EUROPEAN MEDICINES AGENCY
SCIENCE MEDICINES HEALTH

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Application of EMA's transparency principles to the raw data proof-of-concept pilot

1. Purpose and context

- Further to the dedicated discussion between the European Medicines Agency (EMA) and the Industry Focus Group (IFG) on Raw Data[1] concerning EMA's Policy 0043[2] and its application during the raw data proof-of-concept pilot on 15 November 2022, the present paper was developed with the aim to clarify EMA's existing data transparency principles, including its current practice and processes.
- The purpose of this paper is to support and provide clarifications to interested applicants and Marketing Authorisation Holders (MAHs) on the application of EMA's data transparency principles during the conduct of the raw data proof-of-concept pilot.
- The key premise of the raw data proof-of-concept pilot is that targeted analysis and visualisation of raw data will enhance benefit-risk assessment and regulatory decision-making, and thereby has the potential to enable faster approval of medicines fulfilling unmet medical needs of EU citizens.
- The European Commission's "Pharmaceutical Strategy for Europe" is supportive of initiatives that enable innovation and digital transformation in order to create a future proof regulatory framework[3].

[1] Questions and Answers about the raw data proof-of-concept pilot for industry available at: https://www.ema.europa.eu/en/documents/other/questions-answers-about-raw-data-proof-concept-pilot-industry_en.pdf
[2] European Medicines Agency policy on access to documents, Policy/0043, available at: https://www.ema.europa.eu/en/documents/other/policy-43-european-medicines-agency-policy-access-documents_en.pdf
[3] See …, section 3.2.COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS Pharmaceutical Strategy for Europe, COM(2020) 761 final, section 3.2. Enabling innovation and digital transformation, "*The Commission will propose to revise the pharmaceutical legislation to consider how to make best use of this transformation. This includes new methods of evidence generation and assessment, such as analysis of big and real world data to support the development, authorization and use of medicines.* ***Regulators may require access to the raw data at the time of authorization to fully appreciate these innovative elements of the treatment***." (emphasis added)

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2. Definitions

Raw data

'Raw data', also referred to as 'Standardised Study Data' means individual data separately recorded for each participant in a clinical study[4] following a structured format from which statistical analyses are derived. Raw data includes the datasets in Study Data Tabulation Model (SDTM) and Analysis Data Model (ADaM) formats.

Policy 0043

EMA's policy on access to documents (hereafter referred to as 'Policy 0043)' describes the rules the Agency applies to access to documents requests. This policy should be read in conjunction with the output tables on documents related to, and non-related to, medicinal products for human and veterinary use[5],[6] and the HMA/EMA guidance on identification of commercially confidential information and personal data within the structure of the marketing authorisation (MA) application[7].

Policy 0070

The EMA policy on the publication of clinical data for medicinal products for human use[8] (hereafter referred to as 'Policy 0070') was developed by EMA, in accordance with Article 80 of Regulation (EC) No 726/2004. Policy 0070 was adopted by the EMA Management Board on 2 October 2014 and subsequently published on the EMA website. The implementation of Policy 0070 consists of two phases. Phase 1 of Policy 0070 entered into force on 1 January 2015. Phase 1 pertains to publication of clinical reports only[9]. Phase 2, which pertains to the publishing of individual patient data (IPD)[10] has not entered into force and will only be considered for implementation at a later stage. Clinical reports and IPD are collectively referred to as "clinical data".

Union data protection legislation

In the context of the raw data proof-of-concept pilot, the expression "Union data protection legislation" refers to both Regulation (EU) 2018/1725 (the European Union data protection legislation, or 'EUDPR', applicable to EMA) and Regulation (EU) 2016/679 (the General Data Protection Regulation, or 'GDPR', applicable to Member States, sponsors, and applicants or MAHs.

Personal data

Article 3(1) of the EUDPR (and Article 4(1) of GDPR) defines 'personal data' as "any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier

[4] Clinical studies include clinical trials as well as non-interventional studies in accordance with the definitions set out in Article 2 of Regulation (EU) No 536/2014.
[5] Output of the EMA policy on access to documents non-related to medicinal products for human and veterinary use (europa.eu)
[6] Output of the EMA policy on access to documents (europa.eu)
[7] HMA/EMA GUIDANCE DOCUMENT ON THE IDENTIFICATION OF COMMERCIALLY CONFIDENTIAL INFORMATION (europa.eu)
[8] European Medicines Agency policy on publication of clinical data for medicinal products for human use (EMA/240810/2013)
[9] Clinical reports shall mean the clinical overviews (submitted in module 2.5), clinical summaries (submitted in module 2.7) and the clinical study reports (submitted in module 5, "CSR") together with the following appendices to the CSRs: 16.1.1 (protocol and protocol amendments), 16.1.2 (sample case report form), and 16.1.9 (documentation of statistical methods).
[10] IPD shall mean the individual data separately recorded for each participant in a clinical study.

such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person."

3. Application of Policy 0043 to the raw data proof-of-concept pilot

Principles in place to address Policy 0043 are explained in a Guide on access to unpublished documents[11].

Under Regulation (EC) 1049/2001, any type of documents held by EMA can be subject to a request for access to documents submitted by any citizen of the European Union (EU). Natural or legal persons residing or having their registered office in an EU Member State have the right of access to EMA documents. This also includes individual patient data submitted as appendices to Clinical Study Report (CSR) in module 5.3 of a Marketing Authorisation Application (MAA).

Each request for access to documents is considered individually and the decision to release fully, partially or refuse access is taken in line with Article 4 of Regulation (EC) 1049/2001. This includes consideration of Article 4(3) 2nd paragraph if the disclosure of a document would seriously undermine the decision-making process. This applies to ongoing regulatory procedures and therefore to documents submitted therein by an applicant or MAH, including individual patient data contained in appendices to CSR in module 5.3 of a MAA. Therefore, access to such documents would be refused during the relevant ongoing regulatory procedure.

When considering giving access to a third-party document and in line with Article 4(4) of Regulation (EC) 1049/2001, EMA will consult the concerned third-party regarding the possible presence of commercially confidential information (CCI) and personal data, with a view to redacting both categories of data as necessary. This consultation will thus concern also be conducted for individual patient data submitted as appendices to CSR in module 5.3 of MAA. Third parties consulted have 5 working days to submit a substantiated justification to support their redaction proposals.

EMA will assess the justified proposal and present the outcome of this assessment in a table shared with the concerned third-party at the time of the decision.

To summarise, personal data will be anonymised before any release in the case of an access to document request, in accordance with Regulation (EU) No 1049/2001, Regulation (EU) 2018/1725, EMA Policy 0043 and the principles explained in the Guide on access to unpublished documents and HMA/EMA Guidance on identification of CCI and personal data within the structure of the MAA[12].

It is relevant to note that individual patient data in PDF format are already regularly submitted to EMA by companies as part of Annex 16 of Clinical Study Reports. EMA regularly receives request to access patient line listings and releases the data only once anonymised.

[11] Guide on access to unpublished documents (europa.eu)
[12] HMA/EMA Guidance on identification of CCI and personal data within the structure of the MAA

4. Application of Policy 0070 to the raw data proof-of-concept pilot

Individual patient data would only be considered for publication under phase 2 of Policy 0070 which is not implemented at this time.

5. Application of Union data protection legislation to the raw data proof-of-concept pilot

It is important to reiterate that the Agency will ensure that all personal data held in the raw data files submissions are processed and protected in compliance with the provisions set in Regulation (EU) 2018/1725 on the protection of natural persons with regard to the processing of personal data by the Union Institutions, bodies, offices and agencies and on the free movement of such data.

When setting up the raw data proof-of-concept pilot, EMA has assessed the scope of personal data to be processed, recipients, risks to the data subjects, technical and organisational measures to be implemented to ensure data protection is integrated by design and by default to the raw data proof-of-concept pilot. This work resulted in the publication of a comprehensive data protection documentation as listed under Section 6 and in the entry into an administrative arrangement which each National Competent Authority involved in the scientific assessment of medicinal products participating in the raw data proof-of-concept pilot.

6. Supporting documents

- Information about the raw data proof-of-concept pilot for industry https://www.ema.europa.eu/en/documents/other/information-about-raw-data-proof-concept-pilot-industry_en.pdf
- Questions and Answers about the raw data proof-of-concept pilot for industry https://www.ema.europa.eu/en/documents/other/questions-answers-about-raw-data-proof-concept-pilot-industry_en.pdf
- Pilot participation letters https://www.ema.europa.eu/documents/other/pilot-participation-letter_en-0.docx
- Raw data submission cover letter template https://www.ema.europa.eu/documents/other/raw-data-submission-cover-letter-template_en-0.docx
- Data Protection Notice for the raw data proof-of-concept pilot https://www.ema.europa.eu/en/documents/other/european-medicine-agencys-data-protection-notice-raw-data-proof-concept-pilot_en.pdf
- Record of Processing Activity for the raw data proof-of-concept pilot https://www.ema.europa.eu/sites/default/files/records-data-processing-activity-raw-data-proof-concept-pilot_en.pdf
- Questions and answers on the European Medicines Agency polity on publication of clinical data for medicinal products for human use https://www.ema.europa.eu/en/documents/report/questions-answers-european-medicines-agency-policy-publication-clinical-data-medicinal-products_en.pdf