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Consumer goods
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IMPLEMENTATION OF THE 'ADVANCED THERAPIES' REGULATION
Regulation (EC) No 1394/2007

**CERTIFICATION OF QUALITY & NON-CLINICAL DATA
FOR SMALL AND MEDIUM-SIZED ENTERPRISES**

OUTCOME OF THE PUBLIC CONSULTATION

This document summarises the contributions made by stakeholders to DG Enterprise and Industry's public consultation on provisions for certification of quality and non-clinical data for small and medium-sized enterprises (SMEs) conducted from 5 May to 4 July 2008. Stakeholders were invited to express their position on the basis of a draft Regulation¹.

Contributors

The Commission received **16 contributions**. Some of them, in particular the ones from the industry, are the results of wider consultation. The participants can be divided into 3 categories: industry (association and individual companies, including SMEs), regulatory authorities (EU, national and international), and other stakeholders. A list detailing all contributors is provided in the Annex to this document.

All contributions received provided valuable information and comments for the Commission's further action in this field.

Summary of contributions

Overall, the proposal was supported in principle by all contributors. The objective of the initiative, *i.e.* to encourage the development of advanced therapy medicinal products by SMEs by enabling early interaction with the regulators as well as facilitating the evaluation of any future application for marketing authorisations, was emphasised and welcomed. However, a number of technical comments were provided:

Articles 1 and 2 (Scope and Definition)

¹ http://ec.europa.eu/enterprise/pharmaceuticals/advtherapies/advanced_keydoc.htm

Some contributors suggested to recall the objective of the Regulation in Article 1 (scope). Others proposed to add additional definitions within Article 2, such as the types of certification or the notion of quality or inspection systems.

Article 3 (Procedure for evaluation and certification)

A number of contributors, mostly regulatory authorities, considered that the 90-days period for evaluation may be too short if additional information is needed to evaluate the application. A 'clock-stop' system was suggested.

The question of the relation between the EMEA Committee for Advanced Therapies (CAT) and the Committee for Medicinal Products for Human Use (CHMP) was raised. On the one hand, given the current considerable workload for the CHMP and the expertise of the CAT, the proposed procedure (involving only the CAT, not the CHMP) was welcomed. On the other hand, some suggested that early involvement of the CHMP might facilitate subsequent evaluation of applications for marketing authorisation based on the same data.

The provision laying down that the evaluation 'shall be carried out in accordance with the same scientific standards as for the assessment of a marketing authorisation application' triggered comments. Alternative wordings were suggested to make the procedure more flexible and avoid a too stringent approach that might not be appropriate at an early stage of drug development.

Some contributors also questioned the role and function of the 'remaining questions or outstanding issues' referred to in Article 3(3)(c). The benefits of such questions were highlighted; on the other hand, the procedure should not be misused as 'pseudo' scientific advice and should not lead to a situation where companies apply for certification, just for the sake of getting these questions.

Finally, some stakeholders suggested an appeal procedure, in case the applicant disagrees with the CAT evaluation. On the other hand, many stakeholders underlined the importance of keeping the procedure as simple and short as possible.

Article 4 (Inspections)

The principle of inspections for the purpose of certification of quality/non-clinical data was welcomed. Nevertheless, many stakeholders considered that the 30-days extension of the evaluation period was much too short, and might be replaced by a clock-stop. Other contributors considered there is no need that inspections are made unannounced.

Article 5 (combined products)

This article triggered no major comments.

Article 6 (duration of validity)

Many contributors considered that:

- Either the certificate should have no duration of validity at all, since the data and technologies are very likely to evolve very significantly within five years;

- Or the certificate is considered valid for a limited period of time (for example 2 years) and a 'variations' system (enabling companies to submit changes to the data/process certified) is put in place. Several contributors however considered that a 'variations' system would increase the overall complexity and administrative burden of the procedure, both for industry and public authorities.

Article 7 (transparency)

Many contributors challenged the need for publication of the evaluation reports, even when the evaluation is positive. The two main arguments are that (i) such publication may negatively affect the protection of confidential information for the SMEs concerned, and that (ii) the need for transparency is not relevant here since the products concerned are far away from the marketing authorisation stage. As an alternative, some stakeholders suggested that the Agency should publish statistical, anonymous information.

Article 8 (guidelines)

Most of the contributors warmly welcomed the provision of guidelines implementing the Regulation, thereby providing additional flexibility and predictability to the system. However, one stakeholder considered that there was no need for guidelines: since the level of expectation is the same as for a marketing authorisation application, the guidelines relevant for such applications should be equally applicable here.

Article 9 (report)

This article triggered no major comments.

Article 10 (entry in application)

One stakeholder expressed concern that the Regulation should not apply until the guidelines referred to in Article 8 have been published. On the other hand, many stakeholders stressed the importance and value of this certification procedure, hence the need to make it applicable as soon as the Regulation on advanced therapies applies (*i.e.* 30 December 2008).

Annex (Information to be submitted)

Several stakeholders questioned the exact amount of data needed to submit an application for certification. If the required set of data was to be identical to the one needed for a marketing authorisation application, it is likely that only a few SMEs would be able to comply. On the other hand, a too flexible approach would create a disproportionate workload for the CAT. Some contributors suggested a stepwise approach, with different levels of certification associated with corresponding data packages.

Finally, the issue of the fee required for certification was highlighted. Broadly speaking, it was considered that high fees could discourage SMEs. On the other hand, the fees should not be too low to avoid too many applications submitted and ensure that the costs incurred by national authorities are compensated.

Annex: list of contributors to the public consultation

Total: 16 contributions

Industry (7 contributions)

- EuropaBio (European Association for Bioindustries)
- BPI (Bundesverband der Pharmazeutischen Industrie e. V.)
- Cardio3Biosciences
- ERYtech Pharma
- Roche
- TBF, Génie tissulaire
- TiGenix NV

Regulatory authorities (8 contributions)

- AT (Bundesamt für Sicherheit im Gesundheitswesen)
- DE (Paul Ehrlich Institut)
- DK (Danish Medicines Agency)
- NL (National Institute for Public Health and the Environment, Health Care Inspectorate and Medicines Evaluation Board)
- PT (Infarmed)
- UK (MHRA)
- EMEA (European Medicines Agency)
- Non-EEA Regulatory Agency

Others (1 contribution)

- UK Royal College of Physicians