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Dockets Management Branch
Food and Drug Administration, HFA-305
5630 Fishers Lane, Room 1061
Rockville, MD 20852

Re: Docket No. 02N-0204; Bar Code Label Requirement for Human Drug Products and Blood; Proposed Rule; 68 Federal Register 12500 (March 14, 2003)

Dear Sir or Madam:

Bristol-Myers Squibb is a diversified worldwide health and personal care company with principal business in pharmaceuticals, consumer medicines, nutritionals and medical devices. We are a leader in the research and development of innovative therapies for cardiovascular, metabolic and infectious diseases, neurological disorders, and oncology. In 2001 alone, Bristol-Myers Squibb dedicated $2.1 billion for pharmaceutical research and development activities. The company has nearly 6,000 scientists and doctors committed to discover and develop best in class therapeutic and preventive agents that extend and enhance human life. Our current pipeline comprises more than 50 compounds under active development.

For these reasons, we are very interested in and well qualified to comment on this FDA proposal to reduce medical errors by requiring human and biological drug product labels to have bar codes that will enable health care professionals to use available bar code technology to verify that the right drug is being given to the right patient at the right time in the right dose and through the right route of administration in hospital settings.

Summary of BMS Comments on Proposal

We commend the U.S. FDA for assembling this thorough and well-written document. In particular, we applaud the initiative to engage the industry and gather all the views from all affected parties in the months leading to this proposed rule. This has led to a proposed rule that we, at Bristol-Myers Squibb, believe will accomplish the goal of reducing medical errors in hospital settings as described in the 2001 National Coordinating Council for Medical Error Reporting and Prevention (NCC-MERP) report.

However, there are several points in the proposed rule that we at Bristol-Myers Squibb respectfully request be given additional consideration.

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Specific Comments (Items that Need Clarification & Recommended Action)

Section II, A, Who Would be Subject to the Bar Code Requirement?, Page 12503:

BMS agrees that the rule should apply to all the parties listed in this section. However, it is critical that the FDA specify that all parties must ensure that they use a unique identification number or NDC number pertaining to their re-packaged or re-labeled product so that it does not conflict with any existing NDC number. This is especially important when manufacturers use the Global Trade Identification Number (GTIN) format following the guidelines established by the UCC. Under the GTIN data structure, the same NDC number can be used for different levels of packaging, which are represented by the Packaging Indicator number. If a re-packager, re-labeler or a hospital pharmacy uses the same NDC number as the manufacturer (NDA holder) for the product and they assign a different Packaging Indicator number for their use, there would be a possible conflict in the hospital or at the pharmacy. In this example, the manufacturer may have already assigned the Packaging Indicator for a different packaging level. Hence, this would result in different packaged product with the same bar code information existing in the distribution channel, which will lead to a mis-labeled product.

Recommendation: FDA should clarify that products that are re-labeled, re-packaged or privately labeled (and the companies associated with such activities) must apply for their own NDC number via the drug establishment and listing process. In addition, the FDA must ensure hospitals and their pharmacies follow the same process and not use the same NDC number as the original manufacturer.

Section II, C, What Would the Bar Code Contain?, Page 12506, Column 3:
"To complement this proposed requirement, we intend to revise our drug establishment registration and listing regulations to redefine the NDC number....."

BMS supports the use of the NDC number as the unique identifier contained in the barcode. However, BMS has serious concerns regarding the proposed revision of the drug establishment registration and listing regulations as the impact on our overall business may be tremendous. The NDC number has logic built into it with the Labeler/Manufacturer Code followed by the Product and Package Code. We may begin internal assignments of product and package codes early in Phase II of the R&D process, and as the drug establishment registration and listing regulation is redefined, this may affect the flexibility of the company to assign the numbers indenpendently. Further, our understanding of this regulation would appear counter to the Commissioner's "smart regulation" initiative as it considerably reduces flexibility for the manufacturer.

Recommendation: FDA should consider engaging the industry prior to publishing the proposed rule or provide further guidance to the revision of the drug establishment registration and listing regulations before the Bar Code Label rule is made effective.

Section II, C, What Would the Bar Code Contain?, Page 12508, Column 1:
"We will continue to study the issue and invite comments and, more importantly, data on costs and benefits associated with requiring lot number and expiration date information in the bar code."

BMS agrees with the FDA findings that the NDC number will provide significant impact to reducing medical errors. At this time, it is the intention of BMS to incorporate the lot number and expiration date to the bar code wherever technologically feasible and where the inclusion of the bar coded lot number and expiration date does not significantly impact the manufacturing process.
For example, we will include bar coded lot numbers and expiration dates on our Hospital Unit Dose packages. This process is technologically feasible; the printing and packaging process is completed by on-line printing with dedicated print mats for each production run. There is little impact to the manufacturing process except the requirement to increase our blister size to fit the bar code onto the available area.

However, in the traditional packaging lines for the majority of our packages, the technology is currently not available to print bar coded lot numbers and expiration dates on our packaging line automatically. Although on-line printing equipment is available at lower speeds, it is highly ineffective and unreliable at production speeds above 120 units per minute. In addition, the bar code may not be able to meet the quality requirements or standards recommended by the American National Standards Institute for bar codes due to the printing process.
Although a pre-printed label is a possible option, it would result in serious cGMP concerns due to the challenge of ensuring that the right label with the correct lot number and expiration date is used on the product, which is currently accomplished through electro-mechanical means. This will also result in limiting flexibility to planning and scheduling of production runs and will add significantly to operational costs.

Recommendation: FDA should consider allowing market demand forces to decide the requirements for bar coded lot numbers and expiration dates and not incorporate this requirement into the final ruling. It is our understanding that a goal of "smart regulation" states that the intensity of the regulatory requirements should match the risk. Evaluation of the outcome of the bar code regulation should take place prior to adding additional regulatory burdens.

Section II, D, Would the Rule Require a Specific Type of Bar Code?, Page 12509, Column 1:
"proposed §201.25(c) (1) would require the bar code for drugs and biological products to be any linear bar code in the UCC/EAN standard."

BMS supports the use of the NDC number as the unique identifier contained in the bar code following UCC/EAN standard. However, BMS recommends that the FDA **not** limit the bar code information to a linear bar code and possibly impede future technologies or symbologies.

Recommendation: FDA should consider removing any references to a linear bar code and revise the phrase to "proposed §201.25(c) (1) would require the bar code for drugs and biological products to be any bar code in the UCC/EAN standard."

Section II, D, Would the Rule Require a Specific Type of Bar Code?, Page 12510, Column 3:
"So, the proposed rule would require the bar code to be placed in a manner so that it remains intact during normal conditions of use. For this foil-wrapped packet example, this would mean that the bar code would be placed away from folds or perforations so that each packet, when separated from the others, has its own intact and easily scanned bar code."

BMS agrees that the bar code should be placed in the position where it will remain intact during normal use. However, the example that was provided is confusing and needs clarification. Placing bar codes between perforations on blister packages so that each individual cell on the blister package has its own self contained bar code is a common practice due to space limitations. During normal use, the bar code continues to be readable after the blister cavity is separated. The example given in this case may result in the interpretation that a foil-wrapped packet is similar to a foil-foil blister package (cold form blisters used in moisture sensitive products).

Recommendation: FDA should consider clarifying this section by providing specific examples for different packages.

Section II, F, What Would Happen if a Bar Code Could Not Be Put on a Product?, Page 12511, Column 3:

BMS notes that the FDA declined to create an exemption provision in the proposed rule and respects the concerns that additional resources may be required from the FDA devoted to reviewing the request for exemption. However, under the proposed rule, there may be certain classes of products or packages that may not allow the addition of the bar code without changing the product package significantly and/or re-

evaluation of the product stability in the new package or size. Some examples are products packaged in pre-filled syringes, small vials, titration packages and products sold in kits (active and diluent).

Recommendation: FDA should strongly reconsider this decision and establish a process for companies to obtain a waiver or exemption for such products. The FDA should also re-evaluate Section 21 CFR Part 201.1, Labeling Requirements, and specify the minimum requirements for small container packaging taking into account the added requirement to include a bar code on these packages.

Bristol-Myers Squibb Comments to the Specific Questions Posed by the FDA (Page 12529)

1. *Whether we should require bar codes on prescription drug samples, and the costs and benefits associated with such bar codes.*

   Bristol-Myers Squibb supports the FDA proposal to only include pharmaceutical, biological and OTC products sold to the hospitals and the decision not to include physician samples and medical devices. Physician samples in particular are not designed for administration by hospital pharmacies or health professionals in the hospital setting. Hence, the requirement to include drug samples will only add to the costs of the product with minimal benefit to the intent of the rule, reduction of medical errors.

2. *The risks and benefits of including vaccines in a bar code rule.*

   Bristol-Myers Squibb does not market or sell any vaccines. However, we agree that vaccines should be included in this proposed rule with special consideration to allow the use of other types of bar code symbology such as 2D or Datamatrix as the requirements for labeling is more complex for vaccines.

3. *What terms we should use to describe OTC drugs that should be subject to this bar code requirement.*

   Bristol-Myers Squibb recommends that the term 'intended for hospitals and institutional use only' be used to describe OTC drugs to be subjected to this bar code requirement. This means that packages that are specially labeled with such statements will have to include a bar coded NDC number on the packaging.

4. *Information on the costs and benefits associated with putting lot number and expiration date in the bar code.*

   Bristol-Myers Squibb does not recommend that this requirement be included in the final regulation for the proposed rule. See response from previous section (Section II, C). It will add complications to compliance, manufacturing processes, costs and the ability to meet the three year phase-in period proposed in the rule.

5. *Whether the rule should refer instead to linear bar codes without mentioning any particular standard or refer to UCC/EAN and HIBCC standards.*

   As stated in the previous section, Bristol-Myers Squibb recommends that the FDA should consider removing any references to linear bar code and revise the phrase to "proposed §201.25(c) (1) would require the bar code for drugs and biological products to be any bar code in the UCC/EAN standard."

6. *Additional information regarding bar code scanning technology and the ability of bar code scanners to read different symbologies.*

It is Bristol-Myers Squibb's understanding that the printing technology for bar coded variable information, i.e., lot number and expiration date, is new and does not exists for high speed on-line printing. However, scanning technology is currently available to read all different symbologies.

7. *Whether the rule should adopt a different format (whether the format is a symbology, standard or technology).*

As stated in response number 5 above, Bristol-Myers Squibb believes the UCC/EAN standard is a globally accepted standard for bar codes and the guidelines provided by this standard can be easily adopted and followed by all users.

8. *Whether any specific product or class of products should be exempt from a bar code requirement and the reasons why an exemption is considered to be necessary. In addition, how could we create a waiver provision that would minimize the potential for misusing the waiver.*

As stated in the previous sections, Bristol-Myers Squibb believes that some classes of packaging will require exemption. Classes of products that we recommend to be exempted are: (1) Combination Products (e.g., products that could have titration packages or be sold with different strengths or types in a package or carton that are used together) and (2) Oral Contraceptives. Adding the use of a bar code on combination products or packages may result in confusion as the product could be used differently or bar coded differently. For example, if a morphine tablet is packaged together with an aspirin in the same blister card, which NDC bar code would be used? Do we use the existing NDC number for the different products and bar code differently on each blister cell or do we use the NDC number for the new combined product in the blister card? The same issue will arise with titration packages as there will be different strengths of products available on the blister card.
Oral Contraceptives are normally packaged in a blister card. The proposed regulation will require that each individual blister cavity be bar coded. At the same time, most Oral Contraceptives have drug regiment compliance built into the package and placebos for a week. Hence, the addition of bar codes adds to the difficulty and complexity of the package. In addition, Oral Contraceptives are used outside the hospital settings where the end-user will not have access to bar code scanners or system. Therefore, Bristol-Myers Squibb believes that Combination Products and Oral Contraceptives should be exempted from the regulation.

9. *Whether the implementation period for a final rule can and should be shortened from 3 years to some other specific time period.*

Bristol-Myers Squibb believes that 3 years is an appropriate period for implementation of the final rule. As there are limited resources that are commonly shared among all manufacturers for both equipment and components, shortening the implementation period to less than 3 years may result in excessive demands on our suppliers.

10. *Whether we should require the use of ISBT for blood products, a specific symbology that is consistent with that required for drugs in proposed §201.25, or "machine-readable symbols" as approved by the Director of CBER.*

Bristol-Myers Squibb has no comment on this issue.

11. *How the proposed rule might affect hospitals where patients receive blood or blood components, particularly with respect to a hospital's decision to purchase a machine reader (e.g. scanner) that can properly identify the intended recipient of the blood or blood component, the machine readable information encoded on the blood or blood component label and perhaps the linear bar codes appearing on drugs and OTC drugs that are dispensed pursuant to an order and commonly used in the hospital.*

Bristol-Myers Squibb believes that the use of bar codes will help reduce medical errors in the hospital and institutional settings. The decision to use the available technology will rest with the hospitals.

12. *Whether any of the alternatives discussed in the economic analysis have merit.*

a. *Do Nothing* – This is not a viable option. Bristol-Myers Squibb recommends that the FDA implement the proposed rule to require addition of the bar coded NDC number.

b. *Requiring Variable Information* – As stated in the previous section, Bristol-Myers Squibb does not recommend requiring variable information, instead we recommend that manufacturers be allowed to incorporate variable information wherever technology and processes allows the addition of such information.

c. *Covering All OTC Drug Products* - Bristol-Myers Squibb does not recommend covering all OTC drug products as the impact to the consumer businesses will be extensive; while the benefits from the use of bar codes to reduce medical errors at the consumer level is negligible.

d. *Exemption for Small Entities* - Bristol-Myers Squibb does not recommend an exemption for small entities. The safety benefits associated with the use of bar code technology are not dependent on the size of the producer. Further, a risk of mislabeled or misbranded products or packages may result from a dual standard which requires a bar code on the original packaging produced by a large company but possibly exempt the same product supplied to hospitals by re-packager or re-labeler.

Bristol-Myers Squibb appreciates the opportunity to provide comment and respectfully requests that FDA gives consideration to our recommendations.

Sincerely,

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