



EGA Comments on

Phasing-in Procedure: MRP and Referrals

REPR Acquis Group Reflection Paper May 2003

EGA welcomes the initiative to clarify regulatory practice just before and after accession. However, it is regrettable that consultation time was too short to initiate an in-depth discussion amongst our members. For this reason we can share with you only some comments without covering all our concerns.

We fully understand that pre-accession application of MRP rules could be a great opportunity to reduce workload of Agencies from Accession Countries. However, we are afraid that the environment is not yet ready for pre-accession implementation of MRP rules and even retroactive implementation for registration files already submitted to the Authorities according to current legislation in force.

European experience with introduction of new legislation without full analysis of the environment and of possible impact on regulatory practice is rather negative – lack of SmPC harmonisation of originators before compulsory MRP for generics is only one of the more recent examples.

We would like to draw your attention to some practical aspects of the proposed procedures and the real impact on activity of producers and Authorities during this period.

1. National submissions before the date of accession: MA already granted in one AC, applications submitted in some ACs and current EU Members (via daughter/mother company)



In this situation retrospective assessment reports should be very quickly prepared by the first Authority granting MA. Are the Authorities ready to prepare thousands of retrospective assessments reports according to EU Standards for products already authorised i.e. 5 years ago in these countries? In practice re-evaluation of the dossiers will be required because these assessment reports will be a starting point for recognition of MA by others MSs (including the existing EU Members).

2. SmPC disharmony

Due to the disharmony of SmPC of originators between the EU and ACs, satisfactory MRP for generic producers will be almost impossible. As the originators' SmPC are still under revision in ACs, generic applications could be postponed until after clarification of the situation concerning reference products. Moreover, as there is no legal basis for compulsory harmonisation in the EU legislation as well as in the majority of ACs, some serious problems are to be expected during this process (especially in the case of more indications than in already-harmonised SmPC in the EU). As the EU Referrals are not legally binding for new members, the situation becomes more and more complicated.

Additionally, in some ACs this SmPC revision process will be postponed because of transitional periods.

How should be combined in one MRP “the same application” in the country with a transitional period and that without a transitional period?

It is not our intention to voluntarily harmonise the SmPC between EU and ACs if it would result in a disadvantageous SmPC (from a marketing point of view) with less indications and more contraindications in an AC where the product is on the market and has been promoted on the basis of a broader SmPC.

3. Harmonisation through variation process

Compulsory MRP for products already submitted nationally will force a necessary harmonisation process through variation procedures before final recognition through MRP. It will result in huge delays of MAs because of the time necessary for approval of all variations (very often official approval and annex to MA Certificate is required from a legal point of view in ACs and the “tell and do” approach has not yet been introduced into legislation).

4. Obligatory suspension of assessment after 1st of May 2004

It is questionable why this interpretation of obligatory suspension is only mentioned in the context of some types of applications, not for all types. Exceptions for WEU and possibility to continue the registration process as national application after 1st of May seems to be a “double interpretation standard”.

5. Withdrawal of application



We consider this process as very time and resource consuming for both Authorities and Applicants without any added value. Specially dedicated people will be involved in recollection of the files already redistributed internally between experts in Agencies, giving back files to companies.... in Poland alone almost 3000 products are currently under assessment process. We wonder if this time and recourses could not be better used.

Additionally, some work has been already done (including the analysis of the samples), fees have already been paid. Usually there is a difference between fees paid in the case of RMS and CMS – how is this financial contribution planned to be regulated?

6. Choice of potential RMS

There is no full transparency of the registration progress in all Agencies and possible estimation of registration time still necessary for granting final MA. Due to this fact choice of future RMS becomes difficult. This voluntary procedure will result in delayed MAs in the ACs and this delay has never been calculated in the product development plan. Whole registration and marketing strategies should be revised at this moment including launch and sales plans as well as budgets of companies.

Choice of RMS should be made by Applicant without pressure from Competent Authorities.

7. Timeline for assessment and co-operation with industry

Taking into account the legally binding timeline for assessment (210 days – approximately 7 months) and expected day of Accession (1st of May 2004) it should be concluded than products submitted after 1st of October 2003 can be affected by this risk of suspension of application according to Art. 17 and 18 Directive. 4 months time till October 2003 seems to be reasonable time for both parts to revise application strategy (from company's side) as well as to be prepared for sufficiently by the Authorities (especially assessment report in EU Format as a starting point of MRP in EU 25th).

This prospective co-operation between Authorities and Applicants is highly recommended, however it should be highlighted than Applicants should not be forced to apply MRP rules before official coming into force.

To promote this idea of close co-operation, some incentives for companies should be also proposed by the Authorities (“fast track” registration?)

Although we understand that the harmonisation is the general target to achieve, this "retrospective" interpretation is disadvantageous to us. We would prefer to keep the optimality to continue national procedures in ACs before accession which are finalised in their national way or if company wants to use this MRP approach, to give such possibilities with some incentives to do it.

8. Collection of additional information:



Collection of additional information and especially analysis of data concerning pending applications risks to be a very time and resources consuming exercise. Who will be able to build such huge matrix covering all pending applications in 25 countries and to analyse such a complicated picture?

if the goal of this exercise is to collect information for which applications each Authority has been chosen as RMS, it is highly probable than distribution of applications between ACs could not be proportional. If a majority of Applications should be assessed by 3-4 Authorities acting as RMSs, are they ready to deal with such situations within a timeline of 210 days?

9. Format of the dossier

To avoid additional complication concerning prospective submission of the dossier and co-operation with industry, common policy concerning the date of obligatory implementation of CTD format should be also taken into consideration.

10. Definition of the same product

Taking into account not clear interpretation in some countries who can be MAH and possible quick variations due to the results of new legislation coming into force in some countries (Poland, Slovakia), as well as different situation of companies from “third country” after 1st of May (i.e. Croatia, Bulgaria, Romania) and necessity to clarify and create new companies/representatives in enlarged EU, this “same product” in the context of different MAHs (very often different legal entities) should be analysed very carefully by applicant from a legal point of view.

To conclude, our major concerns are the following:

- These compulsory procedures will result in delayed MAs in the ACs and this delay has never been calculated in the product development and sales plan.
- Dossiers have not been prepared and submitted in the “spirit” of harmonised MRP (taking into account choice of RMS, CMSs, preparation of SmPC etc.)
- Application of the MRP approach should not be retrospective
- Close co-operation with industry is highly recommended but on a voluntary basis and in the context of prospective applications.