The FDA, Vioxx®, and the Repercussions of Direct-to-Consumer Advertising

Merck removed rofecoxib (Vioxx®) from the market early last fall because of reports of an increased number of heart attacks among users. This drug had been widely used for painful arthritis. For this “forthright” action, Merck initially received some adulation. On November 19, 2004, however, The Wall Street Journal published e-mails from Merck’s corporate files indicating that the company had known of the increased heart problems for four years. One of the documents contained guidance for sales representatives if they were questioned about any side effects of the product. The staff training manual was actually labeled “Dodgeball Vioxx.”

When new drugs are approved after they have been found safe and effective in preliminary trials, their safety is still in some doubt because rare side effects may show up only after much more extensive experience. Patent protection is limited to a few years, resulting in aggressive promotion as soon as the Food and Drug Administration (FDA) grants approval. In 1992, a new law provided for much of the FDA’s drug approval expense to be paid by license fees from the drug industry. The FDA’s Center for Drug Safety Evaluation exists within its Center for Drug Evaluation and Research (CDER) along with its Office of New Drugs. This creates a conflict of interest when the safety of a recently approved drug comes into question.

The FDA’s own investigators now estimate that from 1999 to 2003, 27,000 excess cases of myocardial infarction occurred in users of Vioxx®. Clearly, some reforms are needed in the drug industry and in the FDA.

To restore public trust in drug regulators and the industry will require some prompt and drastic reforms. For a start, the Office of Drug Safety needs to be insulated from the Office of New Drugs, which collects the license fees.

In 1997, the U.S. started permitting the advertising of prescription drugs to the general public. New Zealand is the only other country following this path. I believe that the rest of the world’s reluctance to do so is the correct attitude—time is wasted in talking about the advertisements during consultations, and the costs materially increase drug prices. The costs of pell-mell promotion are totally wasted when new drugs must be withdrawn from sale. A reasonable period of postmarketing safety surveillance could reduce the consequences of these drug withdrawals. Furthermore, such a massive experiment in risk assessment is unnecessarily hazardous to the public. Our nation’s policy about advertising prescription drugs was changed by administrative rule without legislative input or even public hearings.

A reform that might be acceptable to the pharmaceutical industry would be to stop the clock on patent expiration from the moment of FDA approval of a new drug until sufficient safety data about it are collected or until the manufacturer chooses to begin promoting the product commercially (whichever occurs first). Some would argue that a fixed three- to five-year period (or even longer for antibiotics) would be preferable. This would have another extremely beneficial effect. New antibiotics are best used sparingly—not because of safety considerations but, rather, to preserve their usefulness for infections resistant to the previously available antibiotics. This type of extension of patent protection would tend to balance the benefits to the public and to corporations. After all, patents were originally intended to promote innovation for the public’s benefit.

The period of restrained use of new drugs would be an especially good time to promote and finance clinical research comparing the relative effectiveness of the old versus the new remedies. I see no way to motivate business interests to finance such research. All attempts to privatize public health are similarly doomed to failure.

To illustrate the point, according to a paper reprinted from the nonprofit organization Doctors Without Borders, the world’s pharmaceutical industry spends less than 10% of its research budget on the major health problems of 90% of the world’s population; thus, support for these research activities would have to come from sources such as universities, foundations, and the National Institutes of Health. An informed public could participate in deliberations on these problems. This participation would enhance the important goal of restoring and preserving the public’s confidence in the FDA and in the pharmaceutical industry.

The outcome of the Vioxx® problem speaks for itself—tens of thousands of unnecessary heart attacks, damage to Merck’s reputation, and wasted resources on inappropriate promotion. This episode is merely the most recent and one of the most egregious examples of the problem. My proposal for what amounts to a two-stage approval of new drugs could turn out to be at least a partial solution.

Reference

Sincerely,

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