March 12, 2012

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

cc: Kathleen Sebelius, Secretary of Health and Human Services
    Michael Taylor, Deputy Commissioner for Food

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 In its 2009 guidance to industry, FDA applied its outdated GE food labeling policy to GE animals without revisiting the scientific or legal merits of the standard.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, nearly 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,

BARBARA BOXER
United States Senator

PATRICK LEAHY
United States Senator

BERNIE SANDERS
United States Senator

DANIEL AKAKA
United States Senator

DIANNE FEINSTEIN
United States Senator

PETER DEFAZIO
Member of Congress

RICHARD HANNA
Member of Congress

DENNIS KUCINICH
Member of Congress

GEORGE MILLER
Member of Congress

LOUISE Slaughter
Member of Congress
United States Senator
RON WYDEN
MARK BEGICH
JON TESTER
RICHARD BLUMENTHAL
JEFF MERKLEY
LLOYD DOGGETT
SAM FARR
RUSH HOLT
JIM MCDERMOTT
United States Senator
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
Member of Congress
JAMES MORAN  
Member of Congress

JARED POLIS  
Member of Congress

SUZANNE BONAMICI  
Member of Congress

HOWARD BERMAN  
Member of Congress

DAVID CICILLINE  
Member of Congress

STEVE COHEN  
Member of Congress

BOB FILNER  
Member of Congress

LUIS GUTIERREZ  
Member of Congress

MICHAEL HONDA  
Member of Congress

JOHN OLVER  
Member of Congress

CHARLES RANGEL  
Member of Congress

PETE STARK  
Member of Congress

ROBERT BRADY  
Member of Congress

YVETTE CLARKE  
Member of Congress

DIANA DEGETTE  
Member of Congress

BARNEY FRANK  
Member of Congress

JANICE HAHN  
Member of Congress

BARBARA LEE  
Member of Congress
JOE LOFGREN  
Member of Congress

JAN SCHAKOWSKY  
Member of Congress

JOHN TIERNEY  
Member of Congress

LYNN WOOLSEY  
Member of Congress

GRACE NAPOLITANO  
Member of Congress

JAMES MCGOVERN  
Member of Congress

JACKIE SPEIER  
Member of Congress

MEL WATT  
Member of Congress

MAXINE WATERS  
Member of Congress