'n Crème Powder Monster Milk™ Banana Crème Powder Monster Milk™ Mocha Latte Powder Monster Milk™ Peanut Butter Chocolate Powder Monster Milk™ Cookies 'n Crème Powder Monster Milk™ Cake Batter Powder Monster Milk™ Brownie Batter Powder Monster Milk™ Vanilla Crème Powder Monster Milk™ Ready-to-Drink Chocolate Protein Shake Monster Milk™ Ready-to-Drink Vanilla Protein Shake Collegiate Muscle Milk® Cookies 'n Crème Powder Collegiate Muscle Milk® Strawberries 'n Crème Powder Collegiate Muscle Milk® Banana Crème Powder Collegiate Muscle Milk® Chocolate Milk Powder Collegiate Muscle Milk® Peanut Butter Chocolate Powder Collegiate Muscle Milk® Vanilla Crème Powder Collegiate Muscle Milk® Ready-to-Drink Banana Crème Shake </p>

Manufacturer or Distributor	Product Name ¹
CytoSport™ (continued)	Collegiate Muscle Milk® Ready-to-Drink Strawberries 'n Crème Shake Collegiate Muscle Milk® Ready-to-Drink Vanilla Crème Shake Collegiate Muscle Milk® Ready-to-Drink Chocolate Milk Shake Collegiate Muscle Milk® Chocolate Peanut Caramel Bars Collegiate Muscle Milk® Vanilla Toffee Crunch Bars

¹ For simplicity, products are listed only by name, without reference to the multiple, unique package sizes available for each.

Table 2. List of Mislabeled Non-Dairy Plant-Based Foods.

Products are mislabeled by use of the word “milk” in reference to a non-dairy ingredient in the ingredient statement, but not the product name.

Manufacturer or Distributor	Product Name ¹	Non-Dairy Beverage in Ingredient Statement
Beverages		
Hain Celestial Group	WestSoy [®] Soy Shakes Vanilla WestSoy [®] Soy Shakes Chocolate Kidz Dream [®] Berry Blast Smoothie Kidz Dream [®] Orange Cream Smoothie	Soymilk
Odwalla [®]	Chocolate Protein Monster [™] Soy and Dairy Protein Shake Vanilla Protein Monster [™] Soy and Dairy Protein Shake	Soymilk
Vitasoy [®] USA	Holly Nog Peppermint Chocolate Chocolate Banana Strawberry Banana	Soymilk
WhiteWave Foods	Silk [®] Original Creamer Silk [®] French Vanilla Creamer Silk [®] Hazelnut Creamer	Soymilk
Yogurt Analogs		
Turtle Mountain	So Delicious [™] Dairy-Free [®] Blueberry Creamy Cultured Soy So Delicious [™] Dairy-Free [®] Cinnamon Bun Creamy Cultured Soy So Delicious [™] Dairy-Free [®] Peach Creamy Cultured Soy So Delicious [™] Dairy-Free [®] Raspberry Creamy Cultured Soy So Delicious [™] Dairy-Free [®] Vanilla Creamy Cultured Soy	Soymilk
Ice Cream Analogs		
Turtle Mountain	So Delicious [™] Dairy-Free [®] Butter Pecan So Delicious [™] Dairy-Free [®] Chocolate Peanut Butter So Delicious [™] Dairy-Free [®] Chocolate Velvet So Delicious [™] Dairy-Free [®] Cookies ‘n Cream So Delicious [™] Dairy-Free [®] Creamy Vanilla So Delicious [™] Dairy-Free [®] Dulce de Leche So Delicious [™] Dairy-Free [®] Mint Marble Fudge So Delicious [™] Dairy-Free [®] Mocha Fudge So Delicious [™] Dairy-Free [®] Neapolitan So Delicious [™] Dairy-Free [®] Strawberry So Delicious [™] Big Buddy Novelty So Delicious [™] Chocolate Chip Sandwich Novelty So Delicious [™] Creamy Fudge Bar So Delicious [™] Creamy Vanilla Bar So Delicious [™] Mint Chocolate Chip Sandwich Novelty So Delicious [™] Mint Mania Coated Sandwich Novelty So Delicious [™] Mocha Mania Coated Sandwich Novelty So Delicious [™] Vanilla & Almonds Bar So Delicious [™] Vanilla Cookie Sandwich	Soymilk

Manufacturer or Distributor	Product Name ¹	Non-Dairy Beverage in Ingredient Statement
Turtle Mountain (continued)	So Delicious TM Organic Chocolate Li'l Buddies Novelty So Delicious TM Chocolate Li'l Buddies Novelty So Delicious TM Organic Mint Li'l Buddies Novelty So Delicious TM Organic Peanut Butter Li'l Buddies Novelty So Delicious TM Organic Vanilla Li'l Buddies Novelty So Delicious TM Vanilla Li'l Buddies Novelty Purely Decadent [®] Dairy-Free [®] Belgian Chocolate Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Blueberry Cheesecake Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Cherry Nirvana Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Chocolate Brownie Almond Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Chocolate Obsession Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Chunky Mint Madness Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Coconut Craze Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Cookie Avalanche Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Cookie Dough Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Dulce de Leche Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Key Lime Pie Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Mint Chocolate Chip Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Mocha Almond Fudge Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Peanut Butter Zig Zag Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Pomegranate Chip Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Praline Pecan Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Purely Vanilla Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Rocky Road Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Snickerdoodle Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] So Very Strawberry Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Turtle Trails Non-Dairy Frozen Dessert Purely Decadent [®] Dairy-Free [®] Purely Vanilla Bars Purely Decadent [®] Dairy-Free [®] Vanilla Almond Bars Purely Decadent [®] Dairy-Free [®] Purely Vanilla Bars So Delicious TM Dairy-Free [®] Creamy Orange Bars So Delicious TM Dairy-Free [®] Creamy Raspberry Bars	Soymilk

Manufacturer or Distributor	Product Name ¹	Non-Dairy Beverage in Ingredient Statement
Turtle Mountain (continued)	So Delicious™ Dairy-Free® Creamy Fudge Bars So Delicious™ Dairy-Free® Creamy Orange Bars So Delicious™ Dairy-Free® Chocolate Sandwiches So Delicious™ Dairy-Free® Chocolate Mini-Sandwiches So Delicious™ Dairy-Free® Mint Sandwiches So Delicious™ Dairy-Free® Mint Mini-Sandwiches So Delicious™ Dairy-Free® Neapolitan Mini-Sandwiches So Delicious™ Dairy-Free® Vanilla Sandwiches So Delicious™ Dairy-Free® Vanilla Mini-Sandwiches So Delicious™ Dairy-Free® Pomegranate Mini-Sandwiches Organic So Delicious™ Dairy-Free Chocolate Sandwiches Organic So Delicious™ Dairy-Free Mint Sandwiches Organic So Delicious™ Dairy-Free Neapolitan Sandwiches Organic So Delicious™ Dairy-Free Vanilla Sandwiches So Delicious™ Dairy-Free Sugar-Free Fudge Bars So Delicious™ Dairy-Free Sugar-Free Vanilla Bars It's Soy Delicious™ Almond Pecan It's Soy Delicious™ Awesome Chocolate It's Soy Delicious™ Black Leopard It's Soy Delicious™ Carob Peppermint It's Soy Delicious™ Chocolate Almond It's Soy Delicious™ Chocolate Peanut Butter It's Soy Delicious™ Espresso It's Soy Delicious™ Green Tea It's Soy Delicious™ Mango Raspberry It's Soy Delicious™ Pistachio Almond It's Soy Delicious™ Raspberry It's Soy Delicious™ Tiger Chai It's Soy Delicious™ Vanilla It's Soy Delicious™ Vanilla Fudge	Soy milk
Good Karma Food Technologies	Organic Rice Divine™ Very Cherry Organic Rice Divine™ Key Lime Pie Organic Rice Divine™ Chocolate Peanut Butter Fudge Organic Rice Divine™ Chocolate Chip Organic Rice Divine™ Carrot Cake Organic Rice Divine™ Banana Fudge Organic Rice Divine™ Coconut Mango Organic Rice Divine™ Mudd Pie Organic Rice Divine™ Mint Chocolate Swirl Organic Rice Divine™ Very Vanilla Organic Rice Divine™ Chocolate Chocolate Bars Organic Rice Divine™ Very Vanilla Bars	Ricemilk
Living Harvest®	Tempt™ Vanilla Bean Non-Dairy Frozen Dessert Tempt™ Mint Chip Non-Dairy Frozen Dessert Tempt™ Coffee Biscotti Non-Dairy Frozen Dessert Tempt™ Chocolate Fudge Non-Dairy Frozen Dessert	Hempmilk

¹ For simplicity, products are listed only by name, without reference to the multiple, unique package sizes available for each.

Table 3. Nutrient Composition of Misbranded Non-Dairy Plant-Based Beverages and Powders Compared to Milk and Milk Powder.

Shaded cells indicate a lack of nutritional equivalence (greater amount of sodium; lesser amounts of nine essential nutrients) of the non-dairy beverages or powders compared to milk or milk powder, respectively.

	Nutrient Composition (per serving)										
Products ¹	Protein (g)	Sodium (mg)	Potassium (mg)	Vitamin A (%DV)	Calcium (%DV)	Calcium Fortificant ²	Vitamin D (%DV)	Phosphorus (%DV)	Riboflavin (%DV)	Vitamin B-12 (%DV)	Magnesium (%DV)
Milk, with added Vitamin D ³	8	105	322	5	28	na	24	22	26	18	6
Soy-Based Beverages											
365 Everyday Value™ Original Soymilk	6	110	350	10	30	CC	30	8	40	50	8
8th Continent® Original Regular Soymilk	8	95	360	10	30	CP	25	25	30	20	6
Archer Farms® Plain Soymilk	7	120	ns ⁴	10	30	CC	30	ns	30	50	ns
Edensoy® Original Soymilk	11	105	440	0	10	CC	ns	15	6	ns	15
Harris Teeter® Vanilla Organic Soymilk, Ultra-Pasteurized	7	130	300	10	30	CC	30	ns	30	50	ns
Nature's Promise® Vanilla Organic Soymilk, Ultra-Pasteurized	7	130	300	10	30	CC	30	ns	30	50	ns
Pearl® Original Organic Soy Milk	7	110	300	20	30	CP	35	ns	ns	ns	ns
Silk®, Original, Plain Soymilk (Natural)	7	120	300	10	30	CC	30	ns	30	50	10
Soy Dream® Classic Original Soymilk	7	150	140	0	4	na	ns	ns	ns	ns	15
Trader Joe's® Original Organic Soy Milk	7	70	290	10	30	CC	30	ns	30	50	ns
Vitasoy® Plain Soymilk	7	160	320	6	30	CC	20	20	20	15	10
WestSoy® LowFat Plain Soymilk Drink	4	90	150	10	20	CP	25	15	ns	ns	ns

	Nutrient Composition (per serving)										
Products ¹	Protein (g)	Sodium (mg)	Potassium (mg)	Vitamin A (%DV)	Calcium (%DV)	Calcium Fortificant ²	Vitamin D (%DV)	Phosphorus (%DV)	Riboflavin (%DV)	Vitamin B-12 (%DV)	Magnesium (%DV)
Milk, with added Vitamin D ³	8	105	322	5	28	na	24	22	26	18	6
Soy-Based Beverages (continued)											
Wild Harvest [®] Original Soy Milk	6	160	ns	10	30	CC	ns	ns	ns	ns	ns
WildWood [™] Plain Organic Soymilk	7	70	290	20	30	CC	30	10	40	50	10
ZenSoy Plain Soy Milk	7	80	ns	10	30	CC	30	ns	30	50	ns
Almond-Based Beverages											
Silk [®] Pure Almond [™] Original Almondmilk	1	150	150	10	30	CC	25	6	2	ns	4
Blue Diamond [®] Almond Breeze [®] Refrigerated Original Almondmilk	1	150	180	10	30	CC	25	2	2	ns	4
Rice-Based Beverages											
Good Karma Foods Organic Original Whole Grain [®] Ricemilk	1	140	ns	10	25	CP	25	15	ns	25	ns
Wild Harvest [®] Original Rice Milk	0	90	ns	10	30	CP	ns	ns	ns	ns	ns
B.R.A.T. [™] Organic Original Ricemilk	1	130	ns	10	30	CL	10	ns	ns	10	ns
Nature's Promise [®] Vanilla Enriched Ricemilk	0	95	ns	10	30	CP	30	15	30	50	ns
Harris Teeter [®] Naturals Vanilla Ricemilk	0	95	ns	10	30	CP	30	15	30	50	ns
Cereal Match [®] Rice Milk	1	50	120	10	10	CL	10	ns	ns	ns	ns

	Nutrient Composition (per serving)										
Products ¹	Protein (g)	Sodium (mg)	Potassium (mg)	Vitamin A (%DV)	Calcium (%DV)	Calcium Fortificant ²	Vitamin D (%DV)	Phosphorus (%DV)	Riboflavin (%DV)	Vitamin B-12 (%DV)	Magnesium (%DV)
Milk, with added Vitamin D ³	8	105	322	5	28	na	24	22	26	18	6
Hemp-Based Beverages											
Pacific TM Foods Hemp Milk Original	4	130	170	10	50	CP	30	30	35	25	25
Living Harvest [®] Foods Tempt TM Original Hempmilk	2	25	ns	10	40	CP	20	20	25	20	15
Original Hemp Bliss [®] Organic Hempmilk	5	95	ns	0	2	na	ns	ns	ns	ns	ns
Peanut-Based Beverages											
Signs & Wonders [®] Peanut Milk	3	15	91	0	0	na	ns	ns	ns	ns	ns
Dry Powders											
Dry Milk Powder, with Added Vitamin D ³	8	119	426	6	29	na	25	25	23	17	7
NOW [®] Soy Milk Powder	8	450	ns	0	4	na	ns	ns	ns	ns	ns

¹ The list of products is not exhaustive, because of numerous varieties of each brand. Products are representative in terms of what is currently available.

² Abbreviations for type of calcium fortificant:

na = not applicable (no exogenous calcium fortificant)

CC = calcium carbonate

CP = calcium phosphate or tricalcium phosphate

CL = calcium lactate

³ Values obtained from USDA National Nutrient Database for Standard Reference (www.ars.usda.gov).

⁴ ns = “not specified” These nutrients are not required to appear on the nutrition information panel. However, it should be noted that the products are not fortified with these nutrients, and therefore are not likely a significant source.

Table 4. List of Other Misbranded Non-Dairy Foods (Dairy Product Analogs).

Products are misbranded by use of standardized dairy products in the name of the product.

Manufacturer or Distributor	Product Name ¹
Misbranded Ice Cream Analogs	
Alkemie Ice Cream	Alkemie Vanilla Bean Dairy-Free Ice Cream Alkemie Dark Chocolate Dairy-Free Ice Cream Alkemie Mint Chocolate Chip Dairy-Free Ice Cream
Chicago Soy Dairy™	Temptation Chocolate Chip Cookie Dough Vegan Ice Cream Temptation Chocolate Vegan Ice Cream Temptation Coffee Vegan Ice Cream Temptation Green Tea Vegan Ice Cream Temptation French Vanilla Vegan Ice Cream Temptation Mint Chocolate Chip Vegan Ice Cream Temptation Peach Cobbler Vegan Ice Cream Temptation Strawberry Vegan Ice Cream Temptation Dreamsicle Vegan Ice Cream Temptation Pineapple Vegan Ice Cream Temptation Lemon Vegan Ice Cream Temptation Blueberry Vegan Ice Cream Temptation Pumpkin Vegan Ice Cream Temptation Triple Chocolate Threat Vegan Ice Cream Temptation Chocolate Vegan Kosher Soft Serve Ice Cream Temptation Vanilla Vegan Kosher Soft Serve Ice Cream Temptation French Vanilla Vegan Ice Cream Easy Home Mix Temptation Chocolate Vegan Ice Cream Easy Home Mix
Double Rainbow	Mint Chocolate Chip Soy Cream Vanilla Bean Soy Cream Very Cherry Chip Soy Cream Blueberry Soy Cream Butter Pecan Soy Cream Cinnamon Caramel Soy Cream Dulce No Leche Soy Cream
Misbranded Yogurt Analogs	
Pulmuone Wildwood™	Blueberry Probiotic Soyogurt Peach Probiotic Soyogurt Raspberry Probiotic Soyogurt Strawberry Probiotic Soyogurt Plain Unsweetened Probiotic Soyogurt Vanilla Probiotic Soyogurt
Ricera™ Foods	Ricera™ Peach Rice Yogurt Ricera™ Blueberry Rice Yogurt Ricera™ Strawberry Rice Yogurt Ricera™ Vanilla Rice Yogurt
Stonyfield Farm	O'Soy Vanilla Organic Soy Yogurt O'Soy Chocolate Organic Soy Yogurt O'Soy Strawberry Organic Soy Yogurt O'Soy Raspberry Organic Soy Yogurt

Manufacturer or Distributor	Product Name ¹
Stonyfield Farm (continued)	O'Soy Blueberry Organic Soy Yogurt O'Soy Peach Organic Soy Yogurt
WhiteWave Foods	Silk [®] Live! [®] Blueberry Soy Yogurt Silk [®] Live! [®] Black Cherry Soy Yogurt Silk [®] Live! [®] Key Lime Soy Yogurt Silk [®] Live! [®] Peach Soy Yogurt Silk [®] Live! [®] Raspberry Soy Yogurt Silk [®] Live! [®] Strawberry Soy Yogurt Silk [®] Live! [®] Banana-Strawberry Soy Yogurt Silk [®] Live! [®] Vanilla Soy Yogurt Silk [®] Live! [®] Plain Soy Yogurt
Whole Soy & Co. [®]	Plain Soy Yogurt Peach Soy Yogurt Vanilla Soy Yogurt Strawberry Soy Yogurt Raspberry Soy Yogurt Cherry Soy Yogurt Lemon Soy Yogurt Blueberry Soy Yogurt Apricot Mango Soy Yogurt Strawberry Banana Soy Yogurt Mixed Berry Soy Yogurt
Misbranded Cheese Analogs	
Chicago Soy Dairy [™]	Teese [™] Mozzarella Vegan Cheese Teese [™] Cheddar Vegan Cheese Teese [™] Vegan Cheese Sauce
Daiya Foods	Daiya Italian Blend Vegan Cheese Alternative Shred Daiya Cheddar Style Vegan Cheese Alternative Shred Daiya Italian Blend Vegan Cheese Alternative Block Daiya Cheddar Style Vegan Cheese Alternative Block
Dr. Cow	Cashew Nut Cream Cheese Aged Cashew Nut Cream Cheese Aged Cashew & Hemp Seeds Cheese Aged Cashew & Crystal Algae Cheese Aged Cashew & Brazil Nut Cheese Aged Cashew & Dulce Cheese Aged Macademia Nut Cheese Aged Macademia & Hemp Cheese
Eat In The Raw	Parma Original Vegan Parmesan Parma Chipotle Cayenne Vegan Parmesan

Manufacturer or Distributor	Product Name ¹
Edward & Sons	Road's End Organics [®] Cheddar Style Chreese [®] Mix Road's End Organics [®] Mozzarella Style Chreese [®] Mix Road's End Organics [®] Kidz Style Chreese [®] Mix Road's End Organics [®] Cheddar Style Gluten-Free Chreese [®] Mix Road's End Organics [®] Alfredo Style Gluten-Free Chreese [®] Mix Road's End Organics [®] Cheddar Style Chreese [®] Sauce Mix Road's End Organics [®] Gluten-Free Cheddar Style Chreese [®] Sauce Mix Road's End Organics [®] Mozzarella Style Chreese [®] Sauce Mix Road's End Organics [®] Alfredo Style Chreese [®] Sauce Mix Road's End Organics [®] Kidz Chreese [®] Sauce Mix
Follow Your Heart [®]	Vegan Gourmet [™] Mozzarella Cheese Alternative Vegan Gourmet [™] Nacho Cheese Alternative Vegan Gourmet [™] Cheddar Cheese Alternative Vegan Gourmet [™] Monterey Jack Cheese Alternative Vegan Gourmet [™] Cream Cheese Alternative
Leahey Foods	Vegan Cheese Flavored Sauce Mix
Lisanatti [®] Foods	Cheddar Style RiceCheeze [®] Mozzarella Style RiceCheeze [®] Pepper Jack Style RiceCheeze [®]
Tofutti [®]	Mozzarella Cheese Flavor Soy-Cheese Slices American Cheese Flavor Soy-Cheese Slices
Misbranded Sour Cream Analogs	
Follow Your Heart [®]	Vegan Gourmet [™] Sour Cream Alternative
Combination Foods with Misbranded Dairy Analogs	
Amy's Kitchen	Macaroni and Soy Cheeze Rice Macaroni with Non-Dairy Cheeze Non-Dairy Cheeze Pizza with Rice Crust Soy Cheeze Pizza
Edward & Sons	Road's End Organics [®] Dairy-Free Cheddar Style Shells & Chreese [®] Road's End Organics [®] Dairy-Free Cheddar Style 123'z & Chreese [®] Road's End Organics [®] Dairy-Free Cheddar Style Mac & Chreese [®] Road's End Organics [®] Gluten-Free Dairy-Free Alfredo Style Mac & Chreese [®] Road's End Organics [®] Gluten-Free Dairy-Free Cheddar Style Penne & Chreese [®]
Elena's Food Specialties	Nate's Black Bean & Soy Cheese Taquitos
Leahey Foods	Vegan Macaroni & Cheese Vegan Cheese Type Flavored Broccoli Soup
Rossini's Gourmet Fare	Gourmet Vegan Cheese Pizza
Tofutti [®]	Pizza Pizzaz with Milk Free Cheese Mintz's Blintzes Pre-Baked Dairy Free Cheese Filled Crepes Mintz's Blintzes Pre-Baked Dairy Free Blueberry & Cheese Filled Crepes

¹ For simplicity, products are listed only by name, without reference to the multiple, unique package sizes available for each.

Table 5. Nutrient Composition of Misbranded Non-Dairy Foods (Dairy Product Analogs) Compared to Standardized Dairy Products.

Shaded cells indicate a lack of nutritional equivalence (greater amount of sodium; lesser amounts of nine essential nutrients) of the non-dairy foods compared to their respective original dairy products.

	Nutrient Composition (per serving)									
Products ¹	Protein (g)	Sodium (mg)	Potassium (mg)	Vitamin A (%DV)	Calcium (%DV)	Vitamin D (%DV)	Phosphorus (%DV)	Riboflavin (%DV)	Vitamin B-12 (%DV)	Magnesium (%DV)
<i>Ice Cream, Vanilla</i> ²	2	53	131	6	8	1	7	9	4	2
Ice Cream Analogs										
Alkemie Vanilla Bean Dairy-Free Ice Cream	3	97	ns ³	0	3	ns	ns	ns	ns	ns
Temptation French Vanilla Vegan Ice Cream	1	35	ns	0	0	0	0	0	0	0
Double Rainbow Vanilla Bean Soy Cream	2	90	ns	0	0	ns	ns	ns	ns	ns
<i>Yogurt, plain, 8 g protein per 8 oz.</i> ²	8	104	352	4	28	1	21	19	15	7
Yogurt Analogs										
Wildwood™ Soyogurt, Unsweetened, Plain	7	53	320	0	27	0	13	11	0	11
Ricera™ Vanilla Rice Yogurt	4	213	93	27	27	27	ns	ns	ns	ns
Stonyfield O'Soy Organic Vanilla Soy Yogurt	9	53	413	3	20	ns	13	13	0	13
Silk® Live!® Vanilla Soy Yogurt	7	27	ns	0	40	ns	ns	ns	ns	ns
Whole Soy & Co.® Plain Soy Yogurt	11	20	ns	3	47	ns	ns	ns	ns	ns

	Nutrient Composition (per serving)									
Products ¹	Protein (g)	Sodium (mg)	Potassium (mg)	Vitamin A (%DV)	Calcium (%DV)	Vitamin D (%DV)	Phosphorus (%DV)	Riboflavin (%DV)	Vitamin B-12 (%DV)	Magnesium (%DV)
<i>Cheddar Cheese</i> ²	7	176	28	6	20	1	14	6	4	2
Cheese Analogs										
Teese TM Cheddar Vegan Cheese	0	180	ns	0	0	ns	ns	ns	ns	ns
Vegan Gourmet TM Cheddar Cheese Alternative	1	160	ns	0	4	ns	ns	ns	ns	ns
Lisanatti [®] Cheddar Style RiceCheeze [®]	6	190	ns	0	25	ns	ns	ns	ns	ns
Tofutti [®] American Soy-Cheese Slices	3	426	290	ns	ns	ns	ns	ns	ns	ns
<i>Cream Cheese</i> ²	2	96	41	8	3	2	3	2	1	1
Cream Cheese Analogs										
Vegan Gourmet TM Cream Cheese Alternative	2	130	ns	0	2	ns	ns	ns	ns	ns
<i>Cultured Sour Cream</i> ²	1	24	42	4	3	1	3	3	1	1
Sour Cream Analogs										
Vegan Gourmet TM Sour Cream Alternative	2	115	ns	0	0	ns	ns	ns	ns	ns

¹ The list of products is not exhaustive, because of numerous varieties of each brand. Products are representative in terms of what is currently available.

² Values obtained from USDA National Nutrient Database for Standard Reference (www.ars.usda.gov).

³ ns = “not specified” These nutrients are not required to appear on the nutrition information panel. However, it should be noted that the products are not fortified with these nutrients, and therefore are not likely a significant source.