The Honorable Lamar Alexander Chairman U.S. Senate Committee on Health, Education, Labor and Pensions U.S. Senate Washington, DC 20510 The Honorable Patty Murray Ranking Member U.S. Senate Committee on Health, Education, Labor and Pensions U.S. Senate Washington, DC 20510

## Dear Chairman Alexander and Ranking Member Murray:

We are writing to express our concerns about S. 130, a bill that would restrict the branding and marketing practices of milk alternatives. The American Soybean Association (ASA) represents all U.S. soybean farmers on domestic and international policy issues important to the soybean industry. ASA has 26 affiliated state associations representing 30 soybean producing states and more than 300,000 soybean farmers. The Soyfoods Association of North American (SANA), a trade association representing soybean farmers, processors, soyfoods manufacturers, and technical experts from the United States, Mexico and Canada, has been promoting consumption of soy-based foods and beverages since 1978.

This legislation, referred to as the Dairy Pride Act, would prohibit the term "milk" from being used with soymilk and soymilk-based products, under the premise that the term "milk" is misleading to consumers. This legislation is unnecessary as no confusion in the market exists. Consumers of soymilk clearly understand that the product is derived from soybeans rather than bovine milk, and a large percentage consume it for just that reason due to dietary choices or restrictions.

We ask senators to recognize the valuable role of the market in reflecting consumer choices, and we urge the committee to reject this attempt to restrict the ways in which our industry may market its product. As you know, there are consumers who do not choose cow's milk. Soymilk and other soymilk based products like yogurt meet a demand in the marketplace.

In 2006, SANA conducted a study to examine this question: what is the consumer perception and understanding of the name "soymilk"? The survey of 814 adult primary grocery shoppers ages 18-64 concluded that consumers are not confused about the content of soymilk nor do they think cow's milk is an ingredient in soymilk. When asked the unaided question "What do you think are the main ingredients of soymilk?," the top responses were soy (53%) and soybeans (23%). Extremely few respondents (3%) cited "milk" as an ingredient in soymilk; and no consumers cited "cow's milk" as an ingredient in soymilk.

As farmers, many ASA members also raise dairy cows; all soybean farmers are feed providers to the dairy industry. More than two million metric tons of soybean meal feed American dairy cows each year. We understand the crisis in the dairy market and have publicly stated our support for revision of dairy policies in the next farm bill. At the same time, soyfoods and in particular the

soymilk market is not only a growing one for our industry, it is a key point of connection between farmers and consumers.

Our organizations support the citizen petition submitted in 1997 and defended in 2000 and 2011 letters sent to the Food and Drug Administration, asking FDA to issue a regulation recognizing that the name "soymilk" is an appropriate "common or usual name" that had become established through common usage. That petition noted that the name "soymilk" had been in commercial use since 1947, and had been included in United States Department of Agriculture (USDA) materials dating back to 1963. To date, FDA has not made a determination on the petition. On February 2, 2017, SANA submitted a third letter explaining the basis for its conclusion that use of the name "soymilk" complies with FDA regulations on common or usual names and identity labeling of food in packaged form as well as with FDC Act §403 (g) which renders a food misbranded if it purports to be or is represented as a food governed by a standard of identify and fails to conform to that standard. Soymilk is a nutritious beverage that provides high quality protein, critical minerals and vitamins required by those who cannot or choose not to consume cow's milk. DHHS and USDA have recognized the importance of this dairy alternative in the 2015-2020 Dietary Guidelines for Americans and the regulations governing the Child Nutrition Programs.

The soyfoods industry created more than \$4.5 billion in value in 2013. This is a vibrant and growing sector, making products that consumers demand. We urge the Committee to reject this unnecessary restriction on the branding and marketing of this valuable market for American soybean farmers and the soyfoods industry.

Sincerely,

Ron Moore, President

Kgnald & More

American Soybean Association

Wendy Behr, President Soyfoods Association of North America

cc: Members of the Senate Health, Education, Labor and Pensions Committee Members of the Senate Committee on Agriculture, Nutrition and Forestry

Enclosure: SANA letter to FDA regarding use of the term "soymilk", February 2, 2017