COMPASSION OVER KILLING
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Animal Legal Defense Fund

SENT VIA EMAIL AND PRIORITY MAIL

March 20, 2013

Dr. Margret Hamburg, Commissioner
Food & Drug Administration
10903 New Hampshire Avenue
Silver Spring, MD 20993

Dear Dr. Hamburg,

This letter is regarding the Citizens' Petition to Change the Labeling Requirements for Eggs Sold in the United States (the Petition) submitted by Compassion Over Killing (COK), the Animal Legal Defense Fund (ALDF), and others to the Food and Drug Administration (FDA) in 2006 and subsequently updated in 2008 and 2010. This Petition seeks regulatory action requiring disclosure of production method labels on egg cartons, in light of the rampant misleading labeling in the egg marketplace.

The United Egg Producers (UEP), a group representing the owners of nearly ninety five percent of the egg-laying hens in the United States, supports a bill introduced in 2012 that would set federal requirements for the treatment of egg-laying hens and standardize the labeling of eggs.[1] The bill, S. 3239/H.R. 3798, requires that all egg cartons be conspicuously marked with housing-related information clearly stating the method used to produce the eggs inside.[2] This is very similar to the regulatory action sought by the Petition. Both the petition and the bill seek requirements for egg cartons to clearly state whether the hens used to produce the eggs were raised in free-range or cage-free conditions, or whether they are eggs from caged hens.[3] As a result of these labels, consumers would be presented with reliable, standardized, statements giving them

[1] United Egg Producers, About Us, http://www.unitedegg.org; United Egg Producers, *HR 3798 Support the Egg Bill – United Egg Producers*, http://www.eggbill.com; United Egg Producers and the Humane Society of United States, *Federal Bill Introduced to Improve Housing for Egg-Laying Hens and Provide Stable Future for Egg Farmers*, http://www.uepcertified.com/pdf/Senate-Egg-Bill-Press-Release.pdf.
[2] S. 3239 died at the end of the 112th session of Congress. It has not been reintroduced in the current session, though it is expected to be.
[3] S. 3239, 112th Cong. (2012).

information about the welfare of the birds that produced the eggs they plan to buy. There is clearly a wide-reaching consensus on the creation of such a scheme. Despite the lack of opposition, the FDA has failed to respond substantively to the Petition. This development makes the FDA's delay wholly unreasonable. This is especially true in the face of the overwhelming evidence of routine consumer deception at the hands of egg producers presented by the Petitioners.

After the letter updating the Petition was submitted, an investigation conducted by Mercy For Animals further highlighted the need for egg labeling reform. In 2011, an undercover investigation at Sparboe Farms, which was one of the five largest producers of eggs and egg products in the U.S. at the time, found appalling animal cruelty and disregard for the welfare of egg-laying hens. USDA was supposed to have been overseeing this company's production methods, including animal welfare, as part of the Process Verified Program (PVP). Sparboe was the only egg company that was a member of the PVP,[4] and the USDA's supervision included oversight over Sparboe's animal welfare production method claims. Yet, undercover video of Sparboe workers torturing and killing hens and exposing the filthy conditions under which eggs were produced for human consumption, which garnered media attention and shocked the public. These events underscore the gravity and ubiquity of misleading marketing in the egg industry, and that the FDA's delay in responding to the Petition is unreasonable and causing harm. Creating the requested regulations would ensure that consumers receive accurate information about the eggs they purchase.

The FDA has unreasonably refused to respond to the Petition and create the requested regulations despite ample evidence of the willful deception of consumers by egg producers. Unless the Petition is granted in the next 5 days, Compassion Over Killing, the Animal Legal Defense Fund, and individual members of each organization intend to file suit under the Administrative Procedure Act, 5 U.S.C. § 551 *et seq.*, to force the FDA to fulfill its duty to substantively respond to the Petition.

Sincerely,

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[4] http://www.fda.gov/downloads/AboutFDA/CentersOffices/ORA/ORAElectronicReadingRoom/UCM280441.pdf