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HEALTH AND CONSUMERS DIRECTORATE-GENERAL

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PUBLIC CONSULTATION PAPER
REVIEW OF THE VARIATIONS REGULATION

REVIEW OF COMMISSION REGULATION (EC) No 1234/2008

Deadline for Public Consultation: 22 October 2011

This document does not represent an official position of the European Commission. It is a tool to explore the views of interested parties on a preliminary proposal. The suggestions contained in this document do not prejudge the form and content of any future proposal by the European Commission.

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1. ABOUT THE CONSULTATION

1.1. What is the purpose of this consultation?

Commission Regulation (EC) 1234/2008 (hereafter Variations Regulation) applies to marketing authorisations granted under the centralised procedure as well as national marketing authorisations granted under the mutual recognition/decentralised procedure or that otherwise had been subject to referral procedures leading to a complete harmonisation. So-called purely national authorisations are not covered and remained subject to different rules in each Member State. However, purely national marketing authorisations represent the vast majority of authorisations (more than 80%) in the EU, both in the human sector and in the veterinary sector.

In 2009 the Commission was given the power to adopt detailed rules on the handling of variations for purely national authorisations.[1]

With this public consultation, Directorate General for Health and Consumers intends to consult all stakeholders on the following items:

(1) The extension of the scope of the Variations Regulation to purely national marketing authorisations.

(2) The adjustment of some of the procedures with a view to focus resources of the authorities on variations with the most impact on public health.

(3) Some workability concerns identified.

(4) Whether, in the light of the experience of last year, the procedure for the authorisation of vaccines in a pandemic setting should be amended.

It is stressed that options considered to address the objectives (2) and (3) would not imply additional costs for marketing authorisation holders concerned.

1.2. Who is consulted?

Contributions are invited from all stakeholders dealing with medicines for human and/or veterinary use. Stakeholders who are not established within the European Union are equally invited to comment. Comments from Small and Medium-sized Enterprises (SMEs) involved in the pharmaceutical sector are especially welcomed.

1.3. How can I contribute?

Contributions should be sent by e-mail to maria-angeles.FIGUEROLA-SANTOS@ec.europa.eu **before 22 October 2011**. An acknowledgement of receipt will be issued for each contribution received, within five working days. Contributions will be made publicly available on the 'Pharmaceuticals' website of the Commission once the consultation period is over, unless a specific request for confidentiality is made, in which case only an indication of the contributor will be disclosed. If you do not wish your contribution to be made public, please clearly indicate so.

[1] Directive 2009/53/EC of the European Parliament and of the Council amending Directive 2001/82/EC and Directive 2001/83/EC was adopted on 18 June 2009

1.4. What will happen next?

All contributions will be carefully analysed. A summary of the outcome of the consultation will be published on the 'Pharmaceuticals' website of the European Commission and also sent directly to all contributors. The amendment of Commission Regulation (EC)1234/2008 will build on this consultation.

1.5. Any questions?

Please contact at the European Commission:
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2. CONSULTATION TOPICS

2.1. Extension to purely national marketing authorisations

Changes affecting purely national authorisations are handled according to national rules, which can vary among member states. From a public health perspective, this disharmonised situation does not appear justified.

To address this situation, Directive 2009/53/EC of the European Parliament and of the Council amending Directive 2001/82/EC and Directive 2001/83/EC was adopted on 18 June 2009. This Directive, to be transposed by the member states within 18 months, provides for variations to all types of marketing authorisations to be subject to harmonised rules for their evaluation, approval and administrative handling within the EU.

The implementation of Directive 2009/53/EC by the Commission demands the amendment of Variations Regulation to enlarge its scope to include purely national authorisations.

The following changes are considered to extend the application of Regulation 1234/2008 to variations to purely national marketing authorisations:

i) Change of the scope in Article 1

A new paragraph would be added in Article 1 to include in the scope of the Regulation variations to purely national marketing authorisations.

ii) Extend grouping of variations in Article 7.

As a general rule variations are notified or applied for separately. However, Article 7 includes the possibility to group variations in a single notification or application under certain circumstances.

To allow grouping of variations to purely national marketing authorisation, Article 7 would be modified to allow single notifications or applications for several variations to purely national marketing authorisation for the same cases already envisaged in the Regulation.

iii) Inclusion of a new Chapter IV detailing the procedure for variations to purely national marketing authorisations.

This new chapter would reproduce for the handling of variations to purely national marketing authorisations the procedures and requirements already included in current Chapter II (mutual recognition/decentralised procedure) with some minor changes. These minor changes are due to the fact that for variations to purely national marketing authorisations there is only one competent authority for each product so coordination between different competent authorities is not required.

iv) Worksharing procedure.

In order to avoid duplication of work in the evaluation of the same variations to the terms of several marketing authorisations, the Variations Regulation includes a so called "worksharing procedure" where one authority, chosen amongst the competent authorities of the member states and the Agency, examines the variation on behalf of the other concerned authorities. It is expected that to benefit from a worksharing procedure the same change(s) will apply to the different medicinal products, with either no or limited need for assessment of a potential product-specific impact.

However, where dossiers are not harmonised some difficulties could raise when accepting the assessment carried out by one member states by other member states. For example, the same product authorised in several member states may present different indications depending on the member state that has granted the marketing authorisation.

Therefore, it is necessary to consider whether the worksharing procedure could also be extended to the same variations to several products with purely national marketing authorisations.

Several possibilities could be envisaged:

a) Not to allow worksharing where the same product has several marketing authorisations in different member states which are not harmonised. A precondition to benefit from worksharing would be the harmonisation of dossiers.

b) No additional restrictions to include variations to purely national marketing authorisations as long as the worksharing variations refer to a part of the dossiers that is considered not to need harmonisation.

Consultation item no. 1:

Do you agree that where dossiers are not harmonised difficulties could raise for worksharing when accepting the assessment carried out by one member state by other member states?

Consultation item no. 2:

Which option a) or b) mentioned above do you consider that should be adopted to allow worksharing ?

2.2. Focusing public resources on the procedures with most impact on public health

The managing of changes in the life of a medicinal product has traditionally required a lot of administrative resources. The Variations Regulation has simplified the procedures for marketing authorisation holders but it has lead in practice to additional workload for the Commission services. The number of variation procedures for 2011 is expected to double in comparison with 2010.

The proliferation of variation procedures is partly explained because marketing authorisation holders are not making use of the possibility to consolidate minor variations in a single annual submission that was foreseen in the Regulation in order to reduce the number of variation procedures. In fact, the current rules are being used to ensure prompt changes to summary of product characteristics also when rapid change is not justified by a public health concern. As a result thereof, some marketing authorisations are being subject to constant changes, thereby making it more difficult for practitioners to keep track of changes with a genuine significance for public health.

To address this situation the following options are being considered:

i) Deadlines for the adoption of the Commission Decision adjusted to the public health implications.

At present, deadlines for the Commission to adopt Decisions range from 30 days to 6 months depending on the type of variation and procedure. In addition, all variations processed under work-sharing procedures require the adoption of a Commission Decision within 30 days, regardless of the significance thereof for public health. In contrast, safety information is at times classified as Type IB and therefore the Commission Decision may be adopted 6 months after the Opinion of the relevant committee of the European Medicines Agency.

In the interest of public health, a prompt amendment of the Summary of Product Characteristics and other Product Information should occur for variations with significant public health implications. This includes, among others, for new indications (or species in the case of veterinary medicinal products) or changes in the composition of vaccines. In addition to established categories of variations requiring prompt adoption of the relevant Commission Decision, any case identified by the Agency as critical for public health should lead to an amendment of the relevant marketing authorisation within a 2 month deadline.

Under the current system minor variations can be implemented by the applicant without waiting for the Commission Decision to be adopted. This principle could be extended to ensure that the fact that there would be less frequent updates of the marketing authorisation would not delay the ability of concerned companies to implement the relevant changes. The right to implement the variation would be conditional upon a favourable opinion from the relevant committee of the European Medicines Agency.

In the interest of public health, crucial changes would be excluded and could only be implemented after the Commission Decision has been issued (2 months deadline).

Consultation item no. 3:

Do you agree with the principle that the deadline for adoption of Commission Decisions amending marketing authorisations must be driven by public health considerations?

Consultation item no. 4:

Which category of variations do you consider that should be adopted within shorter deadlines?

Consultation item no. 5:

Do you agree to extent the current system that allows holders to implement certain variations prior to the adoption of the Commission Decision (to the exclusion of those changes with most impact for public health)?

Consultation item no. 6:

Do you consider appropriate to introduce a deadline for the implementation of changes to product information significant from a public health standpoint?

ii) More stable "Summary of Product Characteristics".

The current proliferation of variation procedures has led to frequent changes to the summary of products characteristics in some cases. The Commission services aim at ensuring that changes that are required to address a significant public health concern are reflected promptly. However, the proliferation of small changes in a short period of time is considered to be detrimental as it makes more difficult to practitioners to keep up with latest information and, more fundamentally, it makes more difficult to distinguish changes with serious implications for public health from other changes.

Consultation item no. 7:

Do you agree with the above analysis?

2.3. Addressing some workability concerns identified.

Article 7 foresees the possibility to group variations to the terms of the same marketing authorisation in a single application provided that the competent authority agrees to subject those variations to the same procedure. However, experience has shown that in some case the competent authority does not agree to grouping where the number and complexity of the variations does not allow performing the assessment of the application within the time limits established by the Regulation.

Consultation item no. 8:

Do you consider appropriate to extend the time limits for assessment of complex grouped applications to enable a larger amount of cases where grouping under one single application could be agreed by the competent authority?

2.4. Procedure for the authorisation of human influenza vaccines in a pandemic setting

The Variations Regulation provides for a flexible procedure to authorise exceptionally and temporarily variations to the terms of a marketing authorisation for a human influenza vaccine where certain non-clinical or clinical trials are missing if a pandemic situation has been declared by the World Health Organisation or by the European Parliament and Council. The procedure proved to be flexible enough to allow prompt authorisation of vaccines and additional flexibilities do not appear to be justified.

It is noted that an analysis of the procedures for the authorisation of vaccines in a pandemic setting in the light of the past experience is currently being made by the European Medicines Agency. While a number of actions may be considered to deal with pandemic situations, this consultation cannot extent beyond the remit of the Variations Regulation.

Consultation item no. 9:

Do you think that changes to the procedure in Article 21 of the Variations Regulation are necessary?