



DEPARTMENT OF HEALTH & HUMAN SERVICES

Food and Drug Administration
Rockville MD 20857

• The Honorable John D. Dingell
Chairman
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515-6143

JUN 7 2007

The Honorable Bart Stupak
Chairman
Subcommittee on Oversight and Investigations
Committee on Energy and Commerce
U.S. House of Representatives
Washington, D.C. 20515-6115

Dear Mr. Chairman:

This is in response to your letter dated March 28, 2007, in which you requested information with regard to Food and Drug Administration (the Agency) Commissioner Andrew von Eschenbach's testimony before the Subcommittee on Oversight and Investigations on March 22, 2007. Specifically, you have requested documents prepared for or used in the preparation of Dr. von Eschenbach's testimony. Additionally, you have requested interviews by Committee staff of persons participating in the preparation of the testimony submitted on March 22, 2007.

On April 4, 2007, the Agency provided a detailed explanation and supporting documentation demonstrating the basis for the accuracy of the eleven items that the Committee raised regarding Dr. von Eschenbach's testimony and prepared statement. Also, while you have requested additional documentation and interviews, we believe that the Agency's April 4 response and the accommodations proposed below should resolve these issues.


The documentation you have requested constitutes confidential deliberative communications between Dr. von Eschenbach and Agency employees. Circulating materials related to preparation for testimony before Congress or interviewing Agency staff about their involvement in the preparation of the Commissioner for testimony before Congress would have a chilling effect on the open exchange of views that is essential to the effective conduct of Agency business and would make it very difficult for advisors to provide full and frank advice to their colleagues. In an effort to accommodate the Committee's legitimate needs, while protecting the confidentiality of Executive Branch deliberations, we propose providing

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a briefing to the Committee by Department staff regarding the concerns you have raised. In preparation for such a briefing, it would be most helpful for the Committee to identify its particular concerns regarding the response already provided.

I am hopeful that this proposed accommodation will provide the Committee with the information it legitimately needs, while at the same time respecting and preserving the critical Executive Branch interests at stake.

Sincerely,


Susan Winckler
Acting Chief of Staff