Viewpoint of a Member State Authority and Issues of Implementation of Harmonised SPC's

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List of Abbreviations

RMS = Reference Member State

CMS = Concerned Member State(s)

EGA = European Generic Association

FML = Future Medicin Legislation

HRT = Hormon Replacement Therapy

MA(H) = Marketing Authorisation (Holder)

MRFG = Mutual Recognition Facilitation Group

MRP = Mutual Recognition Procedure

MS = Member State (of the European Community (EU))

PL = Package Leaflet

SPC = Summary of Product Characteristics

Directive 2001/83/EC

Article 10 (1) (a) (iii) – Abriged application (so called „Generics“)

- Applicant can refer to the toxicological, pharmacological and/or clinical documentation of the ‚Originator‘
  - entirely
  - partly

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Directive 2001/83/EC
Article 10 (1) (a) (iii) – Abridged Application (so called „Generics“)

- no legal obligation to be identical in the SPC
  - less indications than the ‚Originator‘ are possible
  - may therefore also be different with regard to
    - contraindications
    - adverse events
- application will result in an independent MA

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but

different legal situation in the MSs with regard to

- reimbursement
- substitution policy
  - no specific requirements or
  - SPC of ‚Originator' and ‚Generics' have to be the same or
  - legal obligations of the ‚Generic' to follow the relevant SPC-changes of the ‚Originator'

Problems of ‚Generics' with MRP

because:

- old EU-market of non-harmonised national SPCs of the ‚Originator'
- ‚Generics' have to use for national MA in more than one MS the MRP = harmonisation procedure
- one to one link between ‚Originator' and ‚Generic' (maximal possibilities)
- non-harmonised national regulations on substitution and reimbursement

Why Harmonisation of SPC‘s?

- Patients:
  - to have consistent information in the SPC between ‚Originator‘ and ‚Generic‘ in case of substitution
- Authorities:
  - to avoid prolonged discussion during MRP
  - to avoid withdrawls and arbitration
  - to save resources
- Generics Companies: smooth access to the market

General Problem

How we control or do we know how many versions of the PL for an identical product are on the market in one MS or the EEA?

It‘s in the responsibility and liability of the MAH!

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Situation in Germany for ‚Known Substances‘

- no legal obligation for ‚Known Substances‘ to have the same SPC as the ‚Originator‘
- Applicant can choose
  - to use a Standard SPC/PL published by the BfArM
  - to use partially the Standard SPC/PL (eg indications)
  - to submit a new SPC/PL (eg new indication)
- small and middle sized companies specialised in therapeutic areas as a marketing concept (eg Dermatologicals, Oncologicals, ...)

Approaches to Harmonisation

- Core SPC
  - influenza vaccines
  - HRT (still under discussion)
  - Generics?
    - has failed (eg omeprazole)

- Scientific Opinion of the CPMP followed by national implementation. Do have all MS the legal tools?
- Article 30 of Directive (EU) 2001/83

Article 30

‚Creation' of a harmonised SPC

- indications authorised by one MS can only revoked if risk to public health
- decision mainly on formal and safety reasons
- thorough scientific discussion on efficacy and safety is missing

Article 30:

Harmonisation is only legally binding for the ‚Originator‘

How to harmonise already approved ‚Generics‘?

- no legal tool for enforcement – independent MA!
- on voluntarily basis by the MAH
  - for national MA: by national variation
  - for MRP: simple Type IB notification (No. 46 of Commission Regulation (EC) 1084/2003)
- commitment from EGA to MRFG

Problems

How to keep the harmonisation of the ‚Originator‘?

Commission Regulation (EC) 1084/2003 is applicable
(Article 1: Subject matter)

Aim:

one MRP/RMS for all MAs

Is this feasible?

maybe - but

Problems

- How to choose the RMS?
- How to create an MRP?

if

- not all strength or pharmaceutical forms approved in one MSs?
- the same medicinal product differs in the MSs with regard to the active substance (eg different salts or salt versus free base)?

Problems

to start, several MRP are necessary with different RMS

possible solution:

voluntarily two-step initiative of MAH

1. apply for Repeat-use MRP to add ‚missing' (R)MS
2. apply for change of the RMS

to end up with one RMS/MRP

Problems

But

what to do if

- legally independent MAH in MSs?
- different numbers of Duplicates of the ‚Originator' in MSs?

no choice: parallel MRP which can be changed (Variations!) independently from each other!

Question

Are we changeing for the ‚Orginator' from non-harmonised SPC's on a national level to non-harmonisation at Mutual Recognition level?

Next problem:

a harmonised pharmaceutical dossier is a requirement for MR-Variations

How to do?

- during the Article 30-Procedure:
  - only on initiative of the MAH(s)
- otherwise
  - with a Type II-Variation after the Article 30-Procedure

Problems

Usage patent on indication

(eg omeprazole)

if the SPC of a ‚Generic' has to be identical with the ‚Originator' ....

- this will result in effective blockage for all indications
- no ‚Generics' possible on the market

Problems

Enlargement of the EU

EU-Decisions based on Article 30

- are addressed to the current Member States of the EU
- not part of the Acquis Communautaire

after accession of New MS:

- ‚Originator' with one harmonised SPC (old MSs) and 10 national approved independent SPCs (new MSs)
- How to proceed? Next Enlargement is knocking on the door.

Problems

Solution from Review 200X/FML?

- Harmonised data protection period (8 years)
- Definition ‚Reference Product‘
  - definitions refers to one MA approved in the EU
  - no longer differences between ‚Originators‘ (?)
- Decentralised Procedure
  - discussion on wording of SPC between RMS and CMSs
  - in case of arbitration: positive MSs may issue a MA
  - Coordination Group to solve problems

Problems

Solution from Review 200X/FML?

- Role of the Coordination Group
  - prepare a list of medicinal products to be harmonised
  - revival of Core-SPCs?
  - new procedure for harmonisation?

Conclusions

Harmonisation will be beneficial if

- the SPC of the ‚Originator' is harmonised before the first national MA of a ‚Generic'
- there is a clear definition of ‚Originator' (Duplicates!)
- there is a sound legal basis
- the harmonisation process is straight forward and fast
- resources at the National Agencies/EMEA/CPMP can be saved
- there are effective tools to keep the harmonisation