Commission Regulation (EU) No 712/2012 of 3 August 2012 amending Regulation (EC) No 1234/2008 concerning the examination of variations to the terms of marketing authorisations for medicinal products for human use and veterinary medicinal products (Text with EEA relevance)

COMMISSION REGULATION (EU) No 712/2012

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amending Regulation (EC) No 1234/2008 concerning the examination of variations to the terms of marketing authorisations for medicinal products for human use and veterinary medicinal products

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Directive 2001/82/EC of the European Parliament and of the Council of 6 November 2001 on the Community code relating to veterinary medicinal products[(1)], and in particular Article 27b thereof,

Having regard to 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 particular Article 23b(1) thereof,

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[(3)], and in particular Article 16(4) and Article 41(6) thereof,

Whereas:

(1) Directive 2009/53/EC of the European Parliament and of the Council of 18 June 2009 amending Directive 2001/82/EC and Directive 2001/83/EC, as regards variations to the terms of marketing authorisations for medicinal products[(4)], requires the Commission to adopt appropriate arrangements for the examination of variations to the terms of marketing authorisations granted in accordance with Directives 2001/82/EC and 2001/83/EC not yet covered by Commission Regulation (EC) No 1234/2008[(5)]. It is therefore appropriate to extend the scope of Regulation (EC) No 1234/2008. The variations of all marketing authorisations granted in the EU in accordance with the *acquis* should be subject to the procedures laid down in Regulation (EC) No 1234/2008.

(2) The definition of variation should be clarified and updated in particular to take into consideration the provisions of Regulation (EU) No 1235/2010 of the European Parliament and of the Council of 15 December 2010 amending, as regards pharmacovigilance of medicinal products for human use, Regulation (EC) No 726/2004 laying down Community procedures for the authorisation and supervision of medicinal

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products for human and veterinary use and establishing a European Medicines Agency, and Regulation (EC) No 1394/2007 on advanced therapy medicinal products[(6)], and the provisions of Directive 2010/84/EU of the European Parliament and of the Council of 15 December 2010 amending, as regards pharmacovigilance, Directive 2001/83/EC on the Community code relating to medicinal products for human use[(7)].

(3) For reasons of consistency and with a view to reducing the administrative burden, variations to purely national marketing authorisations should be processed in accordance with the same principles that apply to variations of marketing authorisations granted under the mutual recognition procedure and the decentralised procedure. However, the possibilities for grouping variations should be adapted to the specific characteristics of purely national marketing authorisations.

(4) It should be possible to process variations to purely national marketing authorisations in accordance with the worksharing procedure under certain conditions. Where the use of the worksharing procedure has lead to the harmonisation of a section of the summary of product characteristics, it should not be possible for the holder to later undermine the harmonisation achieved by submitting applications for variations to the section thus harmonised in some of the concerned Member States only.

(5) Grouping of several variations in a single submission is possible in some cases. It should be clarified that, where several variations are grouped, the procedure for the handling of the variations in the group and the rules for the implementation of those variations should be those of the variation of the highest grade. In order to facilitate the acceptance of complex groupings by the relevant authorities, it should be possible to extend the assessment period.

(6) The worksharing procedure is intended to avoid duplication of work. Accordingly, it should be possible for competent authorities to process under the same procedure variations to purely national marketing authorisations, variations to marketing authorisations granted under the mutual recognition or decentralised procedure, and variations to centralised marketing authorisations.

(7) The procedure for the variation of human influenza vaccines should be streamlined. Competent authorities should still be able to start the assessment in the absence of clinical and stability data and take a decision if no additional information is considered necessary. However, if clinical and stability data is requested, the competent authorities should not be required to take a decision until the assessment thereof has been finalised.

(8) For medicinal products authorised under Regulation (EC) No 726/2004, the refusal of the European Medicines Agency to accept a variation should terminate the procedure. Likewise, a Commission decision should not be required regarding variations that do not amend the terms of the decision granting the marketing authorisation.

(9) The European Medicines Agency has the expertise to assess the need for urgent safety restrictions regarding medicinal products authorised under the centralised procedure. Marketing authorisation holders of medicinal products authorised under Regulation (EC) No 726/2004 should therefore inform the Agency if they consider that urgent safety measures are necessary.

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(10) A proliferation of variation procedures leading to frequent changes in the terms of the decision granting the marketing authorisation for centralised marketing authorisations has been identified. Changes that are critical for public health should be reflected in the decision granting the marketing authorisation promptly. However, other changes should be reflected in the decision granting the marketing authorisation according to timelines that ensure reasonable periodic updates of the decision granting the marketing authorisations while facilitating the identification of variations with the greatest impact on public health.

(11) The principles governing the implementation of variations should be adjusted while keeping the principle that it should be possible for the marketing authorisation holder to implement certain variations prior to the relevant marketing authorisation being changed.

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

HAS ADOPTED THIS REGULATION:

Article 1

Amendments to Regulation (EC) No 1234/2008

Regulation (EC) No 1234/2008 is amended as follows:

(1) Article 1 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. This Regulation lays down provisions concerning the examination of variations to the terms of all marketing authorisations for medicinal products for human use and veterinary medicinal products granted in accordance with Regulation (EC) No 726/2004, Directive 2001/83/EC, Directive 2001/82/EC, and Council Directive 87/22/EEC[8].;

(b) the following paragraph shall be inserted after paragraph (3):

3a. Chapter IIa shall apply only to variations to the terms of purely national marketing authorisations.;

(2) Article 2 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. "Variation to the terms of a marketing authorisation" or "variation" means any amendment to:

a the information referred to in Articles 12(3) to 14 of Directive 2001/82/EC and Annex I thereto, Articles 8(3) to 11 of Directive 2001/83/EC and Annex I thereto, Articles 6(2) and 31(2) of Regulation (EC) No 726/2004, or Article 7 of Regulation (EC) No 1394/2007;

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b the terms of the decision granting the marketing authorisation for a medicinal product for human use, including the summary of the product characteristics and any conditions, obligations, or restrictions affecting the marketing authorisation, or changes to the labelling or the package leaflet connected with changes to the summary of the product characteristics;

c the terms of the decision granting the marketing authorisation for a veterinary medicinal product, including the summary of the product characteristics and any conditions, obligations, or restrictions affecting the marketing authorisation, or changes to the labelling or the package leaflet.;

(b) paragraph 8 is replaced by the following:

8. "Urgent safety restriction" means an interim change in the terms of the marketing authorisation due to new information having a bearing on the safe use of the medicinal product.;

(c) the following paragraph 9 is added:

9. "Purely national marketing authorisation" means any marketing authorisation granted by a Member State in accordance with the *acquis* outside the mutual recognition or decentralised procedure and that has not been subject to a complete harmonisation following a referral procedure.;

(3) Article 3 is amended as follows:

(a) paragraph 2 is replaced by the following:

2. A variation which is not an extension and whose classification is undetermined after application of the rules provided for in this Regulation, taking into account the guidelines referred to in Article 4(1) and, where relevant, any recommendations delivered pursuant to Article 5, shall by default be considered a minor variation of type IB.;

(b) in paragraph 3, point (b) is replaced by the following:

(b) where the competent authority of the reference Member State as referred to in Article 32 of Directive 2001/82/EC and Article 28 of Directive 2001/83/EC (hereinafter "the reference Member State"), in consultation with the other Member States concerned, or the Agency in the case of a centralised marketing authorisation, or the competent authority in the case of a purely national marketing authorisation, concludes, following the assessment of validity of a notification in accordance with Article 9(1), Article 13b(1), or Article 15(1) and taking into account the recommendations delivered pursuant to Article 5, that the variation may have a significant impact on the quality, safety or efficacy of the medicinal product concerned.;

(4) Article 4 is replaced by the following:

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Article 4

Guidelines

1 The Commission shall, after consulting the Member States and the Agency, draw up guidelines on the details of the various categories of variations, on the operation of the procedures laid down in Chapters II, IIa, III and IV of this Regulation, and on the documentation to be submitted pursuant to those procedures.

2 The guidelines referred to in paragraph 1 shall be regularly updated.;

(5) Article 5 is amended as follows:

(a) paragraph 1 is replaced by the following:

1. Prior to the submission of a variation whose classification is not provided for in this Regulation, a holder may request a recommendation on the classification of the variation as follows:

a to the Agency, where the variation refers to a marketing authorisation granted under Regulation (EC) No 726/2004;

b to the competent authority of the Member State concerned, where the variation refers to a purely national marketing authorisation;

c to the competent authority of the reference Member State, in the other cases.

The recommendation referred to in the first subparagraph shall be consistent with the guidelines referred to in Article 4(1). It shall be delivered within 45 days following receipt of the request and sent to the holder, the Agency, and the coordination group referred to in Article 31 of Directive 2001/82/EC or in Article 27 of Directive 2001/83/EC.

The 45-day period referred to in the second subparagraph may be extended by 25 days where the relevant authority deems it necessary to consult with the coordination group.;

(b) the following paragraph 1a is inserted after paragraph 1:

1a. Prior to the examination of a variation whose classification is not provided for in this Regulation, a competent authority of a Member State may request a recommendation on the classification of the variation to the coordination group.

The recommendation referred to in the first subparagraph shall be consistent with the guidelines referred to in Article 4(1). It shall be delivered within 45 days following receipt of the request and sent to the holder, the Agency, and the competent authorities of all Member States.;

(6) Article 7 is replaced by the following: