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SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS
HEARING ON FDA USER FEE AGREEMENTS

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Chairman Harkin, Ranking Member Enzi, Members of the Committee, it is my privilege to provide testimony before you today. My name is Sara Radcliffe and I am Executive Vice President for Health for the Biotechnology Industry Organization (BIO). In that role, I have had the opportunity to manage BIO's involvement in the biosimilars user fee (BsUFA) technical discussions, as well as lead BIO's engagement in the Prescription Drug User Fee Act (PDUFA) technical discussions with the Food and Drug Administration (FDA).

BIO represents over 1,100 members involved in the research and development of innovative healthcare, agricultural, industrial, and environmental technologies. The U.S. biotechnology industry is poised to be a major driver in an innovation-driven economy. Biotechnology offers real solutions to our most pressing health care needs: curing disease, reducing costs, increasing quality, and ensuring that people enjoy not only longer lives, but better and more productive lives.

I am here today to express BIO's support for the establishment of the biosimilars user fee program as part of FDA's ongoing implementation of a well-constructed, science-based pathway for the approval of biosimilar products that protects patient safety and preserves incentives to innovate. BsUFA will provide FDA with the resources and capacity to facilitate the development and evaluation of biosimilars products, while also continuing to prioritize the review of innovative drugs and biologics under PDUFA so that safe and effective new treatments – many for currently untreatable and serious diseases – can be made readily available to patients.

BIO also supports timely reauthorization of PDUFA, which we believe will enhance the drug development and review process through increased transparency and scientific dialogue, advance regulatory science, and strengthen post-market surveillance. Most importantly, our hope is that PDUFA V will provide patients and doctors with earlier access to important new therapies.

I. BIO SUPPORTS PASSAGE OF THE BIOSIMILARS USER FEE PROGRAM

BIO supports FDA's ongoing implementation of a well-constructed, science-based pathway for the approval of biosimilar products. A transparent, predictable, and balanced regulatory framework for the review and approval of biosimilars, accompanied by reasonable performance goals and a dedicated, independent funding stream, will ensure that FDA can facilitate the development and evaluation of biosimilars products.

Throughout both the legislative consideration of the Biologics Price Competition and Innovation Act of 2009 (BPCIA) and ongoing FDA implementation of the pathway, BIO has articulated

several key principles that will promote the development of an effective regulatory framework for biosimilar products:

- Ensuring Patient Safety
- Recognizing Scientific Differences Between Drugs and Biologics
- Maintaining the Physician-Patient Relationship
- Preserving Incentives for Innovation
- Ensuring Transparent Statutory and Regulatory Processes
- Continuing to Prioritize FDA Review and Approval of New Therapies and Cures

BIO believes that the proposed user fee program is consistent with these principles and supports Congressional enactment of the program.

The establishment of a stand-alone, independent biosimilars user fee program is consistent with Congressional intent and precedent established under other user fee programs. BIO recognizes that 351(k) applications will raise novel and complex questions of science and law, requiring substantial time, expertise, and additional resources to ensure a thorough regulatory review. BIO believes that one of the principal goals of this new user fee program must be to ensure that workload associated with biosimilar applications does not harm the Agency's ability to efficiently review innovative drugs and biologics, and that new treatments continue to have the highest review priority. Accordingly, we agree with FDA's principle that the Agency needs sufficient review capacity and dedicated user fee resources for 351(k) applications to assure that resources are not redirected from innovator reviews.

Additionally, BsUFA promotes robust post-market safety for biosimilar products by establishing a life-cycle approach to product evaluation and directing resources to FDA's post-market pharmacovigilance activities. Because biologics are complex and challenging to characterize, and the nature of a biologic is closely dependent on the starting materials and processes used to make that product, minor changes made by a manufacturer to starting materials or to manufacturing processes can lead to changes in the product that may not be detectable by current technologies. Therefore, a carefully designed pharmacovigilance effort is important.

BIO also recognizes that, historically, most FDA user fee programs have been established on a pre-existing base of appropriations. However, given the recent establishment of the biosimilars program at FDA, only modest appropriations are currently allocated to the program, and this funding is inadequate to meet the anticipated workload demands. To facilitate an equitable balance of fees and appropriations, FDA and industry support a trigger provision – similar to the established appropriations triggers in other user fee programs – that would ensure that FDA allocates at least $20 million per year to the program. BIO encourages Congress to recognize the importance of a well-resourced and viable biosimilars pathway at FDA and we request that adequate new funding be appropriated for the program.

The biosimilars user fee program also establishes a unique biosimilar product development fee, which is ultimately deducted from the sponsor's application fee. Because there is no established biosimilars industry, facility base, and product base to form a stable funding source for activities that occur before submission of applications, it is important to "front-load" the fees through the product development fee so that the agency has resources available to meet with sponsors during

development to provide scientific advice and feedback. It should be noted, however, that the assessment of a product development fee is unique to this situation with respect to biosimilar products and should not establish any precedent for investigational new drug (IND) fees under the PDUFA program. Additionally, any IND-associated fee should sunset permanently in FY 2018 when both PDUFA and this new user fee program would sunset.

II. PDUFA V: GETTING BACK TO BASICS FOR PATIENTS

A key to the success and the future of the U.S. biotechnology industry is a reliable, predictable, and science-based regulatory environment, and the PDUFA program represents an important element of our nation's overall innovation eco-system. Since 1992 Congress, FDA, and the biopharmaceutical industry have supported this carefully structured user fee program to help fund FDA's human drug review activities. The program has contributed to the approval of more than 1,200 new medicines and, initially, reduced review times for the newest, most innovative drugs by more than a year.

While establishing a sound BsUFA was a priority for BIO, so too is reauthorizing PDUFA. The principles which guided BIO in our technical discussions with FDA regarding PDUFA reauthorization were that a science-based, transparent, and well-managed review process that appropriately balances benefits and risks can enhance public trust and increase patient access to new medicines. With these principles in mind, BIO, PhRMA, and FDA agreed upon a set of enhancements under PDUFA V that seek to reinforce FDA's review performance and get back-to-basics for patients. These proposals have also been informed by an unprecedented level of

public input through workshops, meetings, and stakeholder outreach, which further strengthened the technical agreement. These enhancements include:

- **New Molecular Entity (NME) Review Program:** Historically, nearly 80% of all NME applications submitted to FDA are ultimately approved, but fewer than half are approved on the first submission.[i] Sponsors and FDA can and must do better for patients. By strengthening scientific dialogue and transparency between FDA and Sponsors under the proposed review program for novel drugs and biologics, we can minimize the potential review issues that can delay patient access to needed treatments. Increased FDA-Sponsor scientific dialogue and transparency, such as a mid-cycle communication, exchange of discipline review letters and advisory committee information, and a significant new late-cycle meeting, will help to identify and resolve issues earlier in the review. This represents a significant paradigm shift in FDA's review process while maintaining FDA's high standards for safety and efficacy. An additional two-month validation period preceding the review period will help to ensure FDA has all the information it needs at the beginning of the process to perform a complete review. Finally, a robust third-party evaluation will provide data on whether we have been successful in this program of leading to fewer review cycles, shorter approval times, and earlier patient access to needed treatment.

- **Enhanced Communication during Drug Development**: To help advance American innovation and promote the development of the next generation of modern medicines, FDA has also committed to a philosophy under PDUFA V that timely, interactive

communication with biotechnology and life science companies during drug development is a core Agency activity.

FDA's recent report on driving biomedical innovation highlights that "the private sector is the engine of innovation, and much of this innovation begins with small business."[ii] Indeed, many small biotechnology companies operate on the cutting edge of biomedical science to develop new therapies for devastating diseases. Yet we must acknowledge that the scientific method does not operate in a vacuum, and it is critical to promote interactive, scientist-to-scientist communication between FDA and Sponsors. In the course of drug development, Sponsors sometimes have simple or clarifying questions, the responses to which could have a significant impact on the development program, but which are not extensive enough to warrant formal meetings. To obtain timely responses to such questions, Sponsors currently often have to engage in a lengthy exchange of multiple formal letters with FDA, which is an inefficient and cumbersome use of both FDA's and the Sponsor's time. For small biotechnology companies reliant on limited venture capital, these delays can create significant impediments to development programs.

Additionally, independent reports commissioned by FDA have demonstrated that enhanced communication during drug development ultimately results in higher quality applications, which can improve efficiency for FDA reviewers.[iii]

BIO fully supports the PDUFA V proposal to promote innovation through enhanced communication between FDA and Sponsors during drug development, which will establish best practices for this type of interactive dialogue, train staff on communication practices, and provide the Agency with additional staff capacity to respond to sponsor inquiries in a timely manner.

- **Modernizing Regulatory Science:** Additionally, the PDUFA V agreement makes new resources available to modernize regulatory science, for example, in the areas of personalized medicine and rare disease drug research. Modern approaches to drug development and evaluation, such as the application of new tools for rare disease drug development, flexibility with regard to creative study designs and new endpoints, and greater utilization of biomarkers and patient reported outcome measures, will introduce new efficiencies in the drug development enterprise and provide FDA with additional tools to evaluate the benefits and risks of pharmaceutical products. These proposals will also integrate more structured and systematic approaches to assessing benefits and risks of therapies, and allow FDA to conduct outreach to patients and hold workshops to understand better patient perspectives on disease severity and unmet medical need.

- **Robust Drug Safety and Post-Market Surveillance Capacity:** PDUFA V continues industry's commitment to a lifecycle approach to product evaluation by strengthening FDA's post-market surveillance and benefit/risk management capacity. Earlier discussion of risk management strategies, standardized approaches to REMS, and further validation of the Sentinel Network will promote patient confidence in drug and biologics.

Under the PDUFA V agreement, industry has reinforced its commitment to a well-funded drugs and biologics review program that supports sound, science-based regulation consistent with FDA's public health mission. However, user fees are intended to support limited FDA activities around the drug review process and were never intended to supplant a sound base of appropriations. User fees currently account for nearly two-thirds of the cost of human drug review. We urge Congress to support FDA's mission and fund the Agency at the Administration's FY12 requested levels.

Additionally, it is critical for PDUFA to be reauthorized well in advance of PDUFA IV's expiration in September 2012, to avoid a reduction in force at the FDA. Even the threat of a downsizing at the FDA would be devastating to the Agency's public health mission and its ability to review new drugs and biologics.

BIO looks forward to working with Congress and FDA to fully implement these enhancements under PDUFA V.

III. CONCLUSION

In conclusion, BIO supports enactment of the proposed biosimilars user fee program, which will provide FDA with adequate resources and promote predictability in FDA's biosimilars review process, while continuing to promote the development and evaluation of innovative therapies for unmet medical needs under PDUFA. Both user fee programs will enhance FDA's ability to

protect and promote the public health, and we encourage Congress to enact both legislative provisions in a timely manner.

REFERENCES

[i] FY10 PDUFA Performance Report, p.4, http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Reports/UserFeeReports/PerformanceReports/PDUFA/UCM243358.pdf

[ii] FDA, *Driving Biomedical Innovation: Initiatives for Improving Products for Patients*, October 2011, http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Reports/UCM274464.pdf

[iii] Booz Allen Hamilton, *Independent Evaluation of FDA's First Cycle Review Performance –- Final Report* July 2008, http://www.fda.gov/ForIndustry/UserFees/PrescriptionDrugUserFee/ucm127117.htm