

Proposed Experimental Study: Toll-Free Number for Consumer Reporting of Drug Product Side Effects in Direct-to-Consumer Broadcast Advertisements for Prescription Drugs

Background

On September 27, 2007, the President signed into law FDAAA (Public Law 110-85). Title IX of FDAAA amends section 502(n) of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 352), by requiring published direct-to-consumer (DTC) advertisements for prescription drug products to include the following statement printed in conspicuous text: ‘You are encouraged to report negative side effects of prescription drugs to the FDA. Visit www.fda.gov/medwatch, or call 1-800-FDA-1088.’ Title IX of FDAAA also requires the Secretary of Health and Human Services (Secretary), in consultation with the Advisory Committee on Risk Communication, to conduct a study not later than six months after the date of enactment of FDAAA to determine if this statement is appropriate for inclusion in DTC television advertisements for prescription drug products. As part of this study, the Secretary shall consider whether the information in the statement described above would detract from the presentation of risk information in a DTC television advertisement. If the Secretary determines that the inclusion of such a statement would be appropriate for television advertisements, FDAAA mandates the issuance of regulations implementing this requirement, and for the regulations to determine a reasonable length of time for displaying the statement in television advertisements. Finally, FDAAA requires the Secretary to report the study’s findings and any subsequent plans to issue regulations to Congress.

The Act requires that manufacturers, packers, and distributors (sponsors) who advertise prescription human and animal drugs, including biological products for humans, disclose in advertisements certain information about the advertised product’s uses and risks. For prescription drugs and biologics, the Act requires advertisements to contain “information in brief summary relating to side effects, contraindications, and effectiveness” (21 U.S.C. 352(n)). In order for most prescription drug advertisements to comply with this brief summary requirement, the prescription drug advertising regulations specify that the advertisements must include a summary of all of the risk information from the advertised drug’s approved product labeling. However, the regulations indicate that broadcast advertisements, including television advertisements, can comply with this requirement by including a summary of the advertised drug’s major risks (this summary is commonly referred to as the “major statement”) so long as the advertisement also makes adequate provision for viewers to receive the full risk information from other sources, such as a concurrently running print advertisement, a toll-free number, a website, or their healthcare provider. The Food and Drug Administration (FDA or Agency) is responsible for enforcing the Act and implementing regulations.

FDA regulations also require that prescription drug advertisements include a “fair balance” of information about the benefits and risks of advertised products, both in terms of the content and presentation of the information. All prescription drug ads that make claims about a product must, therefore, also include risk information in a “balanced” manner. It is possible, however, to present the risk information in ways that decrease its impact or comprehensibility, thus

overemphasizing benefits. One way this can occur is to have distracting visual or audio information presented at the same time as risk information. For this reason, FDA advises companies that, during the major statement of risks, unrelated or contradictory information should not be presented simultaneously.

Relevant Prior History and Research

Section 17 of the Best Pharmaceuticals for Children Act (the BPCA) (Public Law 107-109, January 4, 2002) required FDA to issue a final rule mandating the addition of a statement to the labeling of each drug product for which an application is approved under section 505 of the Act. Under the BPCA, the statements must include: (1) a toll-free number maintained by FDA for the purpose of receiving reports of adverse events regarding drugs; and (2) a statement that the number is to be used only for reporting purposes, and it should not be used to seek or obtain medical advice (the side effects statement).

On April 22, 2004, FDA published a proposed rule with a proposed side effects statement for certain prescription drug product labeling and a proposed side effects statement for certain over-the-counter drug product labeling (69 FR 21778). In the proposed rule, FDA solicited comments on a proposed statement that FDA believed comported with the above mandate in the BPCA. The Agency received 12 comments suggesting changes to the specific wording proposed. The agency also received several comments suggesting that FDA engage in research to study the wording of the proposed side effects statement with consumers. Among the reasons cited for testing the statement were: (1) to determine the best and most precise wording for the statement; (2) to evaluate consumer comprehension of the proposed statement; and (3) to address concerns that consumers who read the statement will mistakenly call FDA in search of medical advice when they suffer negative side effects rather than seeking appropriate medical treatment. In addition, during the clearance process for the proposed rule, both the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) and the Office of the Assistant Secretary for Planning and Evaluation (ASPE) of the Department of Health and Human Services suggested that FDA conduct focus groups or other consumer studies to inform the wording of the side effects statement.

During the spring of 2006, to assist in developing this study, FDA conducted two focus groups to gauge consumer understanding and preferences for a number of proposed side effects statements and to narrow the number of statements to be tested in subsequent experimental research. Focus groups are guided discussions led by a trained moderator. This research method is often used to collect qualitative information on a specific topic. Focus group results are not generalizable. These two focus groups with American consumers produced some helpful findings about the usefulness and clarity of various statements. In addition to the information collected on which versions of the statements participants preferred, major findings include:

- Some people in the lower education group (those with a high school education or less) thought that the statements instructed them to call FDA for medical help.
- Some people in both groups understood the statements but said that they were not motivating enough to cause them to call the FDA's toll-free number in the event that an adverse side effect occurred to them.

- Some people in both groups understood the statements and said they would call FDA to report adverse side effects if they were serious enough.
- Many people suggested the addition of a website to report adverse side effects.

Based on the findings from the focus groups, a small number of statements were selected for quantitative testing. The report on the results of this quantitative research is forthcoming.

Objectives

An experiment with consumers will test potential variations of stating the required information in a television ad for maximum comprehension of factual information and necessary actions. Consumers will be recruited from an Internet panel, with respondents being drawn to match the demographic characteristics of the U.S. Census.

Pretests of questionnaire and draft stimuli:

At least two pretests will be conducted after clearance is received from the Office of Management and Budget (OMB). These pretests will be required to assess potential problems with the draft stimuli and the draft questionnaire. For each pretest, FDA will provide the draft stimuli and a set of questions for the dependent measures of the experiment to assess consumers’ comprehension of the proposed statements, actions consumers need to take that are indicated in the statement, and areas of misunderstanding regarding the wording and product benefits and risks that may possibly be created by the wording or its placement in the ad. If necessary, the stimuli or questionnaire may be revised to address problems. The pretests will likely be conducted sequentially.

The two pretests shall be conducted in two waves with 30 consumers in each wave, representing a reasonable degree of demographic diversity (exact quota requirements to be determined, but may include age, ethnicity and education level).

Experiment:

FDAAA directs FDA to consider two main variables: appropriateness of toll-free number inclusion in DTC broadcast advertisements and duration of display in the ad. We propose to test the appropriateness and duration by using a modified 3 x 2 +1 +1 factorial design as follows:

Placement of toll-free disclosure (before major statement of risks vs. during major statement of risks vs. after major statement of risks at the end of the advertisement) x Duration of toll-free disclosure (Short vs. Long) + control condition (no toll-free disclosure) + extra prominent condition (toll-free disclosure after major statement of risks and also in voiceover).

	Duration	
Placement	Short	Long
Before major statement		
During major statement		
After major statement		

+

Control (no disclosure)

+

Extra prominent placement (after major statement and also in voiceover)

Method: Participants will be randomly assigned to view one variation of a prescription drug television advertisement. Each participant will view the advertisement two times. After the participant has finished viewing, he or she will be asked questions about information in the ad. The questionnaire will take no more than 15 minutes to complete.

Respondents: The Contractor shall draw enough sample to insure that approximately 100 respondents in each test condition complete the experiment and answer the full set of questions. Quotas shall be employed when drawing a portion of the respondents (percentage to be determined) from the panel to select a sample of respondents 21 years of age or older who match the general U.S. census population in terms of gender, age, education, and race/ethnicity (see description below).

Gender:

- Roughly equal distribution of men and women:
- At least 40% but not more than 60% men in each condition

Age:

- Must be 21 years or older
- Spectrum of ages from 20s to 80s (with firm cutoff values of 21 years and 95 years)
- No more than 15% under age 25 in each condition
- At least 40% over age 55 in each condition

Education:

- Spectrum from less than high school graduate to post graduate education
- No more than 30% with advanced degrees (advanced degrees include all degrees obtained after the Baccalaureate level, i.e., Master's, Ph.D., J.D., M.D., etc.)
- At least 15% with high school education or less (including people who have completed high school with diploma or GED or who have some high school but have not completed high school).

The contractor shall compute weights to ensure generalizability of the sample. Forty percent (40%) of the sample in each condition shall be age 55 years or older (the age group who calls FDA's MedWatch phone line the most). We will also set minimum percentages of people who use prescription drugs. At least 15% of the sample will have a high school education or less, as a proxy for literacy status. If necessary to draw sufficient respondents to match the demographic characteristics of the U.S. Census, potential respondents who do not have convenient access to the Internet will be identified and brought to a suitably equipped facility or provided temporary equipment to ensure their response.

Stimuli: Stimuli will be generated by taking existing DTC ads and modifying them to include the toll-free number disclosure in superimposed text (SUPER) or audio.

Main Measurement Variables (Dependent Measures): Measures will include standard risk/benefit and ad processing measures. For example, measures may include recall of the risk and benefit information, aided recognition of risk and benefit information, comprehension of risk and benefit information, willingness to ask doctor about the product, ratings of risk/benefit tradeoff and balance, knowledge about the product, attitudes about prescription drug advertising, understanding of the meaning of the toll-free number disclosure, behavioral intentions with regard to under what circumstances participants would contact FDA, indices of participants' reading skill, and, potentially, explanations of reasons for choices, decisions or ratings. Demographic and health care utilization information will be collected as well. The questionnaire (not including time spent viewing the ad) should last no more than 15 minutes.

Research Questions:

1. Does the inclusion of a toll-free number for reporting side effects in DTC broadcast advertisements detract from the communication of important risk information in the ad?
2. If the statement does not detract from the communication of important risk information, what is the optimal length of time this statement should be displayed in the ad?