EBE – EFPIA - EPEMED - EDCA position paper on

Commission Proposal for a Regulation on *In Vitro* Diagnostic Medical Devices

Introduction

EBE, EFPIA, EPEMED and EDCA believe the Commission Proposal is an important step to ensure a harmonized approach to regulating in-vitro diagnostic medical devices across the EU. These 4associations (hereinafter "The Associations"), which together represent a significant portion of the universe of European biotechnology, pharmaceutical and medical diagnostic companies of all sizes, feel that the Proposal strikes a fine balance in ensuring the imperative of patient safety without compromising the need for innovation in Europe. The review of the proposal by Parliament and Council should keep this balance intact.

In this document, the Associations share their common vision on some significant aspects of the Proposal as it relates to Companion Diagnostics, since such Companion Diagnostic serve a key role in the paradigm of Personalised Medicine via their support of healthcare professionals in their decision making to tailor the treatment to the patient.

The main concerns of the Associations, as detailed in this collective consensus document, relate to Companion Diagnostics and are the following:

- their definition;
- the need for clinical evidence;
- the assessment by the EMA;
- in-house tests;
- and transparency requirements.

In addition to this consensus document, the Associations will make additional comments separately on issues for which they may have a different perspective. Any such additional comments may be found on the separate websites of the Associations, as detailed at the end of this document.

As a general guiding principle for regulating Companion Diagnostics, the Associations believe that the safety and performance requirements should be based, as for all healthcare products, on the potential risk *and benefit* that they pose to the patient. In addition, the rules must be flexible enough to quickly adapt to ongoing innovation.

Definition of Companion Diagnostics

The Associations welcome the Proposal's definition for Companion Diagnostics as a step in the right direction to recognize the impact that a Companion Diagnostic has on a patient receiving the right treatment (or avoiding the wrong treatment). However, the Associations view the proposed definition as insufficient, because it describes Companion Diagnostics as a tool in the decision making on 'targeted therapy'. In the absence of an EU legal definition, 'targeted therapy' is usually understood as a cancer treatment which targets specific cells. However, this is not the only area of use for Companion Diagnostics. If the proposed definition is not clarified, Companion Diagnostics used in other disease areas than cancer may not be adequately regulated. In addition, the definition should also cover Companion Diagnostics that are designed to warn about severe side-effects of treatments (such as a blood-thinning medicine).

Clinical evidence

The Associations strongly support the proposed requirement to provide clinical evidence on the safety and performance of Companion Diagnostics. The future Regulation should, however, ensure that efforts to provide clinical evidence for the scientific validity of Companion Diagnostics are not duplicated.

EMA's role in assessing Companion Diagnostics

The Associations fully support measures that benefit patient safety. The proposed involvement of the European Medicines Agency (EMA) in the assessment of Companion Diagnostics could prove beneficial, provided that regulatory obligations and research efforts to provide clinical evidence are not duplicated, and that a clear procedure is put in place to resolve potential differences of opinion between EMA and the Notified Body[1].

It is also crucial that the proposed timelines are not extended further, and that the grounds for extending the timeline ('scientifically valid grounds') are clearly defined and limited. This will help avoid undue delays in patient access to new treatments.

Lastly, a clear definition is required of which aspects of the Companion Diagnostic the EMA should assess, in line with its expertise. The Associations see the aspect of scientific validity – defined as "the association of an analyte to a clinical condition or a physiological state" – as an obvious area of competence for the

[1] A Notified Body is a private organization, accredited by national authorities, to assess whether an in-vitro diagnostic device and its manufacturer meet the requirements of the applicable EU legislation.

EMA. The benefit of limiting EMA's assessment to questions of scientific validity is that, if an already marketed Companion Diagnostic is updated/changed, EMA would only be involved if those updates/changes have a significant influence on the intended purpose of the device. This would help make the approval process more effective and avoid waste of time and efforts.

In-House Tests

Any test used as a tool for patient treatment decision making, regardless of whether it is commercialized or not, should fulfill high safety and performance standards[2]. The Associations acknowledge that the development of innovative tests by individual health institutions, such as hospitals, deserves encouragement. Since these tests (so-called 'in-house tests') are manufactured and used within a single institution, they should not be subject to unreasonable regulatory requirements. This is reflected in the Commission's Proposal through the requirement that such institutions must have a quality management system in place. However, given that even minor changes in a test's performance characteristics can result in wrong treatment decisions, patient safety may be put at risk. This shortcoming in the proposal could be overcome by generating and making available a reasonable level of performance data related to specific tests.

Transparency Requirements and Implementation of an EU Database

The Associations welcome the proposed development of an EU database for medical devices. Transparency of information and data held by EU institutions and agencies is important for EU citizens. However, when providing access to information and data, the principle of protecting personal data and commercially confidential information should at all times be respected according to relevant EU legislation. Furthermore, the provisions related to the access to the database should be clearly regulated, ensuring a balance between the levels of protection and the interests and needs of different stakeholders.

About EBE

The European Biopharmaceutical Enterprises (EBE) is the European trade association that represents biopharmaceutical companies of all sizes operating in Europe. It has 52 member companies - of which many are small and medium sized companies - engaged in the research, development, manufacturing and

[2] 'Assays developed by clinical laboratories for in-house use should meet the same quality, safety and regulatory requirements as IVDs in order to ensure they perform to the same level as the companion diagnostics they replace', page 11, **2012 Manifesto by the European Alliance for Personalised Medicine**

marketing of new medicinal products using biotechnology. EBE also operates as the biotechnology arm of EFPIA, the European pharmaceutical industry federation.

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About EFPIA

The European Federation of Pharmaceutical Industries and Associations represents the pharmaceutical industry operating in Europe. Through its direct membership of 33 national associations and 39 leading pharmaceutical companies, EFPIA is the voice on the EU scene of 1900 companies committed to researching, developing and bringing to patients new medicines that will improve health and the quality of life around the world.

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About EPEMED

The European PErsonalised MEDicine association (EPEMED) is a non-profit which addresses issues in personalised medicine that confront the industry, regulators, payers & governments. The organization provides a pro-active platform for the harmonisation of personalised medicine development and implementation across Europe, focusing on the crucial role of diagnostics, to make personalised medicine a reality. Its mission is to create a central point of communication for all those involved in progressing personalised medicine; to determine optimal regulatory and reimbursement routes to deliver personalised medicine to patients efficiently and to promote improved development of personalised medicine through the creation and application of advanced diagnostic tests. The organisation gathers all

concerned stakeholders (pharmaceutical industries, research centers and academics, health practitioners, patients associations, biotech enterprises, representative of public bodies, consulting firms) and forms a dynamic and diverse group of leaders who have great expertise in the application and development of diagnostic tools and stratified medicines to deliver improved patient care.

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About EDCA

The European Diagnostic Clusters Alliance (EDCA) galvanises the competitiveness of European SMEs specialising in diagnostics. All together, these clusters include 350 companies specialising in diagnostics (mainly SMEs) and 46 universities. An international not-for-profit organisation, this alliance aims at promoting and developing collaboration between European diagnostic clusters to consolidate the competitiveness of their SMEs. Another key aim of the EDCA is to facilitate access to non-European markets (USA and Asia) for European SMEs specialising in medical diagnostics.
The EDCA is working unstintingly[1] to create a truly world class European cluster from this network.

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