COMMISSION REGULATION (EC) No 507/2006

of 29 March 2006

on the conditional marketing authorisation for medicinal products for human use falling within the scope of Regulation (EC) No 726/2004 of the European Parliament and of the Council

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency [1], and in particular Article 14(7) thereof,

Whereas:

(1) Before a medicinal product for human use is authorised for placing on the market of one or more Member States, it generally has to undergo extensive studies to ensure that it is safe, of high quality and effective for use in the target population. The rules and procedures for obtaining a marketing authorisation are laid down in Directive 2001/83/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to medicinal products for human use [2] and in Regulation (EC) No 726/2004.

(2) In the case of certain categories of medicinal products, however, in order to meet unmet medical needs of patients and in the interests of public health, it may be necessary to grant marketing authorisations on the basis of less complete data than is normally the case and subject to specific obligations, hereinafter 'conditional marketing authorisations'. The categories concerned should be medicinal products which aim at the treatment, prevention or medical diagnosis of seriously debilitating or life-threatening diseases, or medicinal products to be used in emergency situations in response to public health threats recognised either by the World Health Organisation or by the Community in the framework of Decision No 2119/98/EC of the European Parliament and of the Council of 24 September 1998 setting up a network for the epidemiological surveillance and control of communicable diseases in the Community [3], or medicinal products designated as orphan medicinal products in accordance with Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products [4].

(3) Although the data upon which an opinion on a conditional marketing authorisation is based may be less complete, the risk-benefit balance, as defined in Article 1(28a) of Directive 2001/83/EC should be positive. Furthermore, the benefits to public health of making the medicinal product concerned immediately available on the market should outweigh the risk inherent in the fact that additional data are still required.

(4) Where conditional marketing authorisations are granted, they should be restricted to situations where only the clinical part of the application dossier is less complete than normal. Incomplete pre-clinical or pharmaceutical data should be accepted only in the case of a product to be used in emergency situations, in response to public health threats.

(5) In order to ensure that the right balance is struck between facilitating access to medicines for patients with unmet medical needs and preventing the authorisation of medicines with an unfavourable risk-benefit profile, it is necessary to make those marketing authorisations subject to specific obligations. The holder should be required to complete or initiate certain studies with a view to confirming that the risk-benefit balance is positive and resolving any questions relating to the quality, safety and efficacy of the product.

(6) Conditional marketing authorisations are distinct from marketing authorisations granted in exceptional circumstances in accordance with Article 14(8) of Regulation (EC) No 726/2004. In the case of the conditional marketing authorisation, authorisation is granted before all data are available. The authorisation is not intended, however, to remain conditional indefinitely. Rather, once the missing data are provided, it should be possible to replace it with a marketing authorisation which is not conditional, that is to say, which is not subject to specific obligations. In contrast, it will normally never be possible to assemble a full dossier in respect of a marketing authorisation granted in exceptional circumstances.

[1] OJ L 136, 30.4.2004, p. 1.
[2] OJ L 311, 28.11.2001, p. 67. Directive as last amended by Directive 2004/27/EC (OJ L 136, 30.4.2004, p. 34).
[3] OJ L 268, 3.10.1998, p. 1. Decision as last amended by Regulation (EC) No 1882/2003 (OJ L 284, 31.10.2003, p. 1).
[4] OJ L 18, 22.1.2000, p. 1.

(7) It should also be made clear that applications containing requests for conditional marketing authorisations may be the subject of an accelerated assessment procedure in accordance with Article 14(9) of Regulation (EC) No 726/2004.

(8) Since the provisions of Regulation (EC) No 726/2004 apply to conditional marketing authorisations unless otherwise provided for in this Regulation, the procedure for evaluating a conditional marketing authorisation is the normal procedure laid down in Regulation (EC) No 726/2004.

(9) In accordance with Regulation (EC) No 726/2004, conditional marketing authorisations will be valid for one year on a renewable basis. The deadline for submission of a renewal application should be six months prior to the expiry of the marketing authorisation, and the opinion of the European Medicines Agency (hereinafter the Agency) on the application should be adopted within 90 days of its receipt. To ensure that medicinal products are not removed from the market except for reasons related to public health, the conditional marketing authorisation should, as long as a renewal application is submitted within the deadline, remain valid until the Commission reaches a decision based on the renewal assessment procedure.

(10) Clear information should be provided to patients and healthcare professionals on the conditional nature of the authorisations. It is therefore necessary that such information be clearly stated in the summary of product characteristics of the medicinal product concerned as well as on the package leaflet.

(11) Enhanced pharmacovigilance for medicinal products granted a conditional marketing authorisation is important and is already adequately provided for in Directive 2001/83/EC and Regulation (EC) No 726/2004. However, the time schedule for submitting periodic safety update reports should be adapted to accommodate the annual renewal of conditional marketing authorisations.

(12) The planning of studies and of the submission of an application for a marketing authorisation occurs at an early stage in the development of medicinal products. Such planning will critically depend on whether a conditional marketing authorisation is a possibility. For this reason it is necessary to provide a mechanism for the Agency to give companies advice on whether a medicinal product falls within the scope of this Regulation. Such advice should be an additional service to the existing scientific advice provided by the Agency.

(13) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Medicinal Products for Human Use,

HAS ADOPTED THIS REGULATION:

Article 1

Subject matter

This Regulation lays down rules on the granting of a marketing authorisation subject to specific obligations in accordance with Article 14(7) of Regulation (EC) No 726/2004, hereinafter 'conditional marketing authorisation'.

Article 2

Scope

This Regulation shall apply to medicinal products for human use that fall under Article 3(1) and (2) of Regulation (EC) No 726/2004 and belong to one of the following categories:

1. medicinal products which aim at the treatment, the prevention or the medical diagnosis of seriously debilitating diseases or life-threatening diseases;

2. medicinal products to be used in emergency situations, in response to public health threats duly recognised either by the World Health Organisation or by the Community in the framework of Decision No 2119/98/EC;

3. medicinal products designated as orphan medicinal products in accordance with Article 3 of Regulation (EC) No 141/2000.

Article 3

Requests or proposals

1. A request for a conditional marketing authorisation may be presented by the applicant together with an application in accordance with Article 6 of Regulation (EC) No 726/2004. The request shall be accompanied by details showing that the product falls within the scope of this Regulation and satisfies the requirements laid down in Article 4(1).

The Agency shall immediately inform the Commission of applications containing a request for a conditional marketing authorisation.

2. The Committee for Medicinal Products for Human Use, hereinafter 'the Committee', may, in its opinion on an application submitted in accordance with Article 6 of Regulation (EC) No 726/2004, propose a conditional marketing authorisation, after having consulted the applicant.

Article 4

Requirements

1. A conditional marketing authorisation may be granted where the Committee finds that, although comprehensive clinical data referring to the safety and efficacy of the medicinal product have not been supplied, all the following requirements are met:

(a) the risk-benefit balance of the medicinal product, as defined in Article 1(28a) of Directive 2001/83/EC, is positive;

(b) it is likely that the applicant will be in a position to provide the comprehensive clinical data;

(c) unmet medical needs will be fulfilled;

(d) the benefit to public health of the immediate availability on the market of the medicinal product concerned outweighs the risk inherent in the fact that additional data are still required.

In emergency situations as referred to in Article 2(2), a conditional marketing authorisation may be granted, subject to the requirements set out in points (a) to (d) of this paragraph, also where comprehensive pre-clinical or pharmaceutical data have not been supplied.

2. For the purposes of paragraph 1(c), 'unmet medical needs' means a condition for which there exists no satisfactory method of diagnosis, prevention or treatment authorised in the Community or, even if such a method exists, in relation to which the medicinal product concerned will be of major therapeutic advantage to those affected.

Article 5

Specific obligations

1. By way of specific obligations, the holder of a conditional marketing authorisation shall be required to complete ongoing studies, or to conduct new studies, with a view to confirming that the risk-benefit balance is positive and providing the additional data referred to in Article 4(1).

In addition, specific obligations may be imposed in relation to the collection of pharmacovigilance data.

2. The specific obligations referred to in paragraph 1 and the timeframe for their completion shall be clearly specified in the conditional marketing authorisation.

3. The Agency shall make the specific obligations and the timeframe for their completion publicly available.

Article 6

Renewal

1. After its period of validity of one year the conditional marketing authorisation may be renewed annually.

2. The application for renewal shall be submitted to the Agency at least six months before the expiry of the conditional marketing authorisation, together with an interim report on the fulfilment of the specific obligations to which it is subject.

3. The Committee shall assess the application for a renewal, on the basis that the risk-benefit balance is to be confirmed, taking into account the specific obligations contained in the authorisation and the timeframe for their fulfilment, and shall formulate an opinion as to whether the specific obligations or their timeframes need to be retained or modified. The Agency shall ensure that the opinion of the Committee is given within 90 days following receipt of a valid renewal application. That opinion shall be made publicly available.

4. Once a renewal application has been submitted in accordance with paragraph 2, the conditional marketing authorisation shall remain valid until a decision is adopted by the Commission in accordance with Article 10 of Regulation (EC) No 726/2004.

Article 7

Marketing authorisation not subject to specific obligations

Where the specific obligations laid down in accordance with Article 5(1) have been fulfilled, the Committee may at any time adopt an opinion in favour of the granting of a marketing authorisation in accordance with Article 14(1) of Regulation (EC) No 726/2004.

Article 8

Product Information

Where a medicinal product has been granted conditional marketing authorisation in accordance with this Regulation, the information included in the summary of product characteristics and package leaflet shall contain a clear mention of that fact. The summary of product characteristics shall also contain the date on which the conditional authorisation is due for renewal.

Article 9

Periodic safety update reports

The periodic safety update reports provided for in Article 24(3) of Regulation (EC) No 726/2004 shall be submitted to the Agency and Member States immediately upon request or at least every six months following the granting or renewal of a conditional marketing authorisation.

Article 10

Agency advice prior to marketing authorisation application

A potential applicant for a marketing authorisation may request the advice of the Agency on whether a specific medicinal product being developed for a specific therapeutic indication falls within one of the categories set out in Article 2 and fulfils the requirement laid down in Article 4(1)(c).

Article 11

Guidelines

The Agency shall develop guidelines concerning the scientific application and the practical arrangements necessary to implement this Regulation. The guidelines shall be adopted after consultation with stakeholders and a favourable opinion of the Commission.

Article 12

Transitional provision

This Regulation shall apply to applications pending at the time of its entry into force.

Article 13

Entry into force

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 29 March 2006.

For the Commission

Günter VERHEUGEN

Vice-President