



June 2, 2000

Dockets Management Branch (HFA± 305)  
Food and Drug Administration  
5630 Fishers Lane  
Room 1061  
Rockville, MD 20852

Re: Docket No. 00N-1266 [Request for Comments on Pediatric Exclusivity]

To Whom It May Concern:

These comments respond to the request for comments on the pediatric exclusivity program from the Food and Drug Administration (FDA), 65 Federal Register 26217 (May 5, 2000). They are submitted on behalf of the Children's Oncology Group (C.O.G.), the newly formed cooperative group representing the unification of the four pediatric cooperative groups which conduct clinical and translational pediatric cancer research, funded largely by grants from the National Institutes of Health (NIH). With the merger, C.O.G. conducts nearly all the clinical pediatric cancer research in North America; its members are responsible for most of the care delivered to infants, children, and adolescents with cancer in our country.

Nowhere is the "orphan" status of pediatric pharmaceutical research more evident than in oncology drug development. There are only about 15,000 new cases of childhood cancer each year in the U.S.; these cases represent a heterogeneous group of diseases. In nearly all cases, pediatric cancers are distinctly different diseases from the cancers occurring in adults, even when tumors present at the same anatomic site. In light of these circumstances, the pharmaceutical industry has viewed pediatric cancer as a very difficult and unattractive target for drug development.

Those of us engaged in pediatric oncology research were therefore pleased to see the innovative, incentive-based provision adopted by Congress in the Food and Drug Administration Modernization Act (FDAMA). As we understood it, section 111 of FDAMA offered six months additional market exclusivity to a pharmaceutical company that performed requested studies that "may produce health benefits" in pediatric patients. Unfortunately, the provision has not as yet had the desired effect. To date, after two-and-a-half years, only two pediatric studies of anti-cancer drugs have been requested by FDA.

C.O.G. has two major objectives in seeking improvement in the outcome for children with cancer. First, children with cancer deserve access to new agents at the same time as they are being tested for the first time in adults. Second, with respect to already marketed drugs, important questions which remain to be answered could be resolved through trials funded by industry under this provision. Neither goal is currently being satisfied by the statute. Thus, only one conclusion can be drawn: The program has not been effective in expanding information about important pediatric uses for approved drugs.

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Dockets Management Branch  
Food and Drug Administration  
June 2, 2000  
Page Two

Studies in already marketed drugs have been inhibited by the understanding that requested studies be submitted in the form of a supplemental new drug application (SNDA) and that the studies be sufficient to support award of a new indication on the approved labeling, assuming the studies demonstrate efficacy according to FDA standards. Pediatric oncologists do not believe that labeling is necessary for drugs to be used effectively in the treatment of childhood cancer, although specific pediatric dosing information for different ages of pediatric patients might be useful. Efficacy studies conducted by the C.O.G. may not be consistent with FDA requirements even though they represent the standard in pediatric cancer care. Some of the efficacy studies normally required by FDA, such as single agent studies to demonstrate the contribution of the index drug, might not be ethical in the pediatric cancer setting, when combination drug regimens have demonstrated efficacy.

We therefore urge FDA to reconsider its implementation of section 111 to make it more consistent with both the practice of pediatric oncology and the goals of pediatric cancer research, and more likely to provide a meaningful incentive to interested pharmaceutical companies.

Timely access to new agents has been another disappointment, although not because of FDA actions. Indeed, FDA officials have sought to encourage companies to make new agents available at the earliest possible time, but the companies have no financial or other incentive to do so because of the manner in which the incentive is crafted. A company that performs requested studies gets six months additional exclusivity regardless of when the studies are performed (as long as studies are completed while exclusivity is still in effect). There is no reason, in the view of the pharmaceutical companies, to conduct the pediatric studies at the outset of the drug's effective life. In this respect, the pediatric exclusivity incentive appears inadequate. Legislative modification, no later than the time of renewal of FDAMA, should be considered to provide more rational incentive to companies to study new agents at the earliest possible time.

We applaud and appreciate the efforts of many at FDA, notably the leadership of the Oncology Products Division, to make the pediatric exclusivity program work for children with cancer. In recognition of the special circumstances regarding childhood cancer, the agency should further extend its flexibility in implementation of the statute, or the incentive will continue to have no benefit for pediatric cancer patients.

Sincerely,



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For The Children's Oncology Group