

August 29, 2012

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

Transmitted via facsimile: (301) 847-3531

Dear Commissioner Hamburg:

We are writing concerning the on-going investigation that the Food and Drug Administration is conducting into the illnesses and deaths of dogs that have been associated with certain pet treats imported from the People's Republic of China. We urge the agency to take stronger actions to prevent further pet illnesses and to inform consumers of the safety issues related to these products.

Our organizations have been very frustrated by the slow progress of the investigation into the safety of these imported pet food products. As you know, the agency has received nearly 2000 consumer complaints dating back to 2007 and we are no closer to identifying the source of the adulteration. The agency has posted cautionary advisories on its website regarding these products,¹ but we have discovered that very few consumers and veterinarians are aware of those advisories. We just learned last week that when FDA investigators tried to inspect the Chinese poultry slaughter facilities that produce the suspect pet treats, your staff was prevented by Chinese government officials from collecting samples to have them analyzed by the FDA.² We find this development to be unconscionable.

As you know, we are all still waiting for the full implementation of the FDA Food Safety Modernization Act (FSMA) that will enhance FDA's ability to regulate the safety of human and animal food. Several of the proposed regulations to implement the new law – including the one that would deal with the safety of animal feed – have been delayed by the White House Office of Management and Budget. But we believe that the new law gives you the authority to take action now to deal with the adulterated imported pet food from China and we would like to inquire as to why the agency has chosen not to take more substantive measures to deal with this issue.

¹ U.S. Food and Drug Administration. "Caution to Dog Owners About Chicken Jerky Products." <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm092802.htm>.

² Aleccia, JoNel. "China Stiff-Arms FDA on Jerky Pet Treat Testing, Reports Show." NBC News. August 22, 2012. http://vitals.nbcnews.com/_news/2012/08/22/13399443-china-stiff-arms-fda-on-jerky-pet-treat-testing-reports-show?lite

Specifically, we believe that Section 306 of FSMA gives you the authority to stop the importation of pet treats from China immediately since the agency was prevented from completing its inspection of the poultry facilities that produce chicken jerky treats that have been the subject of the investigation. We would like to know whether the agency is contemplating invoking its authority under this provision of the statute to issue an Import Alert on pet food products from those Chinese poultry plants.

Second, we would like to know whether FDA is exploring using its authority under Section 211 of FSMA to require that stores that sell the imported chicken jerky treats from China post the agency's cautionary advisories so that more consumers are aware of the safety issues associated with these pet treats. As you know, that section of the law is designed to inform consumers of adulterated products that have been identified through the Reportable Food Registry. That registry collects information on contaminated human and animal foods. If the agency has received adverse events associated with the imported pet treats from China and they have been posted on the Reportable Food Registry, why has the agency not used its authority under this section of FSMA to post its cautionary advisories in retail outlets that sell these products?

Third, we would like to know what steps the agency has taken to inform veterinarians of the safety issues associated with imported chicken jerky treats from China. Furthermore, we would like to know whether the FDA has communicated with veterinarians on the protocol to diagnose an adverse event associated with chicken jerky treats and how those adverse events are to be reported to the FDA.

We understand that the FDA has a very broad mission and is strained to achieve that mission. We are concerned, however, that the agency's credibility is being undermined by the manner in which it has handled this matter thus far which could have broader implications for the way the agency handles the safety of other products that fall under its jurisdiction.

Should you have any questions regarding this letter, please feel free to contact Tony Corbo from Food & Water Watch at (202) 683-2500.

Sincerely,

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