United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510–6250

May 20, 2016

Robert M. Califf, M.D.
Commissioner of Food and Drugs
U.S. Food and Drug Administration
10903 New Hampshire Avenue,
Hillandale Building, 4th Floor
Silver Spring, MD 20993

Dear Dr. Califf:

On April 25, 2016, the Peripheral and Central Nervous System Drugs Advisory Committee held a public meeting to consider a new drug application for a treatment of Duchenne muscular dystrophy.[1] This is a disease that, as noted in a March 16 letter to your colleague Dr. Janet Woodcock, "is 100 percent fatal" and for which no cure is available.[2] For this reason, we write to you today to express disappointment in the committee's vote against approval of the new drug.[3] We encourage you to fully employ the flexibilities and considerations available to the Food and Drug Administration (FDA) when making a final determination with respect to this drug, as well as other applications for new drugs to address similar conditions.

Congress has granted the FDA several authorities to "provide for and encourage accelerated review of promising therapies, prioritize the patient perspective in evaluating new drugs and treatments, and provide . . . flexibility to expedite evaluation of drugs for life-threatening" diseases and "all rare and severe diseases."[4] To this end, it is encouraging that Dr. Woodcock has recognized that the FDA has "flexibility and that's where we should take the views of the community into account."[5] This requirement for flexibility is echoed in FDA regulation and the Patient-Focused Drug Development Initiative.[6]

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[1] Food and Drug Administration, "Peripheral and Central Nervous System Drugs Advisory Committee Meeting – Draft Agenda, April 25, 2016," Center for Drug Evaluation and Research, http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/PeripheralandCentralNervousSystemDrugsAdvisoryCommittee/UCM497059.pdf

[2] Letter from Senator Ron Johnson et al. to Janet Woodcock, M.D. (Mar. 16, 2016).

[3] Andrew Pollack, "Advisers to F.D.A. Vote Against Duchenne Muscular Dystrophy Drug," *The New York Times*, April 25, 2016.

[4] Food and Drug Administration Safety and Innovation Act, Pub. L. 112-144, 126 Stat. 993 (2012), Prescription Drug User Fee Act of 1992, Pub. L. no. 102-571, 106 Stat 4491 (2003), and Food and Drug Administration Modernization Act of 1997, Pub. L. no. 105-115, 111 Stat 2296 (1997). *See also supra*, note 2.

[5] Thomas M. Burton, "FDA Panel Votes Not to Recommend Approval for Muscular Dystrophy Drug," *The Wall Street Journal*, April 25, 2016.

[6] 21 U.S.C. Sec. 360bbb; United States, Department of Health and Human Services, Food and Drug Administration, *Structured Approach to Benefit-Risk Assessment in Drug Regulatory Decision-Making: Draft PDUFA V Implementation Plan*, February 2013. Developed pursuant to 21 U.S.C. Sec. 355d.

As the March 16 letter noted, for potential treatments intended to address life-threatening diseases, current regulations deem it "appropriate to exercise the broadest flexibility in applying the statutory standards, while preserving appropriate guarantees for safety and effectiveness."[7] Additionally, "the benefits of the drug need to be evaluated in light of the severity of the disease being treated."[8] For a disease like Duchenne muscular dystrophy, and other diseases that are highly debilitating and almost certainly fatal, we hope you will employ these flexibilities and considerations for the maximum benefit of patients who have no other alternative.

Additionally, we are concerned that questions posed to the advisory committee may be framed in such a way that could make it more difficult than necessary for members to vote favorably for an application. As one committee member from the April 25, 2016 panel – who ultimately voted no on the relevant question – stated, "based on all I heard, the drug definitely works, but the question was framed differently."[9]

We understand that the FDA and its advisory committees have a difficult task of evaluating and balancing multiple considerations, many of which are highly technical in nature. Nonetheless, Congress has multiple times attempted to provide the FDA with the tools and necessary authority to speed access to drugs and therapies where the costs of delay and certainty of efficacy are far outweighed by its potential benefit. This is especially true in small disease populations ("orphans") where post-approval confirmatory trials can substitute for large pre-approval randomized efficacy trials that are extremely difficult or impossible to conduct.[10]

The points made in this letter are not limited to one disease or one drug, though there is no less urgency with respect to the case of Duchenne muscular dystrophy. Patients are crying out for the FDA to hear them: they are engaged and knowledgeable and only want the agency to do what is already within their power. We fully support their perspective.

Thank you for your attention to this important matter.

Sincerely,

Ron Johnson
Chairman
Committee on Homeland Security
and Governmental Affairs

Dan Coats
United States Senator

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[7] Letter, *supra* note 2 (citing 21 C.F.R. § 312.80).
[8] *Id.*
[9] *Supra*, note 3.
[10] *Supra*, note 4, Food and Drug Administration Safety and Innovation Act, Section 901.

cc: Janet Woodcock, M.D.
Director, Center for Drug Evaluation and Research

The Honorable Thomas R. Carper
Ranking Member