Submission: Provisional Approval Pathway for Prescription Medicines

AUSTRALIAN FEDERATION OF AIDS ORGANISATIONS
Leading the community response to HIV

napwha national association of people with HIV australia

1. Role of AFAO and NAPWHA

As the peak national organisation for Australia's community HIV response, AFAO is recognised nationally and globally for the leadership, policy expertise, coordination and support we provide. Through advocacy, policy and health promotion, we champion awareness, understanding and proactivity around HIV prevention, education, support and research. AFAO provides a voice for communities affected by HIV and leads the national conversation on HIV. AFAO is particularly concerned to ensure communities affected by HIV are able to gain access to important medicines and medical devices as soon as possible, while simultaneously ensuring their safety and effectiveness.

The National Association of People with HIV Australia (NAPWHA) was founded in 1989 and is the peak organisation representing people living with HIV at the national level. Our members comprise State and Territory organisations of people living with HIV. Our focus is on policy and program advocacy to help ensure that Australia attains the highest standards in HIV prevention, treatment, care and research.

NAPWHA and AFAO promote the meaningful involvement, visibility and centrality of people living with HIV in all aspects of Australia's HIV response. We strongly endorse the goal of Australia's seventh *National HIV Strategy* which calls for the virtual elimination of HIV transmission in Australia by 2020.

2. Our interest in medicines regulatory issues

AFAO and NAPWHA have a long history of involvement in regulatory issues concerning medicines, medical devices, health standards, clinical trials and scientific research. We work closely with clinicians, researchers and the pharmaceutical industry to ensure prompt access to important clinical trials and new medicines to treat and prevent HIV. This work includes interaction with Australia's prescription medicine and medical devices regulatory and funding processes.

We have a particular interest in the regulation of new medicines, especially as this relates to treating and preventing life-threatening diseases such as HIV. We believe there are strong individual and public health imperatives to provide prompt access to important new medicines and devices by "fast-tracking" their availability through the regulatory system and funding mechanisms.

3. Implementation of changes to medicines and medical devices regulation

Over the past two years, AFAO and NAPWHA have made submissions concerning:

- the 2015 Expert Panel Review of Medicines and Medical Devices Regulation (MMDR) review
- the Australian Government's response to the MMDR review and recommendations[1]
- draft legislation amending the *Therapeutic Goods Act 1989* to assist implementation of the Commonwealth government's decisions in relation to the MMDR review.

[1] http://www.health.gov.au/internet/main/publishing.nsf/Content/Expert-Review-of-Medicines-and-Medical-Devices-Regulation

We note that a number of important changes are being implemented following the MMDR review, but that the operational details of these changes are yet to be finalised and will be actioned progressively, in consultation with stakeholders. AFAO and NAPWHA look forward to providing further input as this work proceeds.

In light of the importance of these and other changes to TGA regulations and operations, we propose the establishment of a small, fixed term advisory committee, with consumer membership, to advise the TGA on implementation of proposed regulatory and operational changes following the MMDR and passage of the Therapeutic Goods Amendment (2016 Measures No. 1) Bill 2016.

4. Public consultation on a provisional approval pathway for prescription medicines – proposed registration process and post marketing requirements

AFAO and NAPWHA welcome the TGA's discussion paper[2] on a provisional approval pathway for prescription medicines and the invitation to provide written comment by 1 May 2017.

We use the sub-headings in the consultation paper as the framework for our joint submission.

4.1 Phases in the provisional approval pathway (p7)

As stated in our previous submissions on TGA operations, we believe that the medicines and medical devices regulatory processes need to be more transparent and inclusive of input from consumers, consumer groups and expert clinicians.

At the outset, the TGA (and also the PBAC) should have an expectation that sponsors will formally engage with consumers in formulating and progressing submissions for registration and funding of their products.

AFAO and NAPWHA also call for the introduction of public hearings of stakeholders as part of the regulatory decision-making process, particularly concerning the regulation and funding of important new medicines and devices.

This approach would be similar to the practice of the US Food and Drug Administration (FDA) to encourage participation from all public stakeholders in its priority setting and decision-making processes (FDA advisory committee meetings include public hearings, during which interested persons may present views orally or in writing). We believe such hearings would provide Australian consumers, health professional and other parties with an opportunity to provide direct input to the TGA concerning the regulation of new medicines and devices.

4.2 Consultation with external experts (p8)

AFAO and NAPWHA agree that there are circumstances where it will be necessary to draw on advice from experts (the definition of which should include consumer representatives) outside the TGA to inform decision making on provisional (and priority) approval.

[2] https://www.tga.gov.au/consultation/consultation-provisional-approval-pathway-prescription-medicines?utm_source=tga-pmab&utm_medium=email&utm_campaign=consultation-info-160320

We note the continuing role of the Advisory Committee for Medicines (ACM) and of specialist advisory panels to provide advice to TGA and TGA delegates. We believe these mechanisms should include formal consumer representation.

4.3 Data requirements for the registration application (p8)

In terms of provisional approval, we agree that it is likely that pivotal or supporting clinical trials will be ongoing during the pre-market registration period. We also agree that the option of making rolling submissions should be available where such information might have a material impact on the registration decision. We agree that it is a reasonable requirement for sponsors to prospectively discuss any additional data with the TGA. However, it is unclear what the implications are for PBAC processes in these kinds of situations.

AFAO and NAPWHA note that it is proposed that a rolling submission of clinical data may not be accepted unless there has been an upfront agreement between the sponsor and the TGA prior to dossier submission. However, **we are unclear about what will happen in the case of a registration application that is proceeding through the normal TGA pathway, and where important new evidence emerges about the efficacy of product, which would then merit that product being considered for provisional (or priority) approval. There should be capacity to accommodate such a situation.**

4.4 Timeframe for the pre-market registration process (p9)

AFAO and NAPWHA note that it is proposed to have provisional approval applications follow the same timelines as standard registration applications.

We also note (p10) that one of the decision making factors with respect to provisional approval will be promising evidence that early availability of the medicine will provide a significant benefit to patients with unmet clinical needs.

While provisional approval may provide one element of earlier access to new medicines for patients in need, we believe that there should also be a capacity for medicines being considered for provisional approval to be prioritised ("fast-tracked") through the regulatory system, with appropriately shortened timelines. This will be particularly important to patients with life-threatening conditions and/or situations where new medicines may provide an important public health benefit.

There does not appear to be a barrier to progressing applications in a shorter timeframe than specified for standard registration applications. This should be discussed and monitored to ensure that important new medicines, especially those for life-threatening diseases, and considered as promptly as possible by the TGA.

4.5 Accepting provisional approval applications for evaluation (p10)

Consideration of whether or not the TGA will accept an application for provisional approval should also include obtaining the views of clinicians and consumers, especially for new medicines that may fulfil unmet patient need. This input should be sought via mechanisms discussed in sections 4.1 and 4.2 of this submission.

4.6 Registration decision by delegate (p10)

During the decision phase on whether an application is to be approved, the TGA delegate should also consider the views of clinicians and consumers, especially for new medicines that may fulfil unmet patient need. This advice should be sought via mechanisms discussed in sections 4.1 and 4.2 of this submission.

4.7 Post-market requirements in the provisional registration period (p11-12)

AFAO and NAPWHA support proposed requirements to collect confirmatory data on efficacy and safety for provisionally registered products. However, we would expect any conditions imposed by the TGA in this area to be consistent with those imposed by comparable overseas regulators where relevant to the Australian context.

We agree that in "exceptional circumstances" sponsors should be able to support their applications by providing the TGA with confirmatory data generated through "real world" observational data from a patient registry. In the field of HIV, there have been a number of examples in Australia and overseas where retrospective and prospective data from patient registries has been used to inform regulatory submissions for medicines and medical devices. This data is also utilised in the generation of clinical guidelines.

There should be formal stakeholder consultation to provide clarity on exactly what the abovementioned "exceptional circumstances" are.

We agree that there are circumstances where for some provisional registration submissions the establishment of a patient registry will be beneficial. However, there may be considerable time and costs involved and so **it is important that proposals to establish such registries should be considered in consultation with key stakeholders, including consumers and clinicians**. Overseas patient data sources from comparable overseas settings should be utilised where possible.

4.8 Enhanced risk minimisation and communication (p12-13)

AFAO and NAPWHA agree that the TGA has an important role in the provision of information to consumers and health professionals concerning medicines that have been granted provisional registration and the implications of this.

We support the proposals in this section concerning sponsor and consumer communication concerning provisional registration of medicines. **We would like to see the TGA have direct and continuing involvement with consumers and expert clinicians in formulating communication strategies concerning provisionally registered medicines.**

4.9 Lapsing or transition to full registration (p14-15)

There should be stakeholder consultation when the TGA is considering lapsing, extending or transitioning a product from provisional to full registration.

4.10 Legislative and regulatory amendment (p16)

AFAO and NAPWHA agree with the proposal that decisions relating to the designation, pre-market assessment, extension of the provisional registration period and transition to full registration should be subject to appeal.

We agree that the automatic lapsing of provisional registration and withdrawal from the market should not be subject to appeal.

AFAO and NAPWHA do not agree that appeal rights should be limited only to the applicant (i.e. the sponsor) of the goods in question. We believe there will be circumstances where organisations such as AFAO and NAPWHA – civil society, community-based organisations and health professionals – may wish to appeal a TGA decision where they consider this is in the best interests of their constituents.

4.11 Fees and charges (p16)

We note existing policy that TGA processes for registering medicines are to be fully cost recovered. We also note that the introduction of changes arising from the MMDR review, including provisional registration processes, will likely see an increase in TGA charges. We are concerned that increases in TGA related charges and submission preparation costs for TGA and PBAC submissions may be a disincentive for some sponsors to bring eligible medicines to market in Australia given our relatively small population. This is particularly important for people with life-threatening diseases who may depend on prompt access to new treatments, including those developed by smaller pharmaceutical manufacturers who may not necessarily be able to absorb high fees and charges.

Changes arising from the MMDR review, including provisional registration, will undoubtedly increase the TGA's workload and it is important that the TGA is sufficiently resourced to perform additional functions.

We support the MMDR's recommendation number 32 which called for an Australian Government review to enhance the Australian National Regulatory Authority (NRA) funding model to enable it to more effectively fulfil its mandate to act in the public interest and to ensure that genuine and systemic improvements to its capacity, expertise and operation are achieved.

4.12 Reimbursement implications – PBS processes (p17)

AFAO and NAPWHA wish to emphasise that there will be little benefit to consumers unless the PBAC and TGA processes for provisional and priority approval are closely aligned.

Among the unresolved issues is the reality that TGA and PBAC evaluations are done by different evaluators with different emphases.

The PBAC will need to develop complementary processes for handling PBS listing applications for medicines being prioritised and/or fast-tracked by the TGA.