November 28, 2022

Chair Patty Murray
United States Senate
154 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Richard Burr
United States Senate
217 Russell Senate Office Building
Washington, D.C. 20510

Chairman Frank Pallone
United States House of Representatives
2016 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Cathy McMorris Rodgers
United States House of Representatives
1035 Longworth House Office Building
Washington, D.C. 20515

Dear Chair Murray, Chairman Pallone, and Ranking Members Burr and McMorris Rodgers,

The American Herbal Products Association (AHPA) writes to respectfully request that the 117th Congress refrain in its "lame duck" session from considering any amendments to the Food, Drug, and Cosmetic Act (FD&CA) that would affect the regulation of dietary supplements. More specifically, we write to request exclusion from the omnibus appropriations legislation that the Senate and the House will take up in the next several weeks of any amendment to the FD&CA that would establish requirements for dietary supplement firms to submit product listings to the Food and Drug Administration (FDA) (commonly referred to as "Mandatory Product Listing" or "MPL"). This proposed amendment to the FD&CA was introduced in both the Dietary Supplement Listing Act of 2022 (S. 4090) and as Section 811 of the version of the Food and Drug Administration Safety and Landmark Advancements Act of 2022 (the FDASLA Act of 2022; S. 4348) introduced on May 26, 2022.

AHPA is not opposed, however, to considering the occasional need to amend the FD&CA to revise FDA's authorities over dietary supplements or otherwise to better ensure that these products are safe, properly manufactured and labeled, and widely accessible to the many Americans who use dietary supplements. There have been many such statutory amendments since the enactment of the Dietary Supplement Health and Education Act (DSHEA) in 1994. These have included numerous amendments to food laws that also affect the dietary supplement category (a subcategory of "food" under the FD&CA), such as establishment in 2002 of food facility registration requirements, mandating labeling to disclose the presence of major food allergens in 2004, and expansion through the FDA Food Safety Modernization Act in 2011 of FDA's authority to mandate recalls of and administratively detain certain violative products, among others. Perhaps most significantly, the FD&CA was amended in 2006 – with the strong support of AHPA and other dietary supplement trade associations – to require dietary supplement marketers to submit to FDA any and all reports received of serious adverse events associated with consumers' use of their products.

AHPA also understands that there is at this time some interest in the dietary supplement industry in reviewing and considering amendments to several provisions of the FD&CA that affect dietary

supplements. However, we strongly believe that these should be addressed collectively in the new 118th Congress through a process that fully engages all stakeholders with an interest in continuing and furthering Americans' access to safe and well regulated dietary supplements.

If you would like to discuss this further in the next several weeks, please feel free to contact me. AHPA looks forward to working with the Senate Committee on Health, Education, Labor, & Pensions and the House Committee on Energy & Commerce early in 2023.

Thank you,

Michael McGuffin
President, American Herbal Products Association
mmcguffin@ahpa.org