



Position statement by *la revue Prescrire*

## The draft regulation on conditional marketing authorisation for medicinal products places patients at risk

The conditional marketing authorisation procedure, as defined in the current draft, places European public health at risk. *La revue Prescrire* and other concerned health care

professionals are deeply opposed to this project. Too many patients already fall victim to the adverse effects of drugs that are rushed to market.

When the principle of marketing authorisation for medicinal products was first adopted in Europe, the first recital of Directive 65/65/EEC, dated 26 January 1965, stated that the overriding aim was to "safeguard public health".

Over the last forty years the regulations governing marketing authorisation have become increasingly complex, but this aim has never been explicitly challenged. However, we have noticed a tendency on the part of the European Commission to neglect public health in favour of industrial competitiveness. In particular, during the drafting procedure for Directive 2004/27/EC and Regulation (EC) 726/2004, the Medicines in Europe Forum and other representatives of civil society were hard pressed to ensure that the legislative framework now governing medicinal products for human use did not overlook the public health imperative.

The draft regulation currently proposed by the European Commission for conditional marketing authorisation of medicinal products again places European public health at risk and must be opposed with force.

**Conditional marketing authorisation already exists, but conditions are rarely enforced.** Many marketing authorisations granted through the European centralised procedure are already subject to conditions. However, these are only mentioned in the last few lines of the relevant European Medicines Evaluation Agency (EMA) assessment reports (EPARs), with words to the effect that the Committee for Medicinal Products for Human Use only granted a favourable opinion provided the company conducts further clinical trials, or completes ongoing trials, or conducts postmarketing pharmacovigilance studies of the first patients to receive the drug.

As we have pointed out elsewhere, this procedure is particularly risky because it allows inadequately assessed drugs to enter the European pharmaceutical market. Conditional authorisation may be acceptable in urgent situations, in which no other therapeutic options are available, but it should remain the exception and not the rule. We have also underlined the difficulties encountered when trying to verify whether companies actually fulfil the conditions to which their marketing authorisations are subject. The available evidence suggests that many of these requested studies are

postponed or never even launched.

**Official endorsement of a harmful procedure.** Regulation (EC) 726/2004 endorses the principle of conditional marketing authorisation, stipulating in article 14.7 that marketing authorisation (European centralised procedure) can be granted if the applicant is subject to certain obligations that are to be revised annually by the Agency. The Medicines in Europe Forum initially believed that this article simply raised a possibility, to be used in exceptional circumstances. The Forum nevertheless succeeded in imposing the following sentence: "the list of these obligations must be made public".

A paragraph of article 14.7 does state that conditional marketing authorisation would be further defined in another regulation, the first draft of which was recently released by the Commission.

In the light of the growing number of pharmacovigilance affairs, the current draft regulation presented by the Commission is simply unacceptable from the standpoint of population health. As it stands, the aim is clearly not to help patients who find themselves in exceptionally difficult situations, but rather to open the floodgates to inadequately assessed drugs:

**– field of application too large:** according to draft article 2, the procedure will apply to all drugs intended for the treatment, prevention or diagnosis of any chronic, severely incapacitating or life-threatening health disorder; all orphan drugs and all drugs for emergency use (probably in case of pandemics, bioterrorism, etc.). The last part of this definition (orphan drugs and emergency situations) is acceptable, but the first part is far too wide-ranging and therefore unacceptable;

**– vague approval criteria:** draft article 4 states that the procedure will apply if the applicant is able to *demonstrate the presumed positive benefit-risk balance of the medicinal product*. And draft article 5, which is very brief and concerns the appraisal of marketing applications, offers no details on the type of evidence to be provided by the applicant, or on the endpoints to be covered. It simply states that any new trials that are requested as a condition for conditional marketing authorisation must not be more demanding than for normal marketing authorisation. However, as this regulation concerns medicines intended for serious health disorders, the least one would expect is a requirement for comparative trials versus a reference treatment based on clinical endpoints; ►►

► – **flimsy follow-up requirements:** draft article 6 stipulates that conditional marketing authorisation will be granted for one year, renewable, but that the marketing commission can also modify the conditions and confirm the marketing authorisation without further conditions. And draft article 9, dealing with pharmacovigilance, only requires applicants to provide reports at least every six months.

– **patients poorly informed:** draft article 7 states that the conditional nature of the marketing authorisation will feature on the summary of product characteristics and on the patient information leaflet. In our opinion, this information should also be provided on the pack, as a warning to patients.

**An unacceptable draft in the current pharmacovigilance climate.** We demand that the draft regulation be

profoundly reconsidered, especially concerning its field of application, evaluation criteria, and follow-up of imposed conditions. The few guarantees of transparency in the draft represent the strict minimum, yet will serve no useful purpose if the underlying aim of the text is not to help patients but rather to facilitate market access for inadequately assessed drugs.

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places European public health at risk. *La revue Prescrire* and other concerned health care professionals are deeply opposed to this project. Too many patients already fall victim to the adverse effects of drugs that are rushed to market.

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22 December 2004