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PDUFA IV: Looking ahead to the reauthorization of the Prescription Drug User Fee Act

See page 5

THE NEWS THIS WEEK Vol. 67, No. 45 November 7, 2005

FDA Drug Safety Moves In Two Directions: Analysis And Communications

- **CDER REORGANIZATION PROPOSAL WILL CREATE AN ASSOCIATE CENTER DIRECTOR TO OVERSEE DRUG SAFETY** policy and risk communication; postmarketing surveillance and risk management activities will remain within a renamed Office of Drug Safety. Changes to be implemented over the next six months also include establishment of an office to oversee FDA's Critical Path initiative and splitting the Office of Counterterrorism & Pediatric Drug Development's responsibilities 3

- **DRUG SAFETY FUNDING IS INCREASED BY $10 MIL. UNDER FDA APPROPRIATIONS BILL** passed by House and Senate. Increase designated for additional drug safety scientists and the acquisition of adverse event databases. Bill also provides additional $884,000 for direct-to-consumer advertising monitoring. $520 mil. is allocated to the Center for Drug Evaluation & Research, with $178 mil. going to the biologics center 6

- **Direct-to-consumer ads should wait until post-marketing surveillance data is collected and analyzed,** American Society of Health-System Pharmacists recommends at FDA hearing on DTC advertising. Consumer groups back two- to three-year moratorium on ads for new products. Agency needs authority for preclearance of ads and imposition of civil penalties for repeat violations, ASHP and consumer groups say 9

- **FDA needs healthcare communications advisory committee to formulate DTC policy,** former FDA Associate Commissioner Pitts says. Ad regulations must be evidence-based, speakers tell agency at hearing 7

- **King Pharmaceuticals expands scope of Medicaid rebate settlement** after finding whistleblower allegations were just the tip of the iceberg. Whistleblower cited problems with *Altace* price reporting, but company discovered systemic failures, prompting $124 mil. payout. Corporate integrity agreement includes focus on average sales price 23

- **Novartis is sweet on Chiron, but first step is cleaning up the house:** after sweetened bid for the vaccine manufacturer carries the day, short-term priorities will focus on resolving outstanding manufacturing issues. Longer-term plans call for investing in cell-based flu vaccine manufacturing 15

Schering's Pipeline Is Nothing To Sneeze At

- **Schering-Plough pipeline builds on core therapeutic areas, with new agents in antiviral, cardiovascular** and respiratory categories. Most launches are slated for 2009 and beyond. Schering also continues focus on existing products, lifecycle management as it goes through "turnaround" phase of growth plan 20

- **Big pharma will be outpaced by smaller, innovative competitors unless it adopts** a small company energy and spirit, Schering-Plough CEO Hassan predicts during Nov. 1 business update. About half of Schering's pipeline and portfolio should come from outside sources, exec predicts. Schering open to range of licensing options, from early to late stage to full company acquisitions. "We are in deal mode," Hassan says 18

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THE NEWS THIS WEEK (continued)

- **Biologics under Part D: coinsurance appears to be preferred beneficiary cost-sharing** method for Medicare drug plans, according to a formulary analysis of seven plans by *"The Pink Sheet."* Plans are employing a variety formulary management tools for biologics; wide use of prior authorization may reflect effort to differentiate between Part D and Part B uses, Caremark exec says 27

- **CMS drops "equitable adjustment" method for reimbursing J&J's *Procrit* and Amgen's *Aranesp*** for Medicare Part B in outpatient prospective payment system final rule, but agency will consider aligning rate for two drugs again in future. Under average sales price-based system, payments for both products will decrease by about 18% in 2006 26

- **Oncology "quality of care" demo extended but focus shifts to clinical guideline** adherence. Program originally designed to ease transition to ASP-based reimbursement for oncologists will now gauge physician adherence to evidence-based clinical practice guidelines. Funding for program cut in half to $150 mil. for 2006 25

- **Medicare Part B competitive acquisition program gets overhaul:** agency reverses earlier rule, exempts CAP prices from average sales price calculations used for Part B reimbursement, acknowledging Congress may have intended the two programs to operate independently. Following publication of revised interim final rule, vendor bidding process will begin Nov. 21, with physician election starting in April 24

- **Medco's state of affairs depends on state clients; after losing the federal** employee benefits contract, the PBM has picked up a number of state contracts with heavier retail usage. Firm sees situation as opportunity to convert business to mail, expects increase in generic dispensing rate in 2006 22

- **Novartis' oral iron-chelating therapy *Exjade* will launch in December** following FDA approval for broad transfusional hemosiderosis indication in patients over two years of age. Company estimates market for iron chelation could grow dramatically with availability of more convenient treatment 14

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- **More complex indications for drugs have led to increased clinical development time, Tufts** Center for the Study of Drug Development report says. Other factors include requirements for cost-effectiveness studies along with regulatory burden, increased trial sizes and recruitment difficulties. Average clinical development time was 7 years over the 2002-2004 time period, up from 5.8 years in 1999-2001 17

- **Avian flu plan from Bush Administration would boost stockpiling at the state level; antivirals** should be on hand for 25% of the U.S. population, the plan says. Roche continues to ramp up production of ***Tamiflu*** and gains approval to manufacture the antiviral in the U.S. for the first time 16

- ***Premarin* challenges are compounded by pharmacies claiming safer "bioidentical" hormone** replacement therapies. Wyeth citizen petition to FDA asks agency to stop compounding pharmacies from producing plant-derived products. In a possible nod FDA's enforcement difficulties in the area, Wyeth makes case based mainly on safety issues 11

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FDA's Drug Center Reorganization Creates Second Safety Director Position

The Center for Drug Evaluation & Research will divide its drug safety functions between a new associate center director and its existing Office of Drug Safety.

Under a proposed reorganization, FDA will create an associate center director position to oversee drug safety communication activities as part of an agency effort to elevate the profile of its drug safety work.

"We're announcing a creation of a new associate center director who will focus on development of drug safety policy and how we communicate about risks," CDER Director Steven Galson said Nov. 4 at a meeting of FDA's Science Board.

"The current organizational structure perpetuates the misperception that ensuring drug safety is solely the responsibility of the current Office of Drug Safety," Galson said in a same-day memo to CDER staff.

FDA's Office of Drug Safety will be renamed "to more accurately reflect the range of activities it performs."

"Approximately 50% of CDER's resources across the organization are dedicated to drug safety. I believe our organizational structure should reflect this multi-disciplinary approach and commitment and provide a focus for critical cross-Center safety-related activities such as policy development and implementation."

The main function of the associate director will be to develop drug safety policies across CDER.

"We really needed a focus for cross-center policy development that we didn't really have in the organization that we've got right now," Galson said at the Science Board meeting.

The associate director's offce will be responsible for MedWatch, the Drug Safety Oversight Board staff and possibly other risk communication activities in CDER such as a drug safety newsletter.

"We're going to consolidate some key risk communication activities that exist now in different places around the center," Galson said.

Office of Pharmacoepidemiology & Statistical Science Director Paul Seligman will "further develop the concept of consolidating CDER's drug safety policy and risk communication activities under the aegis of a new Associate Center Director," FDA said.

OPaSS will be eliminated in the new organizational structure with its two component offices – ODS and the Office of Biostatistics – being moved *(see chart, next page)*.

Although a new associate center director will address drug communication activities, responsibilities such as postmarketing surveillance and risk management will remain within the purview of the Office of Drug Safety.

In addition, ODS will be renamed "to more accurately reflect the range of activities it performs," FDA said.

Both the associate director and the Office of Drug Safety director will report to Galson.

FDA recently appointed ODS Division of Surveillance, Research & Communication Support Director Gerald Dal Pan to the ODS director post after a two-year search ("The Pink Sheet" Oct. 24, 2005, p. 3).

Although Dal Pan will take over as ODS director in mid-November, the broader CDER reorganization is expected to take six months to implement.

In the wake of recent drug safety scandals, FDA has been criticized for prioritizing drug approvals over drug safety. Critics have pointed to the unequal position of the Office of Drug Safety and the Office of New Drugs within the agency's organizational structure.

"We're elevating the organizational status of what is currently the Office of Drug Safety to report directly to the center director so this gives it the same level as...the Office of New Drugs," Galson said.

Such a change could diffuse congressional pressure to create a separate center devoted to drug safety issues.

In addition to revamping its drug safety organization, CDER will also create a new office for science and development activities. The office will "provide a locus in the Center to catalyze Critical Path activities."

The new "super-office," which will also report to Galson, will consist of the current Office of Clinical Pharmacology and the Office of Biostatistics.

"The Center could greatly enhance the process to develop drugs more quickly, safely and effectively if staffed to provide sufficient assistance and advice to developers and to sustain public/private partnerships to improve drug development," FDA said.

"To date, the Center has not been staffed to support the needed work on the Critical Path and has not been configured to provide organizational 'ownership' of these activities,'" the agency added.

"This office, devoted to the Critical Path, will also provide an organizational home for staff to support CDER's cross-cutting scientific programs...and our Critical Path initiatives," FDA said.

The efforts to establish the office will be headed by Office of Counterterrorism & Pediatric Drug Development Acting Deputy Director Shirley Murphy.

FDA will divide the responsibilities of the pediatric and counterterrorism office.

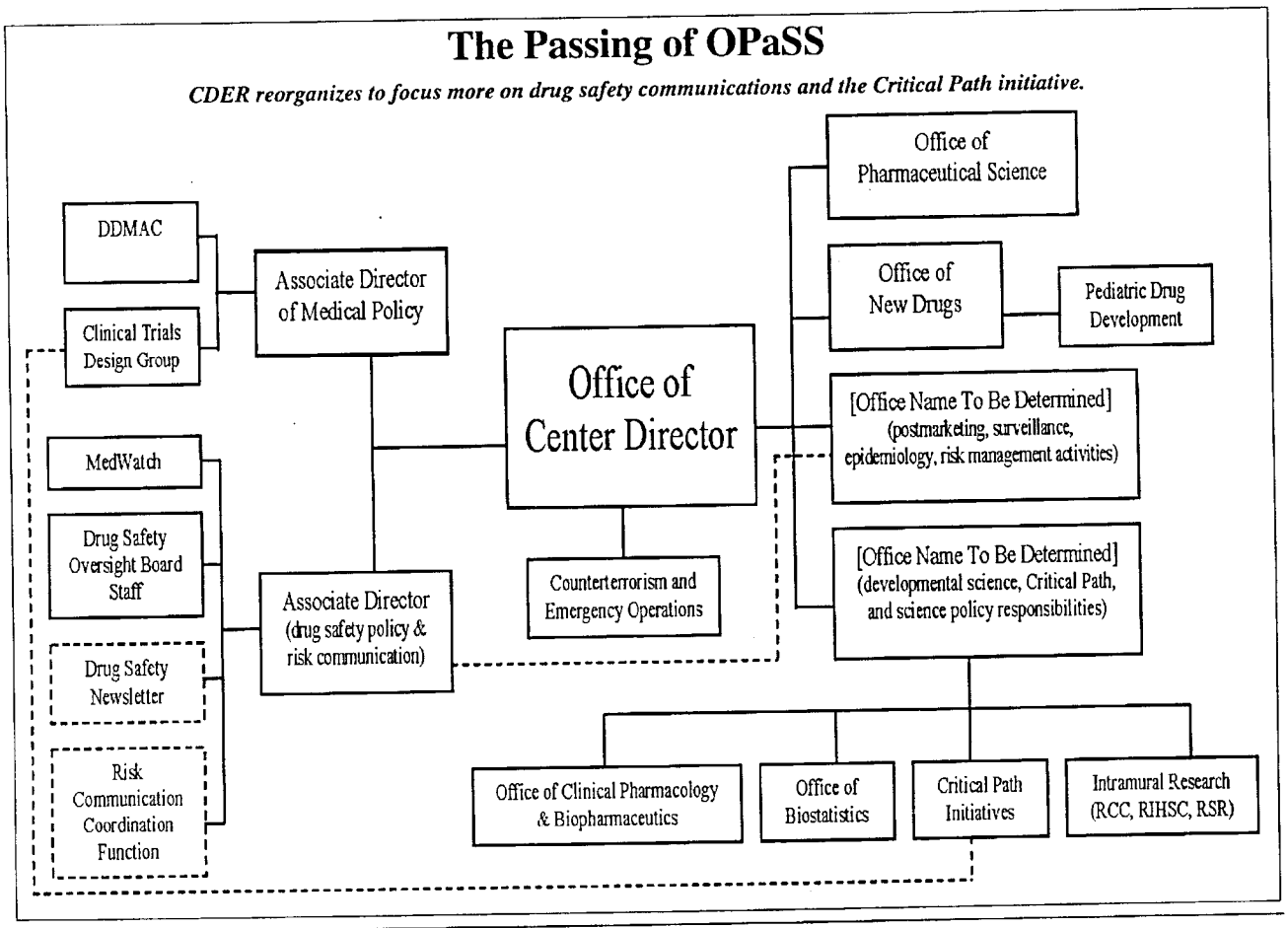
Under the new arrangement, the pediatric drug development review staff will move into the Office of New Drugs. A new Office of Counterterrorism & Emergency Operations will report to the center director.

In addition, the Division of Scientific Investigations will be transferred from the Office of Medical Policy into the Office of Compliance ("The Pink Sheet" Oct. 31, 2005, p. 16).

The Office of Medical Policy, headed by Robert Temple, will pick up a new group to address issues of trial design and analysis in Critical Path projects.

Office of Executive Programs Director Debbie Henderson will chair a working group to determine the details of the center's proposed reorganization, FDA said.

"Once final decisions have been made, many other important tasks (e.g., personnel actions, delegations of authority, space considerations, [National Treasury Employees Union] notification) will have to be completed before any reorganization can be finalized." ♦♦



Drug Safety Funding To Increase By $10 Mil. Under FDA Appropriations

The Agriculture Appropriations conference report approved by the House and Senate doubles the Administration's requested increase in drug safety funding for FDA to $10 mil.

"The conferees intend that these increases be used for FDA's highest priority drug safety needs that were not funded in fiscal year 2005," the fiscal 2006 Agriculture Appropriations conference report states.

The Senate passed the measure 81 to 18 on Nov. 3. The House agreed to the report on Oct. 28 by a vote of 318 to 63. The legislation now goes to President Bush to be signed into law.

The "unmet needs" from FY 2005 include the "hiring of additional scientists or the acquisition of databases to which FDA does not now have access to help track adverse drug events," the report states.

The funds will allow for "additional scientists or the acquisition of databases," the conference report states.

"The conferees direct FDA to provide a report to the Committees on Appropriations within 30 days of enactment, setting forth its proposed use of these funds in detail, including an object class breakout for the $10 mil. increase," the conference report states.

The Center for Drug Evaluation & Research is raising the profile of its drug safety activities through a series of organizational changes *(see related story, p. 3)*.

The conference agreement also increases funds for direct-to-consumer advertising monitoring by $884,000.

Although the conference report does not specify the reason for the additional funds, the House report states that "because staff levels for these activities, under the Division of Drug Marketing, Advertising and Communications...have remained flat for some time, despite the growth of [DTC] ads, the Committee believes this increase is needed."

During floor debate on the Agriculture Appropriations bill, Sen. Patty Murray (D-Wash.) withdrew four amendments related to Barr's over-the-counter switch application for ***Plan B*** in exchange for a promise that the conference report would express Congress' concern with FDA's approval process for the product.

"The conferees remain concerned about the legal and regulatory issues relating to approval of drugs as both prescription and over-the-counter products, and urge FDA to expedite rulemaking on this topic," the report states.

The conference report adopts a Senate provision that limits FDA's ability to grant conflict of interest waivers for advisory committee members. A quarterly report to the HHS Inspector General and both Appropriations Committees will be required on the efforts made to identify committee candidates with minimal or no potential conflicts of interest. The conferees eschewed the more restrictive House version.

The conference report dropped a provision included in the Senate report that "strongly" encouraged FDA to work to ensure that "authorized" generics do not have a detrimental competitive effect ("The Pink Sheet" June 27, 2005, p. 14).

In May, Sens. Charles Grassley (R-Iowa), Patrick Leahy (D-Vt.) and John Rockefeller (D-W.Va.) sent a letter to the Federal Trade Commission requesting a study on the competitive impact of authorized generics ("The Pink Sheet" May 16, 2005, p. 3).

The FTC said that it does not have plans to conduct such a study, although Grassley's office said the commission had made a verbal promise to do so.

However, budget reconciliation legislation from both chambers could make such a study moot: provisions included in the legislation that would include authorized generics in the calculation of "best price" could effectively end the practice.

The appropriations conference report removes language from the Senate report which had directed the FDA to report to Congress on its efforts to improve the citizen petition process, with particular regard to generic drug applications. The conferees also elected to exclude sections relating to anticounterfeiting technologies and follow-on biologics.

The report follows the House's recommendation by providing $520 mil. for CDER (the Senate proposed $515 mil.), while the $178 mil. in funding for the Center for Biologics Evaluation & Research matched that proposed by both the House and Senate. ♦♦

FDA Needs Health Communications Advisory Cmte. For DTC Policy, Pitts Says

An advisory committee on healthcare communications should be created to inform FDA's direct-to-consumer advertising policies, former FDA Associate Commissioner For External Relations Peter Pitts suggested at a FDA public hearing on DTC advertising Nov. 1-2.

"FDA cannot continue to regulate vague concepts such as fair balance and adequate provision on a case-by-case basis," Pitts said. Pitts is a Pacific Research Institute Senior Fellow and senior-VP global health at Manning Selvage & Lee.

"Perhaps it's time for a standing advisory committee on healthcare communications."

Pitts urged FDA to "put the 'science' back in social science," in a speech that included references to Winston Churchill, 20th century French composer Claude Debussy and quotes from the movie *Jerry Maguire*.

"To paraphrase Jerry Maguire, 'Show me the metrics,'" Pitts said, urging evidence-based DTC reviews.

"Winston Churchill said that Americans always strive to do the right thing after they have tried everything else," Pitts mused, acknowledging the conflict between DTC advertising as a "savvy marketing strategy and a power public health tool."

Pitts explained, however, that DTC advertising could benefit both industry and the public health if the agency collaborated with manufacturers, communications professionals and academics to develop an "evidence-based, predictable framework" that applies specifically to communications.

"Claude Debussy said that, 'Music is between the notes,' and this is as true for NDAs as it is for communications. But the same techniques used to judge clinical trials cannot be applied to communications," Pitts said.

An evidence-based framework will allow FDA's Division of Drug Marketing, Advertising & Communications to focus its DTC marketing reviews on a product-by-product basis.

"There must be options, because the same rules cannot equally apply to an allergy medicine on the one hand and an antidepressant on the other." Pitts said.

One evidence-based approach for FDA to undertake would be a benchmark study involving a social-scientific protocol, close-ended questions and trial subjects representative of the U.S. population.

Such a study "would provide a social science-based regulatory frame work, potential templates, metrics and, most importantly, add predictability to the DDMAC review process," Pitts said.

"To paraphrase *Jerry Maguire*, 'Show me the metrics,'" he declared.

The Pharmaceutical Research & Manufacturers of America also advocated for an evidence-based approach to DTC-reviews through consumer research.

"The agency should not make policy in this area by trial and error," PhRMA Assistant General Counsel Scott Lassman said. "An evidence-based approach...should rely on adequate consumer research to determine the best way to communicate benefit and risk information to consumers."

"PhRMA firmly believes that when patients have access to accurate and understandable information about their medical conditions and treatment options, they can partner more efficiently with their healthcare providers to obtain the most appropriate treatment for their individual circumstance," Lassman added.

Current American Medial Association guidelines support DTC advertising that enhances consumer education and encourages dialogue between patients and physicians. However, AMA Director of Science, Research & Technology Joseph Cranston called for more independent research on how DTC ads influence physician-patient relationships.

With much of the research, there is "consistency across the surveys that DTC may have a positive effect on increasing diagnoses on previously undiagnosed conditions," Cranston said.

"On the other hand, surveys consistently show that there is a subset of patients that may ask for specific advertised drugs from their physicians. The impact of this on patient physician relationships remains unclear," he said. "Many physicians continue to complain that less time is available to effectively

diagnose and treat patients who have a fixation on a particular drug as a result of a commercial."

In a Nov. 1 release, AstraZeneca announced that results from its first large-scale consumer research study on the effects of "fair and balanced" television commercials will be released in early 2006.

Cranston urged FDA to further investigate the effects of cognitive psychology in DTC ads. Ruth Day (Duke University) presented research at the public hearing, which found that television drug commercials are cognitively structured so a patient remembers a drug's benefits more than the risks.

"There are ways to use cognitive psychology to structure the ads," Cranston said. "Bring in some consultants from outside to look at this and see where it is possible to provide guidance. It would be nice if there were some convergence on guidance on" how to structure these ads.

While current AMA policy supports more independent research on the effects of DTC ads and adequate funding for regulating this type of advertising, AMA's future stance on DTC could shift, Cranston warned.

At the organization's 2004 annual meeting, six new resolutions were introduced, which included measures for increased federal regulation and an outright ban on DTC ads. AMA's House of Delegates will present a report on the six resolutions at the 2006 meeting.

"I'm providing this information up front because I think FDA needs to understand the current AMA policy on DTC could change after...the 2006 meeting," Cranston said.

DTC Perspectives Editor-In-Chief Mark Tosh lauded industry's attempts to develop more educational ads but advised FDA to develop a guidance encouraging ads that deal with retention and compliance.

"We are glad to see more disease education ads but the public needs to see ads on proper use of the drugs," Tosh said. "Poor retention and compliance is a major contributor to hospitalizations and other illnesses. We think reminder ads could be used for this purpose."

AstraZeneca released a Nov. 1 white paper – "The Responsible Path: Responsible Direct-To-Consumer Advertising Serves the Interest of Patients, Doctors, and Society" – highlighting the company's shift toward disease awareness advertisements, such as the "If You Were My Sister" campaign aimed at increasing awareness of the risk of breast cancer recurrence.

The company's new ***Crestor*** (rosuvastatin) ad is also "more serious in tone and content," AstraZeneca noted. The company received a DDMAC letter in March about superiority claims that were misleading because they relied on doses that were "not relevant" to the claims ("The Pink Sheet" March 21, 2005, p. 10).

Another TV ad campaign for its proton pump inhibitor ***Nexium*** (esomeprazole) stating that Nexium is "better" than TAP's ***Prevacid*** (lansoprazole) is no longer running, the company said.

At the public hearing, PhRMA estimated that 30% of its membership had adopted its guiding principles on DTC advertising, which calls on FDA to review companies' advertising materials prior to launch and urges industry to promote disease awareness ("The Pink Sheet" Aug. 8, 2005, p. 8).

Several companies have voluntarily imposed a moratorium on DTC advertising for new drugs. Pfizer has said it will educate physicians for six months prior to launching consumer promotions, while Bristol-Myers Squibb is delaying DTC commercials for a full year.

AstraZeneca does not have a firm moratorium against DTC ads for newly developed drugs. The company said FDA's ad review division should review DTC materials on a product-by-product basis.

"Each company would have to take an individual decision based on where a product is in its life cycle," AstraZeneca Senior V.P.-U.S. Commercial Operations Tony Zook said in an interview with "The Pink Sheet." Zook will replace U.S. President and Exec VP-North America David Brennan effective Jan. 1 ("The Pink Sheet" Sept. 19, 2005, In Brief).

AstraZeneca's white paper supports increased resources for prior-review of DTC ads.

Consumers Union Senior Policy Analyst William Vaughan recommended that the 2007 prescription drug user fee reauthorization could provide an opportunity for garnering additional funding for FDA's DTC reviews.

Increased funding through PDUFA would give FDA the "resources to flexibly do your job," Vaughan said, adding that the user fee should not be tied to an arbitrary time frame, resulting in a *de facto* moratorium of DTC marketing for new drugs. ♦♦

DTC Ad Delay Pending Collection Of Post-Marketing Data Endorsed By ASHP

Direct-to-consumer advertising should be delayed for new drug products pending analysis of post-marketing surveillance data, the American Society of Health-System Pharmacists suggested at an FDA public hearing Nov. 1-2.

"Advertising should be delayed until post-marketing surveillance data are recorded and assessed," ASHP Director-Federal Regulatory Affairs Gary Stein said at the DTC hearing.

That would allow for the "risks and benefits of therapy [to be] presented in a comprehensible format that allows informed decisions on both the part of the consumer and the healthcare provider, and that there is a clear relationship between the medication and the disease state," Stein said.

FDA Office of Medical Policy Director Robert Temple pointed out that waiting for surveillance data may not reveal a complete picture of the safety of a drug, noting that cardiovascular side effects with Merck's ***Vioxx*** were only discovered following a controlled study. The COX-2 inhibitor was withdrawn from the market in September 2004.

Stein responded that drug advertising should still await the collection of some surveillance data on a new drug.

Stein said that ASHP proposals are "not a fully ratified policy yet, but this is the direction I think that we are going."

"It is to support direct-to-consumer advertising that is educational in nature about prescription drug therapies for certain medical conditions that appropriately includes pharmacists as a source of information."

The Pharmaceutical Research & Manufacturers of America's DTC principles advise companies to spend "an appropriate amount of time" to educate healthcare professionals about a new product or indication before launching a DTC advertising campaign. Pfizer and Bristol-Myers Squibb have voluntarily adopted six and twelve-month moratoriums, respectively ("The Pink Sheet" Aug. 15, 2005, p. 3).

Consumer groups supported similar delays in introduction of DTC ads for new drugs as recommended by ASHP.

"We would like to see consideration by the FDA of prolonging the period between drug approval and initiation of product promotion. In other words, a moratorium on advertising for certain drugs when there is the need to gather more safety information and educate physicians and healthcare professionals," National Consumers League Health Policy Director Rebecca Burkholder said.

Consumers Union Senior Policy Analyst William Vaughan urged a two- to three-year moratorium on advertising of new drugs and preclearance of ads – for both consumers and healthcare professionals – once they are ready to be rolled out.

"We support pre-approval of all DTC and direct-to-provider ads before they are presented to the public and providers to end the long history of advertising that overstates benefits and understates risks."

AstraZeneca calls for a mandatory FDA review of DTC promotional material prior to launch.

Vaughan said the Consumers Union supports the bill introduced by Sens. Charles Grassley (R-Iowa) and Chris Dodd (D-Conn.) that would empower FDA to pre-clear marketing materials for two years following approval and increase authority to require post-marketing studies.

Consumers Union supports "requiring the ads for those drugs approved on condition of further study publicly state the safety concerns that have been identified and are being investigated. Hopefully that will speed up the day the company actually does those studies," he said.

Once ads are launched, Vaughan suggested that safety information reporting could be encouraged by giving MedWatch information in the ad.

"You should require, in addition to all DTC ads, a note that all adverse reactions should be reported to your physician and the FDA and the MedWatch, and give the toll-free number and the website."

AARP also supported preclearance of DTC ads. AARP Board Member Lee Hammond said "FDA should be given the resources and authority to require the review of advertisements, both print and TV, before the ads are disseminated to the public."

AstraZeneca also called for a mandatory FDA review of DTC promotional material prior to launch in a "white paper" released prior to the public hearing.

"If our collective goal is to ensure that accurate and responsible information is communicated to patients and healthcare providers, then manufacturers, patients

physicians and policymakers ought to welcome such a review process," AstraZeneca said in a corresponding press release.

AstraZeneca also opposes a moratorium on DTC ads for new drugs (*see preceding story*).

"If FDA is not able to review ads before they are deployed and ads are later found to be misleading, sponsors should be required to engage in corrective action to remedy the misrepresentation," NCL's Burkholder added.

Consumers Union's Vaughan said: "If pre-approval is not possible, then there should be substantial penalties for misrepresentation of the safety risks, so strong that companies will want to have pre-clearance."

Pharmaceutical companies that consistently promote drugs in violation of FDA's marketing regulations should be barred from employing any direct-to-consumer advertising for a period of time, ASHP said.

"There should be a graduated fine structure culminating in a six-month moratorium on a company's entire product line from direct-to-consumer ads after a third offense," ASHP's Stein said.

"This would give companies pause before trying to push beyond the regulations."

Consumers Union also backed FDA authority to impose fines for ad violations. "FDA is just playing a game of whack-a-mole.....This disregard for the rules and regulations is why the law should be changed to permit imposition of major civil monetary penalties," Vaughan said.

Several groups including the Academy of Managed Care Pharmacy suggested that FDA prohibit brand-specific DTC advertising all together.

AMCP "discourages advertising aimed at consumers that promotes the use of specific prescription drug products, but supports ads that educate the public about disease symptoms and available treatment options." AMCP Executive Director Judith Cahill said.

Cahill noted that DTC advertising has led to "unwarranted patient demand" and increased drug costs.

Some participants recommended that brand-specific DTC ads not be allowed without the full brief summary of risk information. They acknowledged such a requirement would effectively prohibit TV 30-second and 60-second ads.

While not going that far, ASHP's Stein recommended that risk information "be spoken and at the same time appear on-screen so that the consumer can follow along.

The risk information should be reinforced by "the visual background and the context," Stein added.

On the efficacy side, FDA should prohibit comparisons of data from different studies in ads, Stein said.

"It is uncommon for drug companies to do comparative studies. They often take two separate studies and compare efficacy even though both drugs were not included in the respective studies. This is very misleading and FDA should prohibit such comparisons."

AARP's Hammond called for "a more serious investment in the research of comparative clinical effectiveness of prescription drugs" to identify the most effective therapies and reduce unnecessary drug spending.

ASHP opposes incentives for branded products: "Coupons and money-back guarantees...should not be allowed because they convey the idea that the medication always works and that there are no risks," Stein said.

An incentive widely discussed at the hearing was Galderma's offer for music downloads with prescriptions for its acne medication ***Differin***.

The website for the ad campaign developed in conjunction with Nelson Communications won the Pharmaceutical Achievement Award's Direct-To-Consumer Ad Campaign Of The Year in May 2005.

"This ad campaign creates completely inappropriate incentives by offering free music downloads for every prescription you have for Differin. Such promotions, if not already illegal, I would argue should certainly be made illegal through regulation by FDA," Prescription Access Litigation's Alex Sugarman-Brozan said at the meeting.

DTC Perspectives Editor-In-Chief Mark Tosh, however, recommended that FDA "not try to ban special offer type promotional ads" because there is no "harm to the consumers by offering them."

Several participants suggested that internet sites and ads also be subject to FDA preclearance. ♦♦