

August 2, 2001

Reddy-Cheminor Inc.  
U.S. Agent for Dr. Reddy's Laboratories Limited  
Attention: Paul V. Campanelli  
66 South Maple Avenue  
Ridgewood, New Jersey 07460

Dear Sir:

This is in reference to your abbreviated new drug application dated September 24, 1998, submitted pursuant to Section 505(j) of the Federal Food, Drug, and Cosmetic Act (Act), for Fluoxetine Capsules USP, 10 mg, 20 mg and 40 mg.

Reference is also made to the Tentative Approval letter issued on June 26, 2001 and to your amendments dated June 19, July 18 and 30, 2001.

The listed drug product referenced in your application is subject to a period of pediatric exclusivity which expires August 2, 2001. In addition the listed drug product is subject to a period of patent protection which expires June 2, 2004, (U.S. Patent No. 4,626,549 [the '549 patent]). Your application contains a Paragraph IV Certification and a Method of Use Statement under Section 505(j)(2)(A)(vii)(IV) and Section 505(j)(2)(A)(viii) of the Act to the '549 patent. You informed us that Eli Lilly and Company initiated a patent infringement action against you for your Paragraph IV Certification on the challenged claim in United States District Court for the Southern District of Indiana, Indianapolis Division (Eli Lilly and Company v. Cheminor Drugs, Ltd. and Reddy-Cheminor, Inc., Civil Action No. IP99-0024 C B/S). You have also notified us that you prevailed on one claim of the '549 patent in both the district court and in the court of appeals and made a Method of Use Statement to another claim.

We have completed the review of this abbreviated application and have concluded that the drug is safe and effective for use as recommended in the submitted labeling. However, because of the unique (split) 180-day generic drug exclusivity issues

associated with this drug product, the Agency is prohibited from approving all three strengths at this time. **Thus, only the 40 mg strength of the drug product is approved at this time. The 10 mg and 20 mg strengths shall remain tentatively approved** and will not receive final approval until the remaining 180 days of exclusivity has expired. The Division of Bioequivalence has determined your Fluoxetine Capsules USP, 40 mg to be bioequivalent and, therefore, therapeutically equivalent to the listed drug (Prozac Capsules, 40 mg of Eli Lilly and Company). Your dissolution testing should be incorporated into the stability and quality control program using the same method proposed in your application.

With respect to 180- day generic drug exclusivity and its impact on the approvability of the various strengths presented in this application, we note that Dr. Reddy's Laboratories Limited (Dr. Reddy's) was the first to submit a substantially complete ANDA with a Paragraph IV Certification for the 40 mg strength only. Therefore, Dr. Reddy's is eligible for 180-days of market exclusivity for the 40 mg strength. Subsequent applications for the 40 mg strength will be eligible for final approval not earlier than one hundred and eighty days after:

the date the Secretary receives notice from the applicant under the previous application of the first commercial marketing of the drug under the previous application, or

the date of a decision of a court in action described in clause (ii) holding the patent which is the subject of the certification to be invalid or not infringed, whichever is earlier [Section 505(j)(B)(iv)].

If you have any questions concerning the effective date of approval of an abbreviated new drug application and the Agency's elimination of the requirement that an ANDA applicant successfully defend a patent infringement suit to be eligible for 180-days of marketing exclusivity, please refer to the interim rule published in the November 5, 1998 Federal Register (Volume 63, No. 214, 59710).

We are unable to grant final approval to the 10 mg and 20 mg strengths at this time because abbreviated applications for Fluoxetine Capsules USP, 10 mg and 20 mg, each containing a Paragraph IV Certification for these strengths were accepted for filing by OGD prior to the filing of your application. Subsequent applicants for the 10 mg and 20 mg strengths may not be approved earlier than one hundred and eighty days after:

the date the Secretary receives notice from the applicant under the previous application of the first commercial marketing, or

the date of a decision of a court in action described in clause (ii) holding the patent which is the subject of the certification to be invalid or not infringed, whichever is earlier [Section 505(j)(5)(B)(iv)].

With respect to the "first commercial marketing" the Agency expects that you will begin commercial marketing of the 40 mg strength of this drug product in a prompt manner. Please submit correspondence to your application stating the date you commence commercial marketing of the 40 mg strength.

Under Section 506A of the Act, certain changes in the conditions described in this abbreviated application for the 40 mg strength require an approved supplemental application before the change may be made.

Post-marketing reporting requirements for this abbreviated application for the 40 mg strength are set forth in 21 CFR 314.80-81 and 314.98. The Office of Generic Drugs should be advised of any change in the marketing status of the 40 mg strength Fluoxetine Capsules USP.

We request that you submit, in duplicate, any proposed advertising or promotional copy, which you intend to use in your initial advertising or promotional campaigns. Please submit all proposed materials in draft or mock-up form, not final print. Submit both copies together with a copy of the proposed or final printed labeling to the Division of Drug Marketing, Advertising, and Communications (HFD-40). Please do not use Form FD-2253 (Transmittal of Advertisements and Promotional Labeling for Drugs for Human Use) for this initial submission.

We call your attention to 21 CFR 314.81(b)(3) which requires that materials for any subsequent advertising or promotional campaign be submitted to our Division of Drug Marketing, Advertising, and Communications (HFD-40) with a completed Form FD-2253 at the time of their initial use.

**With respect to the continuation of the tentative approval status of the 10 mg and 20 mg strengths of this drug product,** our decision is based upon information available to the Agency at this time (i.e., information in your application and the status of current good manufacturing practices (CGMPs) of the

facilities used in the manufacture and testing of the drug product), and is subject to change on the basis of new information that may come to our attention.

To provide for final approval of the 10 mg and 20 mg strengths, please submit a supplemental application as directed below. The Agency will provide written notice of the information needed to determine the earliest possible final approval date of your supplemental application for the 10 mg and 20 mg strengths under section 505(j)(5)(B)(iv) as soon as such information becomes available. The supplemental application, which must be submitted for prior approval between 60 and 90 days prior to the date you believe these strengths will be eligible for final approval, should include updated information such as final-printed labeling, and chemistry, manufacturing and controls data as appropriate. Alternatively, a prior approval supplement should be submitted to request final approval of these strengths and stating that no changes have been made to the application since the date of this letter. Because of the unique circumstances associated with exclusivity for this drug product, the office will entertain your request that the supplemental application be granted "expedited review" status.

Any changes in the conditions outlined in this abbreviated application and the status of the manufacturing and testing facilities' compliance with current good manufacturing procedures are subject to Agency review before final approval of the supplemental application will be made.

In addition to, or instead of the supplemental application requesting final approval of the additional strengths, the Agency may at any time prior to final approval, request that you submit an informational document containing the information stated above.

Failure to submit the supplemental application or informational document may result in rescission of the tentative approval determination, or delay in issuance of the final approval letter for the 10 mg and 20 mg strengths.

The 10 mg and 20 mg strengths of Fluoxetine Capsules USP may not be marketed without final Agency approval under Section 505 of the Act. The introduction or delivery for introduction into interstate commerce of these unapproved strengths before the

final approval date is prohibited under Section 501 of the Act. Also, until the Agency issues the final approval letter, the 10 mg and 20 mg strengths of the drug product will not be listed in the Agency's "Approved Drug Products with Therapeutic Equivalence Evaluations" list (the "Orange Book").

Should you have any questions about the approval status of the various strengths of drug product presented in your application, or about the timing or content of the supplemental application to provide for final approval of the remaining strengths, please contact Ms. Bonnie McNeal, Project Manager, at (301) 827-5849.

Sincerely yours,

Gary Buehler  
Director  
Office of Generic Drugs  
Center for Drug Evaluation and Research

cc: ANDA 75-465  
Division File  
Field Copy  
HFD-610/R. West  
HFD-210/B. Poole  
HFD-330  
HFD-205

Endorsements:

HFD-647/L.Tang/7-26-01/  
HFD-647/U.Venkataram/7-27-01/  
HFD-617/B.McNeal/7-27-01/  
HFD-613/A.Vezza/7-27-01/  
HFD-613/C.Hoppes/7-30-01/  
Filename:V:\FIRMSAM\CHEMINOR\LTRS&REV\75465AP&TA&180exc.doc  
F/T by: B. McNeal 7/30/01

APPROVAL and 180-day exclusivity for 40 mg strength

[2<sup>nd</sup> TA for 10 mg and 20 mg strengths].