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Insight

The legal basis of an EU Marketing Authorisation Application

Applications for Marketing Authorisation (MA) in the European Union (EU) are submitted in accordance with the relevant legal basis specified in Directive 2001/83/EC, as amended. The legal basis underpins the regulatory requirement and documentation required. There are six legal bases available. This Insight briefly summarises each one.

Article 8.3

Article 8.3 states that "the application shall be accompanied by the following particulars and documents in accordance with Annex 1". Annex 1 (2003/63/EC) describes the documentation required for a "full" submission in which full clinical, non-clinical and quality documentation must be presented. MAs approved under Article 8.3 are granted a 10 (8+2*) year market exclusivity period and are usually new active substances.

**companies can use the reference product as such in an abridged MAA after the 8 year exclusivity period has expired, but cannot place the product on the market for a further 2 years.*

Article 10(a)

Applications submitted under Article 10a are also known as a "well established use" applications and must be supported by substantial published literature. These applications are particularly challenging as a link must be established between the proposed product, and the products used in the published literature studies. It is not uncommon for Regulatory Authorities to request bioequivalence studies in order bridge data. Consequently, applications submitted under this little used legal basis should have a very similar composition pharmaceutical form, strength and route of administration. It is recommended to seek advice prior to submitting applications under Article 10a.

Article 10(b)

Article 10b is the legal basis for combinations of active substances that have not previously been used in combination for therapeutic purposes. The indications are usually expected to be linked.

Article 10(c)

Article 10c is used for the submission of MA applications known as "Simple" applications whereby a MAH may grant another company full access to all pharmaceutical, clinical and non-documentation for the purposes of applying for their own MAA for the same product. Also called "copy licenses", the only details that may be amended as part of the license application are the company and product names. All other information must be identical.

Article 10.1

This legal basis is for generic products claiming equivalence to the innovator. Article 10.1 states "Generic medicinal product shall mean a medicinal product which has the same qualitative and quantitative composition in active substances and be the same pharmaceutical form as the reference medicinal product and whose bioequivalence with the reference medicinal product has been demonstrated by appropriate bioavailability studies".

Article 10.3

Article 10.3 is appropriate for products which do not fall into the definition of a generic medicinal product, where the bioequivalence cannot be demonstrated through bioavailability studies, or in the case of changes in the active substance(s), therapeutic indications, strength, pharmaceutical form or route of administration, vis-à-vis the reference medicinal product. The results of the appropriate pre-clinical tests of clinical trials must provided. In the context of Article 10.3, the "change in active substance" is intended to capture difference esters/salts/complexes/derivatives of the same active moiety.

Insights

- The correct selection of the legal basis for an MAA is key and impacts the data to be submitted.
- Whilst submission using the incorrect legal basis is likely to be corrected during submission validation, any significant differences in data requirements will be challenging to address at this point.
- Early decision making is key. Regulatory advice in relation to the legal basis can be obtained from Regulatory Authorities free of charge, so if there are any uncertainties, it is best to ask.