THE PEW CHARITABLE TRUSTS

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January 23, 2020

Dockets Management Staff (HFA-305)
Food and Drug Administration
5630 Fishers Lane, Rm. 1061
Rockville, MD 20852

RE: Docket No. FDA-2019-D-3361: Eligibility Criteria for Expanded Conditional Approval of New Animal Drugs – Draft Guidance for Industry

Dear Dr. Solomon:

The Pew Charitable Trusts (Pew) appreciates the opportunity to comment on the U.S. Food and Drug Administration's (FDA, the Agency) proposed eligibility criteria for the expanded conditional approval pathway for new animal drugs outlined in Draft Guidance for Industry #261 (GFI #261). Pew applies a rigorous, analytical approach to improve public policy, inform the public, and stimulate civic life. Through our Antibiotic Resistance Project, we seek to reduce health risks from the emergence of antibiotic resistance and spur the development of new antibiotics and non-traditional therapies.

Pursuant to the 2018 Animal Drug User Fee Act reauthorization, the proposed expanded conditional approval pathway does not apply to animal antibiotic drugs. This exclusion was the result of careful deliberation within the Congressional authorizing committees and among consumer and public health stakeholders and remains an extremely important safeguard for protecting the efficacy of antibiotics.

Other drugs, including antibiotic alternatives, can qualify for the expanded conditional approval process provided the criteria defined in GFI #261 are met. The potential availability of ineffective antibiotic alternatives conditionally approved and remaining on the market for up to five years is concerning, as their use can delay the onset of effective therapy, lead to an increased need for antibiotics, and, through cross-resistance with antibiotics, potentially select for resistant bacteria. In addition, ineffective animal drugs undermine consumer trust and can endanger both animal and human health. Pew recognizes that the conditional approval process can create a valuable path to full FDA approval for some animal drugs that may otherwise not be developed, potentially including certain antibiotic alternatives. Conditional approval of animal drugs has the potential to alleviate animal suffering by bringing otherwise economically unviable drug candidates to market, and to provide efficacy data in support of certain instances where drugs are currently used in an extra-label manner. However, the circumstances under which such conditional approval can be attained – and thus efficacy requirements deferred – must be narrowly defined and specifically tailored to fully reflect Congress' intention that drug sponsors' utilization of this pathway be infrequent and well-justified. FDA must carefully balance the need

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for rigorous and comprehensive drug efficacy data with the benefits of a conditional approval process that spurs the development of important animal drugs that otherwise would not be developed.

In its current form, the eligibility criteria outlined in GFI #261 appear overly broad, despite FDA's own assertions that the pathway should be used "only in very limited cases."[1] In defining criteria for the expanded conditional approval pathway, FDA must provide more specific definitions of key terms to reflect the unique landscape of veterinary medicine. In a July 2018 letter to the Senate Committee on Health, Education, Labor, and Pensions (Senate HELP Committee), the Agency highlighted the importance of considering "certain aspects of veterinary medicine that human medicine does not face."[2] However, in the definition of key terms in GFI #261 – such as "unmet health need," "available therapy," "serious disease or condition," and "substantial impact on day-to-day functioning" – FDA used language that closely mirrors that used in the Expedited Programs Guidance for human drug approvals.[3] While Pew strongly supports alignment and harmonization across FDA's centers, GFI #261 must appropriately account for the unique realities associated with animal drugs and veterinary settings. In veterinary settings, the various trade-offs, expectations, economic considerations, ethical and resource constraints, and choice options that impact these terms may be radically different compared to human healthcare. For example, there are some animal diseases that are most effectively controlled through culling,[4] an option unique to veterinary settings that is relevant to key definitions such as "available therapy," yet is not explicitly considered as an option in GFI #261. FDA must consider the differences in the practice of human and animal medicine and appropriately tailor the definitions in GFI #261 to the unique characteristics of veterinary medicine.

In its 2018 letter to the Senate HELP Committee, the Agency also referenced the great variability among animals.[5] To appropriately account for this variability, the criteria outlined in GFI #261 may need to be highly specific to the veterinary context and may vary drastically from one veterinary setting to another. FDA must provide additional guidance on how the Agency intends to interpret key criteria outlined in GFI #261 – given the diversity among veterinary settings, a one-size-fits all approach may not be appropriate. Because appropriately defining the criteria for conditional approval processes is of high importance to protect animal and public health, FDA should consider soliciting additional public input on the appropriate definition of key terms. To do so, FDA may consider convening expert groups to ensure the relevant differences between human and veterinary medicine and across veterinary settings are appropriately reflected in GFI #261.

In conclusion, Pew commends FDA for publishing eligibility criteria for its proposed expanded conditional approval pathway in GFI #261 and for seeking public comment on this proposal. While we acknowledge that in certain narrowly-defined situations there is a need for conditional approvals, we are concerned that unintentional consequences may arise from the expansion of

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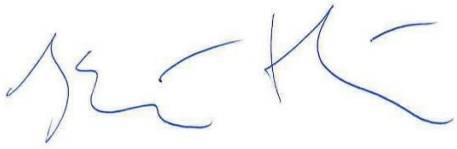
the conditional approval pathway that can put human and animal health at risk. Pew urges the Agency to consider the unique landscape of veterinary medicine and the diversity within its practice when defining eligibility terms in GFI #261, and to ensure the definitions in the Final Guidance are appropriately narrow. Pew appreciates the opportunity to comment on this key policy and looks forward to continuing to work with FDA on this important issue.

Sincerely,



Kathy Talkington, Director
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[1]Dr. Scott Gottlieb, Commissioner of Food and Drugs
letter to The Honorable Lamar Alexander, Chairman and the Honorable Patty Murray, Ranking Member of the Senate Committee on Health, Education, Labor and Pensions, "U.S. Food and Drug Administration's Proposed Expanded Conditional Approval Pathway for Animal Drugs," July 31, 2018, https://www.help.senate.gov/imo/media/doc/FDA%20Letter%20to%20Murray%20Alexander%20ADUFA%20073118.PDF.

[2]Ibid.

[3]U.S. Food & Drug Administration, Guidance for Industry: Expedited Programs for Serious Conditions - Drugs and Biologics (2014), https://www.fda.gov/regulatory-information/search-fda-guidance-documents/expedited-programs-serious-conditions-drugs-and-biologics.

[4] T. Kurt et al., "Strategic Priorities for Research on Antibiotic Alternatives in Animal Agriculture—Results from an Expert Workshop," *Frontiers in Veterinary Science* 6, no. 429 (2019), https://www.frontiersin.org/article/10.3389/fvets.2019.00429.

[5]Dr. Scott Gottlieb, letter.