May 7, 2019

BY ELECTRONIC SUBMISSION

Docket Management Branch (HFA-305)
Food and Drug Administration
Department of Health and Human Services
5630 Fishers Lane, Room 1061
Rockville, MD 20852

RE: Docket FDA-2013-D-1543; Comments of Mylan, Inc. to FDA's Draft Guidance for Industry on Nonproprietary Naming of Biological Products: Update

Dear Sir or Madam:

Mylan, Inc. ("Mylan") appreciates the opportunity to provide comments on the Food and Drug Administration's ("FDA") draft update to its guidance on the nonproprietary naming of biological products ("the Update"). On November 15, 2015, Mylan provided comments on the Draft Guidance on the Nonproprietary Naming of Biological Products ("the Guidance"), and incorporates those comments by reference.[1] The comments that we submit today relate primarily to the Update, which proposes to maintain suffixes for biosimilars and newly licensed biologics, but not for already licensed biologics or transitional biologics. As outlined below, and in our prior comment, these suffixes are not necessary and, worse, generate confusion by departing from usual naming conventions in the US (including for other biologics already approved by FDA that share nonproprietary names) and elsewhere, and giving the appearance of difference when none exists. Accordingly, Mylan remains strongly opposed to FDA's approach to nonproprietary naming of biological products and urges the Agency to follow past naming precedent and global consensus and assign the same nonproprietary name to biosimilars and biologics that share an active ingredient.

Mylan is a global pharmaceutical company that is the second largest provider of prescription medicine in the United States. It is taking a leading role in the development of biosimilars and interchangeable biologics for the U.S. marketplace. Mylan's global product pipeline includes 20 biosimilar and insulin analog products, including nine of the world's top 10 biologics, and focused on oncology, immunology, endocrinology and ophthalmology. Mylan has two approved biosimilars in the United States and has invested $1 billion to bring biosimilars to market.

As we said in our previous comments, we believe that adding meaningless suffixes to nonproprietary names is unnecessary for pharmacovigilance purposes and, worse,

[1] Comment of Mylan (Nov. 12, 2015), Docket No. FDA-2013-D-1543-0179, available at: https://www.regulations.gov/document?D=FDA-2013-D-1543-0179 (accessed Apr. 30, 2019). We also incorporate our comments to Generic Pharmaceutical Association Citizen Petition to *Requests That the International Non-Proprietary Naming (INN) Policy Equally to all Biologics*, Docket No. FDA-2013-P-1153, available at: https://www.regulations.gov/document?D=FDA-2013-P-1153-0039 (accessed Apr. 30, 2019) and to Novartis Citizen Petition to *Require That a Biosimilar be Identified by the Same International Nonproprietary Name as the Reference Product*, Docket No. FDA-2013-P-1398, available at: https://www.regulations.gov/document?D=FDA-2013-P-1398-0024 (accessed Apr. 30, 2019).

counterproductive in that it creates confusion and discourages biologic uptake. Moreover, for multiple reasons, we believe that the proposals in the FDA's recent Update would create or exacerbate any yet-to-be-defined problems with confusion between biologic products.

We continue to believe that the suffix system, compounded by the exceptions proposed in the Update, will not achieve the benefits that FDA predicts. Most importantly, it will not improve drug identification in adverse event reports because the trade name is the primary point of identification for providers and patients. FDA's own Adverse Event Reporting System shows that 99% of biosimilar adverse events were reported using the product's brand name.[2] It is therefore not surprising that a recent European Academic and Regulators study on pharmacovigilance systems in Europe found that 96.7% of overall product identification was achieved across ten classes of biologic products, including biosimilars, sharing the same nonproprietary name.[3] FDA's decision to not require suffixes for already approved biologics and transitional biologics further undermines FDA's assertions that meaningless suffixes are necessary, and implicitly acknowledges that different proprietary names are not needed to ensure safe use.

FDA's proposal will likely have adverse public health consequences and undermine pharmacovigilance efforts rather than improve them. For example, an adverse event report without a suffix (made more likely because the suffixes are complex and difficult to remember) might be mistakenly attributed to the reference product and not the biosimilar.

As to inadvertent substitution, we have no reason to believe that this has been a problem in the past based on naming conventions and no reason to suppose that current international conventions would become a problem in the future. We note that First Data Bank, the American Pharmacist's Association, and other pharmacist organizations, have consistently opposed the suffix system. None of the comments we reviewed from these organizations identified inadvertent substitution as an issue.[4] FDA's Update proposal seems more likely to create a problem by discouraging substitution of interchangeable products because, under FDA's update, they will carry different nonproprietary names.

The Update proposal excusing some biologics, essentially only originator ones, from using suffixes will further discourage biosimilar uptake. Yet it is this uptake that is critical to achieving the cost savings that the Biologics Price Competition and Innovation Act was designed to provide, and the public health virtues of access and affordability that was expected to result. In the past, FDA has acknowledged that using suffixes for some biologics but not others could lead

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[2] Gingery, "Biosimilar Suffixes Appear Superfluous in Adverse Event Reporting," (Oct. 10, 2018), *The Pink Sheet*, available at: https://pink.pharmaintelligence.informa.com/PS124042/Biosimilar-Suffixes-Appear-Superfluous-In-Adverse-Event-Reporting (accessed May 2, 2019).

[3] Vermeer, et al. "Identifiability of Biologicals in Adverse Event Reaction Reports Received from European Clinical Practice." Clinical Pharmacology. Available online at https://bit.ly/2NwhBhf (accessed May 2, 2019).

[4] Comment of First Data Bank (Feb. 10, 2017), Docket No. FDA-2013-D-1543-0193, available at: https://www.regulations.gov/document?D=FDA-2013-D-1543-0193 (accessed May 2, 2019); Comment of National Community Pharmacists Association and National Association of Chain Drug Stores (Feb. 10, 2017), Docket No. FDA-2013-D-1543-0195, available at: https://www.regulations.gov/document?D=FDA-2013-D-1543-0195 (accessed May 2, 2019); APhA Advocacy Issues, available at: https://www.pharmacist.com/apha-advocacy-issues (accessed May 2, 2019).

to "inaccurate and scientifically unfounded assertions of inferiority or clinically meaningful differences of an approved biosimilar product…."[5] We believe that FDA's past view was correct, and that allowing approved and transition reference products to continue without suffixes would create unwarranted distinctions among products when none exists. Indeed, there could be no distinction in terms of clinical effect and safety profile between an approved biosimilar and its reference product based on the BPCIA approval criteria that requires FDA determine that a biosimilar has "no clinically meaningful differences" from the reference product.[6] To suggest otherwise undermines the statutory standard. FDA appropriately states on their biosimilars home page that "Biosimilars are safe, effective treatment options."[7]

The Federal Trade Commission ("FTC"), the US Government agency whose mission and expertise is protecting consumers and promoting competition, has also opposed the suffix system.[8] FTC states that assigning different suffixes to nonproprietary names of biosimilars could result in physicians incorrectly believing that biosimilar's drug substances differ in clinically meaningful ways from that of the reference drug, especially given historical practice, and thus impede the development of the biosimilar market and competition. The FTC comments were particularly persuasive in explaining why encouraging biologic competition is so important to containing healthcare costs, pointing out that biologic prices are relatively high and rising rapidly and that biologics are a growing segment of the pharmaceutical market.

In the Update, FDA also proposes to maintain suffixes even for interchangeable products, which would create uncertainty about whether interchangeable products are in fact interchangeable and thus discourage substitution given that their reference products do not have suffixes. In our comments on the Guidance, we noted a survey of pharmacists which concluded that the use of distinguishable nonproprietary names may influence pharmacists' likelihood to substitute interchangeable biologics, since most pharmacists indicated feeling confident or very confident with biosimilar substitution only when the interchangeable biosimilar and the reference product shared a generic or nonproprietary name.[9] After all such is the existing practice for generics where all therapeutically equivalent products, as listed by the FDA in the Orange Book, share nonproprietary names. A scenario can be readily conceived where a pharmacist refuses to substitute an interchangeable biologic because the nonproprietary names were not the same.

We are not alone in believing that the suffix system for biologics is not necessary or beneficial. Most other countries use the same nonproprietary name for biosimilars and their reference drugs, and we believe that FDA should give stronger consideration to the desirability of global harmonization in adopting a naming convention, and particularly to the benefits of the international nonproprietary name ("INN") system, which harmonizes nonproprietary names across countries. At a time when regulatory authorities around the world are trying to minimize differences in regulatory approach, FDA should not create or perpetuate an outlier system.

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[5] Proposed Rule, Designation of Names and Proper Names for Certain Biological Products, 80 Fed. Reg. 52224 at 52227, Aug. 28, 2015; and Guidance for Industry, Nonproprietary Naming of Biological Products, Jan. 2017.
[6] 42 U.S.C. § 262 (2019).
[7] https://www.fda.gov/drugs/therapeutic-biologics-applications-bla/biosimilars (accessed May 2, 2019).
[8] Comment of Federal Trade Commission (Oct. 27, 2015), Docket No. FDA-2013-D-0146, at 2-3, available at: https://www.regulations.gov/document?D=FDA-2013-D-1543-0146 (accessed May 2, 2019).
[9] Assessment of Pharmacists' Views on Biosimilar Naming Conventions, Fernando-Lopez et al. J. Manag. Care Spec Pharm. 2015;21(3): 188-95.

In short, it appears that the Update proposes to mitigate some flaws in the suffix system at the cost of magnifying the existing problems in the system. Rather than seeking piecemeal solutions, we ask that FDA eliminate the entire suffix system in favor of a more rational approach that is consistent with the statutory standard of approval for biosimilars and facilitates a robust marketplace for biologics and biosimilars so that US patients can benefit from increased affordability and access to these important, life-changing and life-saving treatment options.

Sincerely,

Arnd Annweiler
Head of Global Biologics/Respiratory R&D and Scientific Affairs