REGULATORY NEWS

# EMEA drafts for public consultation

## Make your voice heard

**For several years the European Medicines Evaluation Agency has regularly submitted to public consultation online some of its draft texts, recommendations and proposals on the assessment of marketing applications and the general functioning of the agency. The consultation period generally lasts a few months.**
**All European citizens and professional groups can send comments, in any of the official EU languages. And it is simple: visit the What's new/Recent publications page on the EMEA website (http://www.emea.eu.int/whatsnewp.htm), access the documents (listed in chronological order) and download the texts offered for public comment. The only constraint is a deadline for comments. The texts should be considered in context, most being continuations, revisions or modifications of previous texts. The introduction should therefore be read carefully, as it will mention previous texts and their legislative framework, distinguishing EMEA documents and guidelines (which are not binding) from Directives and Regulations.**
**For example, on 24 February 2004 EMEA placed online a document entitled "Guideline on the format and content of applications for designation as orphan medicinal products and the transfer of designations from one sponsor to another" (http://www.emea.eu.int/pdfs/human/comp/628300en.pdf).**
**And on 22 April 2004 it released a document dealing with patient information, entitled "EMEA/CPMP Working Group with Patients Organisations - Outcome of Discussions: Recommendations and Proposals for Action (http://www.emea.eu.int/pdfs/human/patientgroup/581904.pdf)**
**The Prescrire editorial staff contributed the following comments.**

## Ambiguities in orphan drug designation in the EU

### Patients' interest is not sufficiently safeguarded

"We have carefully read the draft revision, dated 24 February 2004, of the guideline entitled: "Guideline on the format and content of applications for designation as orphan medicinal products and the transfer of designations from one sponsor to another". This document concerns an important area of public health, namely rare but often life-threatening diseases. We are pleased to see that European Commission is dealing with this question and is trying to strike a balance between health requirements and the interests of drug manufacturers.

**Significant benefit.** This document clarifies the general principles outlined in Regulations 141/2000 and 847/2000. Regulation 141/2000 states that the notion of "significant benefit" relative to existing treatments must be taken into account before a new drug can be designated an "orphan drug". The definition of "significant benefit" (pages 11-12 of the document, paragraph 3 of the new guideline) is precise, and rightly insists on demonstrable clinical benefit, in terms of efficacy or adverse effects, relative to existing treatments.

The value of this definition is, however, negated by the end of this section, which states that wider distribution of a new drug relative to existing treatments itself represents "significant benefit". This principle, which links " benefit" to market availability, was not contained in Regulations 141/2000 and 847/2000. It appeared in successive drafts of the guideline now undergoing revision, but it is incompatible with patients' and health professionals' expectations. If a drug offers no advance in terms of the risk-benefit balance or convenience, it should not be granted orphan drug status simply because it is more readily available than an existing treatment. The Commission's role should be to help ensure that existing reference treatments are available in all EU member states, without waiting for a company to exploit the situation.

**Ambiguities.** Page 7, paragraph c of the section on "Special Considerations" is rather vague, and opens the door to multiple interpretations. The expression "particular treatment modality" is imprecise, and we fail to see how it can define a "distinct condition". The term "treatment modality" must be defined unambiguously in the text.

Furthermore, this text, and Regulations 141/2000 and 847/2000, say nothing about the lifespan of orphan drug status.

European law, including the new regulation published on 30 April 2004, calls for reassessment of marketing authorisation once a drug has been on the market for five years, and this also applies to orphan drugs. This should be an opportunity to examine whether "orphan drug" status is still justified. In particular, pharmacoepidemiological data should be examined to check that the orphan drug is being used as intended, and that the number of patients treated corresponds to the definition of an orphan disease (maximal prevalence 5 per 10 000 inhabitants).

This may be the case in practice, but it is a key point that should be explicitly mentioned in the new guideline".

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