[redacted]

From: [redacted]
Sent: 29 January 2019 12:37
To: EO-PresubmissionConsultation
Cc: [redacted]

Subject: 'Comments Ombudsman Inquiry on EMA pre-submission activities'

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Dear colleague,

Please find enclosed the answers form the Federal Agency for Medicinal Products and Health Products:

1. It may happen that EMA staff members and experts who participate in pre-submission activities will be involved in the subsequent *scientific evaluation and/or marketing authorisation* procedure for the same medicine. To what extent is this a matter of concern, if at all? Are there specific pre-submission activities of particular concern in this regard? How should EMA manage such situations?

   The FAMHP support the answer given by Mr Guido Rasi on the 31st of August 2017, stating that subsequent pre-submission interactions enable the assessors/experts/scientific secretariat who are to be involved in the evaluation to gain an overview of the product and its development so that their assessment can be performed more efficiently and minimise any unnecessary administrative delay. Moreover, no single person has the final say on a medicine's approval, and all involved staff has signed a declaration of confidentiality.

2. Should EMA allow experts from national authorities, who have previously provided scientific **advice** at national level on a particular medicine, to be involved in EMA's scientific **evaluation** of the same medicine?

   Yes see answer question 1.

3. What precautionary measures should EMA take to ensure that information and views provided by its staff members and experts in the context of pre-submission activities are not, in practice, considered as a "binding" pre-evaluation of data used to support a subsequent application for authorisation?

   The EMA website states that the presubmission activities are not legally binding. Where legislation is binding, guidelines are not. In case clarification on guidelines is the subject of the presubmission activity, the advice should therefore not be considered as legally binding. The same principle holds true for any views provided by the EMA or FAMHP staff members in the context of respectively European and national scientific advice on a particular medicine.

4. Is the way in which EMA engages with medicine developers in pre-submission activities sufficiently transparent?
   If you believe that greater transparency in pre-submission activities is necessary, how might greater transparency affect: i. EMA's operations (for example the efficiency of its procedures, or its ability to engage with medicine developers) and ii. medicine developers?

   No. The tools are sufficiently communicated via the EMA website. Moreover, the efficacy of the processes is reported and published as well. Regarding the content of the dossier, confidentiality should be respected at all times.

5. Is there a need, in particular, to enhance the transparency of scientific advice EMA provides to medicine developers? Would it, in your opinion, be useful or harmful, for example, if EMA:
   - disclosed the names of the officials and experts involved in the procedures;
   - disclosed the questions posed in scientific advice procedures; and/or
   - made public comprehensive information on the advice given.
   If you have other suggestions, for example regarding the timing of the publishing of information on scientific advice, please give details and the reasons for your suggestions.

   It is harmful to disclose the information suggested in question 5. Point 1 could lead to a situation in which assessors are contacted which could put the assessment integrity at risk. Point 2 and 3 are property of the applicant and can therefore not be disclosed. Public disclosure of comprehensive information on the advice given during the clinical development stages of new drug products entails the risk of triggering a lot of additional discussions (and workload) with competitor companies eg. when they would claim inconsistencies / divergencies in the EMA advices they received in comparison to advices given on similar compounds/questions to other companies. Disclosure of such advice could also entail intellectual property issues for compounds that are still protected so a certain extent by one or more patents (eg. disclosure of confidential info about new therapeutic indications, formulation forms, etc.).

6. What would the advantages and disadvantages be of making scientific advice, given to one medicine developer, available to all medicine developers?

   Making specific SA available to all medicinal developers would probably result in a stop of SA applications, given the risk exist that confidential content of new drug products that are under patent will be disclosed to competitors. A stop of SA applications could negatively impact the quality of the MAA submissions. Consequentially, the number of MA will decrease which is of negative impact to the patients.

   More generic type of advices or advices issued at a "pre-competitive" stage (eg. such as the EMA recommendations on ATMP/borderline classification or the biomarker qualification opinions which are already being published), might be more suitable for disclosure in order to avoid companies shopping around in different member states trying to receive the most advantageous classification for their product , which at the end , may not be in line with the EMA position.

7. Should EMA be limited to providing scientific advice only on questions not already addressed in its clinical efficacy and safety guidelines[4]?

   Not all cases are described in the guidelines, so SA on those issues not in scope of the guidelines is indeed very important. But SA also allows deviations from the guidelines, these deviations are to be considered as well. Moreover, SA is usefull in order to support a correct interpretation of the guidelines.

8. Any other suggestions on how EMA can improve its pre-submission activities?
   If so, please be as specific as possible.

   The provided tools are very accessible and enable a good support of the applicants. The EMA offers a set of well elaborated tools which are operational within the actual legislative framework.
   More clarification could probably be given to companies with regard to which specific type of scientific (and regulatory) questions are still allowed to be raised by Companies/applicants in the context of a pre-submission MAA meeting (when rapp/co-rapp have already been designated) as compared to the scientific questions that should normally be raised earlier on in clinical development in formal SA requests (either at EMA or NCA level).

Kind regards,

P/O Greet Musch

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