ECL and EFPN recommendations for the revision of the EU legislation on medicines for rare diseases

The ongoing revision of the Regulation (EC) No 141/2000 on orphan medicinal products (henceforth the Orphan Regulation) is a once-in-generation window of opportunity to address the greatest unmet medical needs for patients - 95% of the over 6000 recognised rare diseases still have no treatment option. This revision should focus on:

- Accelerating **research & development of medicines** in the areas of **highest unmet medical needs**.
- Improving **availability** and timely **access to affordable medicines** for all patients.

To that end, the Association of the European Cancer Leagues (ECL) and the European Fair Pricing Network (EFPN) propose several recommendations to make the legal framework future-proof.

- **Foster multiple pathways for medicines development**

The pharmaceutical industry is not always willing to invest in developing medicines for unmet medical needs because these medicines are intended for relatively small numbers of patients and therefore of low commercial interest. This was the finding of the joint evaluation of Orphan and Paediatric Regulations, and the reason why non-profit parties such as academia and research institutes need to step up and support the development of this category of medicines. Non-profit parties should therefore have access to the dedicated research funding and increased scientific support from the European Medicines Agency (like the existing PRIME scheme). They should also have access to the results of clinical trials and patient-level data, including unpublished data from failed trials, to gather evidence for market access. This process should lead to treatments that are as qualitative, safe, and effective as treatments developed through the traditional commercial pathway.

- **Modify designation criteria for orphan medicinal products**

The criterion for granting an orphan designation to a medicine under development should remain the number of people affected. In addition, a different criterion based on incidence (how many people acquired the disease) to identify specific rare diseases (e.g., rare cancers and short-duration diseases) should be introduced to help focus the development of orphan medicines in areas of unmet medical needs. It should also be noted that if the 'insufficient return on investment' criterion is also used, it should be in addition to the other criterion and not as an alternative, otherwise it can lead to overcompensation.

- **Modify the current rules for demonstrating significant benefit**

To ensure that new products provide real benefits to patients, clinical trials should include quality of life measurements (patient-reported outcomes) and overall survival. The design of pivotal trials should be based on early dialogue between all stakeholders - patients, pharmaceutical industry, doctors, payers, and the market authorisation body.

- **Identify criteria to define unmet medical needs**

Unmet medical needs in rare diseases should be better defined. A broad range of stakeholders should be involved in the discussions to provide a clear and useful definition. The criteria defining unmet needs should be established in the Orphan Regulation and detailed in scientific guidelines, which should be updated as needed.

- **Redesign system of incentives**

The current 'one-size-fits-all' scheme of 10-year market exclusivity (ME) does not stimulate developments in areas of unmet needs and for ultra-rare diseases. The provision of ME and its duration should be variable and depend on several elements including the type of product (e.g., does it address the highest unmet medical needs), transparency of research and development costs and return on investment received.

Other incentives should still be offered (protocol assistance, fee waivers and eligibility for EU and national research funding) and should be easily and freely accessible for academia and other non-profit entities.

To stimulate the availability and accessibility of medicines in all Member States, incentives should be linked to placing these medicines on the market in all Members States in need as soon as market authorisation is received.

Products that do not address a defined real unmet need or only have a very weak potential (of added clinical benefit) to treat a rare condition should not be granted incentives under the Orphan Regulation.

- **Foster competition and guarantee market continuity**

To improve availability and accessibility across Member States, generics and biosimilars should enter the market at day-1 of the expiry of the exclusivity period. A penalty system should be foreseen in the Orphan Regulation for any delays.

In addition, companies that lose commercial interest in a rare disease medicine products should transfer their products to another interested entity rather than withdraw them – this would encourage further development and market continuity.

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About the ECL

ECL is a non-profit, pan-European umbrella organisation connecting 24 national and regional cancer societies in 22 European countries. Its Access to Medicines Task Force (A2M TF) aims to make safe and effective medicines available to all cancer patients in Europe by insisting on accessibility, availability, affordability, and increased transparency related to medicine prices, ultimately contributing to the sustainability of healthcare systems. Contact ECL:

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About the European Fair Pricing Network

In November 2020, ten European cancer societies launched the European Fair Pricing Network (EFPN) – the first-ever EU-wide collaborative network to improve transparency, access, and affordability of cancer medicines for the benefit of cancer patients. EFPN has invested €1 million to team up with the Netherlands Cancer Institute (NKI) and the Organisation of European Cancer Institutes (OECI) to shed light on medicine pricing and translate findings into evidence-based policy for national and European decision-makers. Contact EFPN:

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