PUBLIC CONSULTATION ON THE COMITOLOGY PART OF THE REVISION OF THE VARIATIONS REGULATIONS

INFARMED, I.P. comments

INFARMED, I.P. supports, in general, the draft legal proposal presented by the European Commission and its objectives of making the system simpler, clearer and more flexible.

We recognise the value to create a more flexible and easily updatable approach of listing the classification in a guideline instead of an Annex. This will enable to update the list in a timely manner with those variations not yet typified reducing the misapplications and the difficulties with the stricter classification by default.

Within the short time given for comments we would like to forward our view, regarding those points bellow which we consider the most important and controversial ones.

Article 4 - Classification of variations

Whenever a non listed variation is submitted assumed by the manufacturer by default as Type IB, the documentation provided will be insufficient for the agency to determine if the variation should be upgraded to a Type II variation.
In this scenario, the *Onus probandi* (burden of proof) will remain on the agency with no data to support the decision. It will lead to an increase workload with further documentation to be requested based on assumptions.
Therefore, INFARMED, I.P. agrees with the position of the EMEA: "…maintaining the Type II variation as default, with the possibility for the applicant to request demotion to Type I based on specific justification."

Furthermore a list of Type II variations (where biologic medicinal products should be included) should be elaborated, the conditions for Type IB variations should be reviewed and a maximum number possible of Type IA variations should be foreseen.

Article 5 – Scientific recommendation on unforeseen variations

In relation to the unforeseen variations related to national marketing authorisations (national or mutual recognition) INFARMED, I.P. considers that the role attributed to the Agency in this article should be attributed to the Coordination Group instead.

National authorities have established expertise and experience in handling variation procedures and know the specificities of their marketing authorizations. The difference between the number of national and centralised variations is considerable. In fact, the number of variations processed each year by each national authority is enormous. This expertise has been shared and applied extensively for the assessment of Mutual Recognition variations. In this regard, the role of CMDh in solving divergences between Member-States for MR and DC procedures has been instrumental in the harmonisation process.

Therefore it is not recommendable that EMEA would issue recommendations on the classification of variations that involve national authorizations (MR, national). We

propose that this task is ensured by CMDh, gathering the best use of the experience that exists at the national level.

Article 7 – Grouping of variations

In case of grouping, if one of the variations is refused, the consequences of the refusal should be clarified. INFARMED, I.P. is of the opinion that they should not all be refused, unless they are consequential and the refusal of one should imply the refusal of the other related variations.

Article 8 – "Do and Tell" procedure for Type IA variations

Concerning the annual report to be delivered to the relevant authority, INFARMED, I.P. would like it to be delivered per medicinal product and per marketing authorisation holder. The annual report will not decrease the workload for authorities. It will simply group the work on a given part of the year.

It would be useful to add a specific deadline for the notification mentioned in paragraph 1 (a).

The current proposal does not mention what the authorities can do in case they disagree with a Type IA notification that has already been implemented or in the case the variation has been wrongly classified.

Furthermore INFARMED, I.P. supports the following points identified by the EMEA:

- A format for such a report and documentation to be submitted by the applicant would need to be agreed at community level

- The need for a phased approach to balance workload throughout the year (need for flexibility with respect to periodicity, suggestion to link the submission of the report to the birth date of the marketing authorization)

- No annual update if no changes.

Article 16 – Coordination group and arbitration

For the same reasons stated on the comments used in article 5 above, in paragraph 2 of article 16, INFARMED, I.P. disagrees with an immediate referral to CHMP for variations within national authorisations.

The MS or MAH should first trigger a CMDh referral. If after this CMDh referral there is still disagreement between MS or the MAH, then a CHMP arbitration would be triggered upon request of the CMDh as it is now common practice. In fact, Directive 2001/83 states that CMDh discusses any issue related to MRP/DCP.
However, the grounds to trigger arbitration should only be the potential serious risk to public health, and not only "disagreement" with the final outcome.

Article 24- Worksharing procedure

INFARMED, I.P. considers that the worksharing procedure is not clear enough in the regulation (how to reach a final opinion). Clarification in this point is essential.

Furthermore, INFARMED, I.P. considers that the Coordination Group should have a role in the worksharing procedure as mentioned above. A system of worksharing could be foreseen in which the coordination is done by the EMEA for the centralised MA and the CMDh for MR, DC and national MA.

The type of products involved is different and the experience in assessment is also different. Member States are used to coordinate procedures among themselves (MRP, DCP) and in this case effectively coordinating the network of national/European experts that have a large experience with variations and know the dossiers involved. In fact, many tasks of this type of procedure are, in practice, already taken on board by the CMDh, even though they are not formally established as “worksharing”.

If different opinions occur during the worksharing, the issue will be brought to the CMDh, for discussion and agreement (taking as an example what occurs now with MA applications).

If the current mandate of the group does not cover the coordination of worksharing, then the mandate should be changed to include it.