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ASSESSING THE REGULATORY REQUIREMENTS FOR PRESENTING EFFICACY AND RISK INFORMATION IN DIRECT-TO-CONSUMER LABELLING AND ADVERTISEMENTS– AS PER USFDA

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ABSTRACT

The display of efficacy and risk information in direct-to-customer promotional labelling and advertisements is a complicated problem. On the one hand, customers have a right to accurate and unbiased information regarding the advantages and disadvantages of prescription medications. Pharmaceutical businesses, on the other, have the right to market their goods in an honest and non-misleading manner. The United States Food and Drug Administration has released guidelines; this guideline is an invaluable resource for companies creating direct-to-consumer advertisement materials for prescription medications. However, a variety of possible conflicts of interest may occur as a result of these recommendations. Conflicts might occur from the pharmaceutical sector, advertisements corporations, or the organizations themselves. It is critical to resolve these possible conflicts of interest to provide customers with accurate and unbiased information regarding the benefits and loss of prescription medications. The regulatory requirements for conveying this information on labelling and advertisements will be discussed in this study. The presentation will also cover the possibility of ethical conflict in the context of these principles, as well as how to handle such conflicts. The paper will conclude with guidelines for regulatory affairs professionals who are in charge of ensuring that their company's labelling and advertisements are legally compliant.

Keywords: Promotional Material, Control Group, Effective, Prescription Drug, Data

INTRODUCTION

The FDA has announced the release of a guide for business called "Presenting Quantitative Efficacy and Risk Information in Direct-to-Consumer (DTC) Promotional Labeling and Advertisements". This advice offers suggestions for improving the phrasing and presentation of quantitative efficacy or risk information about pharmaceuticals that companies provide in direct-to-consumer (DTC) promotional advertisements **[1]**. Although the focus of this advice is on quantitative presentations of efficacy and risk information, businesses may find these guidelines and recommendations helpful for quantitative presentations of other product benefits, abiding by the applicable statutory and regulatory requirements.

The FDA recognizes that businesses may have challenges to abide by the guidelines so that customers can pay attention to, interpret, and apply the information to make valid views about their goods **[2]**. As a response, the FDA is issuing this guideline to give options on how to present quantitative effectiveness and risk information in DTC promotional communications and to motivate firms to do so when doing so **[3, 8]**. Based on current findings from health information dissemination research, the following subjects are recommended: Whenever possible, providing quantitative data on the effectiveness or risk of the control group; presenting probability data, using visual aids to illustrate quantitative effectiveness or risk data.

The draft guideline, which was issued on October 17, 2022, has been finalized on June 26, 2023. When the FDA finalized the guidance, they considered the comments they had received on the draft. Clarifying concerns for quantitative effectiveness or risk presentations across multiple media types is one of the adjustments made between the draft and final recommendations. Additional explanations are also provided for several of the ideas and examples included in the draft guidance **[4]**. Clarity was also increased through editorial and organizational changes.

Visual Aids

Visual aids can assist in evaluating the regulatory requirements for communicating quantitative efficacy and risk information in DTC advertising and labelling. Here are some examples of how to use visual aids: **[5, 6]** Bar graphs, Line graphs, Tables, Icon arrows etc.

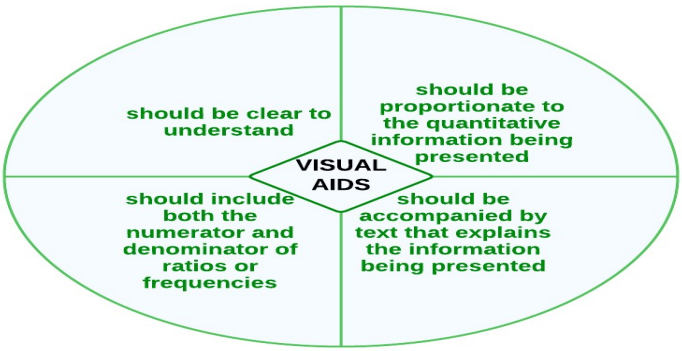

Figure 1: Visual aids to evaluate regulatory requirements

Risk Information

USFDA purported a strategy breach when a medicine's risk information is inappropriately provided by omitting or downplaying the drug's negative effects. In a 2006 warning letter to Bio Marin Pharmaceutical, for example, the USFDA claimed that the company's website for the drug Orapred, a prescription drug for treating allergic asthma sufferers was in violation because it made effectiveness claims but was difficult to track down threat information **[7]**. The findings of this inquiry revealed that the format, amount, placement, and even gravity of drug safety information were not always conveyed effectively. According to the USFDA, the risk information was featured less frequently in online advertising goods than the benefit information **[8]**.

Efficacy Information

In general, the FDA considers promotional materials deceptive if advertisers think a drug is superior to alternatives without supporting this claim with adequate, well-controlled clinical trials and substantiated comparisons with competitors in addressing the product's safety and effectiveness **[9]**.

Regulatory Expectations on Labelling and Advertisements

1. The material must be presented clearly, concisely, and understandably. This includes using simple language that customers can comprehend and avoiding technical jargon or medical phrases they may not be acquainted with.
2. The data must be correct and full. This implies that the information supplied must be consistent with the results from the drug's clinical studies **[10]**.
3. The data must be balanced. This implies that the drug's advantages and hazards must be provided, and the

risks must not be reduced or understated.

4. The information must be provided in a non-misleading manner. This indicates that the data must not be presented in such a way that makes drugs more effective or safer **[5, 11]**.

In addition to these broad expectations, the FDA has released specific recommendations on how to communicate quantitative effectiveness and risk information in direct-to-consumer advertising.

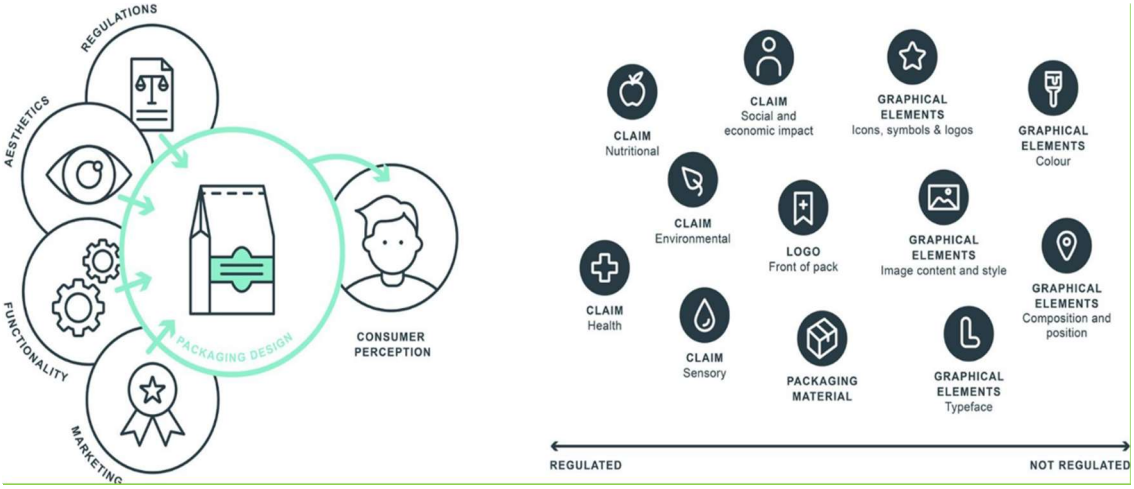

Figure 2: Regulatory Expectations on Labelling and Advertisements

Regulatory Submission for Labelling and Advertisements

This proposal will evaluate the regulatory requirements for conveying quantitative effectiveness and risk information in direct-to-consumer (DTC) advertising. The submission will evaluate the applicable rules, guidance materials, and case law and will make recommendations on how to convey this information in a clear, balanced, and intelligible manner **[12]**.

Regulatory Requirements

A. Regulatory Requirements for Labelling as Per USFDA

The FDA has precise regulatory criteria for conveying quantitative effectiveness and risk information in direct-to-consumer (DTC) labelling for prescription medications as of my latest update in September 2021 **[13]**. DTC labelling covers products including package inserts, Medication Guides, and patient information pamphlets that are designed to be sent directly to consumers. Here are some significant regulatory requirements: **[14]**

1. Balanced Presentation: DTC labelling should explain both the advantages and hazards of a medicine. This

implies that the information presented to customers should not overemphasize the drug's advantages while downplaying its hazards.

2. Application of Quantitative Data: When giving efficacy information, DTC labelling may employ quantitative data, such as statistical metrics, to characterize the drug's effectiveness. The information should come from well-controlled clinical trials and be provided in a clear and intelligible manner.
3. Clear and readable Information: To guarantee that consumers can readily read and comprehend the material, quantitative effectiveness and risk information in DTC labelling must be given in a clear, visible, and readable style.
4. Inclusion of Major dangers: The labelling should contain the drug's most major and serious dangers. This information must be widely displayed so that customers are aware of the potential negative consequences.

It's important to note that the FDA's policies and guidelines may change over time. For the most up-to-date and extensive information on displaying quantitative effectiveness and risk information in DTC labelling for prescription medications, see the FDA's official website or contact legal and regulatory specialists specialized in pharmaceutical labelling compliance **[22,15]**.

B. Regulatory Requirements for Advertisements as per USFDA

1. Fair Balance: DTC advertising must give a balanced picture of the drug's advantages and dangers. This implies that promotional materials should incorporate both positive features of the drug's efficacy as well as enough information regarding its possible hazards.
2. Major hazards: The marketing should emphasize the drug's most important hazards. The FDA normally wants the advertisement to prominently highlight the most prevalent and significant dangers **[16]**.
3. Quantitative Data: When delivering effective information, DTC advertising may include quantitative data, such as statistical metrics, to explain the drug's advantages. This information, however, must be provided in a clear, accurate, and non-misleading manner.
4. Data Use: Any data used to support claims regarding the efficacy of the

medicine should originate from well-controlled clinical research.

It is necessary to understand that the FDA's regulations are subject to change, and there may be additional guidance and requirements beyond the points mentioned here. Pharmaceutical companies typically work closely with the FDA's Office of Prescription Drug Promotion (OPDP) to ensure that their DTCA meets the regulatory standards **[17]**.

Reason behind Publishing Guidelines by USFDA

To ensure that the information provided to consumers is accurate, balanced, and intelligible, the FDA publishes guidelines on providing quantitative effectiveness and risk information in direct-to-consumer (DTC) advertising for prescription medications **[18, 19]**. There are various reasons why such guidelines are required:

1. Consumer Protection: The FDA's principal purpose is to safeguard public health and provide customers with accurate information about prescription medications. Because direct-to-consumer marketing may have a substantial influence on consumer behaviour and healthcare decisions, it is critical that the information supplied is credible and assists customers in making educated decisions.
2. Informed Decision-Making Promotion: By giving quantifiable effectiveness and risk statistics, customers may better grasp the possible advantages and hazards associated with certain medicines **[20]**. Before utilizing prescription medication, customers must compare the advantages against probable negative effects, which necessitates informed decision-making.
3. Advertising Claims Regulation: Pharmaceutical businesses frequently utilize advertising to market their goods. The FDA rules serve to govern the claims made in these advertisements in order to avoid misleading or inaccurate information regarding the efficacy or safety of a medicine.
4. Ensuring Compliance: By publishing clear rules, the FDA assists pharmaceutical businesses in grasping the precise criteria for DTC advertising. This promotes regulatory compliance and decreases the risk of forged marketing activities.

Overall, the FDA's publication of recommendations for conveying quantitative

effectiveness and risk information in DTCA shows the agency's commitment to protecting public health and providing consumers with accurate and relevant information to help them make educated healthcare decisions **[21]**.

Alleged Violations

There have been several reports of suspected breaches of FDA guidelines for communicating quantitative effectiveness and contraindications on promotional labelling and advertising. Excluding or downplaying dangerous information. This is a common violation since pharmaceutical firms regularly try to highlight the advantages of their products while downplaying the hazards **[22]**. For example, a company may advertise a medicine as "90% effective" in treating a certain condition while forgetting to mention that the treatment also contains a 10% chance of serious adverse effects.

REGULATIONS	21 CFR 201.10	21 CFR 201.57	21 CFR 202.1	21 CFR 201.10	15 U.S.C. 52
ALLEGED VIOLATIONS	Misleading efficacy claims	Failure to disclose risks	Failure to present risk information in a balanced way	Use of false or misleading testimonials	Use of unfair or deceptive practices

Figure 3: Alleged Violations and Regulations

Ethical Conflicts Associated with DTC Promotional Labelling and Advertisements

Several possible ethical conflicts may occur as a result of the FDA's guidance on disclosing quantitative effectiveness and contraindications in promotional labelling and advertisements **[23]**. These disagreements might be caused by the following factors:

1. The pharmaceutical industry: As the major source of money for DTC advertising, it has a strong interest in ensuring that the information conveyed in these advertisements is beneficial to its goods. This might lead to the industry putting pressure on the FDA to relax the rules or allow the use of deceptive or overstated language in DTC advertisements.
2. DTC advertising firms: DTC advertising firms are also a potential source of conflict of interest. These firms are paid by pharmaceutical

companies to create and place DTC ads, and as such, they have a financial incentive to create ads that are as persuasive as possible. This could lead to the use of misleading or exaggerated language in DTC ads, even if it is not in the best interests of consumers.

3. The FDA is in the position of ensuring that commercials for DTC are honest and not misleading. However, because the FDA is also supported by the pharmaceutical sector, it may be hesitant to take action against DTC advertisements sponsored by pharmaceutical corporations. This may result in the FDA approving the use of false or overstated language in DTC advertisements, even if it is not in the best interests of consumers.

To overcome these possible ethical conflicts, it is critical that the FDA remains independent of the pharmaceutical sector and is not swayed by financial concerns. The FDA should also have clear and open standards on the use of quantitative effectiveness and risk information in DTC advertisements, and it should be able to enforce these criteria effectively **[24]**. In addition to these safeguards, it is critical to educate consumers about the possibility of bias in DTC marketing.

DISCUSSION

Based on a study of regulatory regulations, guidance materials, and case law, the following recommendations for presenting quantitative effectiveness and risk information in DTC labelling and advertising are made:

1. The information should be provided in a clear and succinct manner.
2. The data should be presented in a fair way, with equal weight given to efficacy and risk data.
3. Throughout the promotional message, the information should be given in the same numerical format.
4. Visuals, such as charts and graphs, should be used to assist in clarifying the significance of the material.
5. The facts should be conveyed in simple, easy-to-understand terms.

Following these principles, regulatory affairs experts may assist in guaranteeing that their company's DTC advertising materials are legal and give consumers the information they need to make educated health decisions.

Here's some more advice for regulatory affairs professionals:

1. Keep current on the newest regulatory standards. Because the regulatory

landscape is always evolving, it is critical to remain up to speed on the most recent standards.

2. Be proactive in your interactions with the FDA. If you have any questions or concerns regarding the regulatory requirements, contact the FDA.
3. Collaborate with other divisions within your organization to guarantee compliance. The regulatory affairs department is not solely responsible for regulatory compliance. It is critical to collaborate with other departments.

CONCLUSION

The FDA's standards for delivering quantitative effectiveness and risk information in direct-to-consumer (DTC) promotional labelling and advertisements are a significant resource for companies creating DTC promotional materials for prescription medications. Firms may assist in guaranteeing that their products are in compliance with regulatory standards and that consumers have the information they need to make informed health decisions by following the recommendations. Several possible conflicts of interest, however, may exist in the framework of these principles. These conflicts may originate from the pharmaceutical industry, direct-to-consumer advertising corporations, or the US FDA. It is critical to handle possible conflicts of interest in order to provide customers with accurate and unbiased information regarding the benefits and hazards of prescription medications. Several other sites, in addition to the FDA recommendations, can assist in assessing the regulatory requirements for conveying quantitative effectiveness and risk information in DTC labelling and advertising. Firms may assist in guaranteeing that their DTC advertising materials are legally compliant and give consumers the information they need to make educated health decisions by carefully studying the appropriate regulatory requirements and resources.

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Conflict of Interests

The authors declare no conflict of interest.

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