Republic of the Philippines
Department of Health
FOOD AND DRUG ADMINISTRATION

13 May 2014

FDA Advisory
No. 2014-036

SUBJECT: **Supreme Court Upholds FDA Authority Over Drug Manufacturers, Traders and Distributors to Require Bioavailability/Bioequivalence (BA/BE) Studies on Multisource Drug Products or Generic Drug Products**

Two drug products, a generic or multisource drug product and a comparator or reference drug product, containing the same active pharmaceutical ingredient (API) are considered bioequivalent if they are pharmaceutically equivalent, i.e. their rate and extent of absorption after administration in the same molar dose lie within acceptable pre-defined limits. These limits are set to ensure comparable *in vivo* performance, i.e. similarity of the two drug products in terms of safety and efficacy.

On 21 January 1997, the Food and Drug Administration (known then as Bureau of Food and Drugs) issued Circular No. 01, s. 1997 entitled *Enforcement of the Requirement for Bioavailability (BA) Studies for Registration of Products Included in the List B' (Prime) Under DOH-Administrative Order No. 67, s. 1989*, which was followed by Circular No. 8, s. 1997, reiterating the importance of the BA/BE studies and providing the details of implementation of Circular No. 1, s. 1997. At that time, FDA found it imperative to require drugs in the List B' to undergo bioavailability testing because these contain API that have reported solubility and/or permeability problems as orally administered forms (e.g. tablets, capsules or suspensions), where differences in formulation (amount and type of excipients used) and manufacturing process (including production methods, equipment and conditions employed) can lead to varying *in vivo* performance. A multisource drug product or generic drug product should, therefore, undergo BA/BE testing to determine the rate and extent to which its API is absorbed and becomes available at the site of action, and be able to demonstrate comparability with the recognized innovator or reference drug.

On March 5, 2014, the Supreme Court (SC) ruled and declared with finality that the Bureau Circular Nos. 1 and 8 series of 2007 are valid issuances of the FDA. The SC emphasized that the State, through the FDA, must ensure that the generic drugs and medicines available in the market are safe and effective for use by requiring the submission of satisfactory BA/BE results for products identified under List B (Prime). http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/march2014/190837.pdf

Similarly, in an administrative case where the requirement of submission of satisfactory BA/BE test results, the Ombudsman in Case No. OMB-0-97-0595 declared:

"Finally, considering the constitutional mandate that the public health and/or welfare shall always prevail over individual interest and/or property right, the continuous monitoring on the effectiveness of the products registered and submitted for registration must be well kept."

In this regard, the Philippine pharmaceutical industry is strongly advised to comply with the current FDA requirements on *in vitro* or *in vivo* equivalence testing of applicable multisource drug products or generic drug products conducted by accredited laboratories. Even in the face of litigation or plain harassment from various fronts, the FDA will be steadfast in its implementation of regulations based on sound science, all within the bounds of its mandate. Now, with a strong vote of legitimacy from the country's highest court of law, FDA will remain committed in safeguarding public health and well-being by ensuring the availability of safe, efficacious and quality drug products.

With the Philippines having one of the highest prevalence of tuberculosis infection worldwide, the importance of an effective TB treatment for Filipino patients cannot be overemphasized. Patients who take their TB treatment using ineffective drugs, more so in an irregular and unreliable way, are at greatly increased risk of treatment failure, relapse and the development of drug-resistant TB strains, which can potentially cause a TB epidemic.

All consumers are therefore advised to buy only from FDA-licensed drug outlets and pharmacies, and to demand official receipts.

All drug outlets and pharmacies are warned not to dispense, offer for sale or use unregistered or smuggled medicines that are peddled by unlicensed suppliers. Drug outlets and pharmacies should demand official receipts and check the Licenses to Operate and the Certificates of Product Registration of the suppliers.

All FDA field inspectors are ordered to remain vigilant in monitoring unregistered, counterfeited or smuggled medicines in the country, particularly anti-TB and other antimicrobial drugs.

For more information and clarification, please email us via info@fda.gov.ph. To report unregistered, counterfeited or smuggled medicines, kindly email us at report@fda.gov.ph.

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