Notice and Comment -
Voluntary Compliance Undertaking - Plavix

A. Purpose of this Notice

1. The purpose of this notice is to provide Ministers of Health in the provinces and territories and other interested persons with an opportunity to make submissions on the appropriateness of the VCU made by BMS and Sanofi regarding the patented medicine Plavix.

B. Background

2. The Board received a VCU from BMS and Sanofi on April 12, 2000, in respect of the price of the medicine Plavix (clopidogrel bisulfate).

3. Plavix 75 mg/tablet is a patented medicine sold in Canada by BMS. Plavix is approved for the secondary prevention of vascular ischemic events (myocardial infarction, stroke, vascular death) in patients with a history of symptomatic atherosclerotic disease.

4. Health Canada issued a Notice of Compliance to Sanofi for Plavix 75 mg/tablet (DIN 02238682) on October 7, 1998. Pursuant to agreements between BMS and Sanofi, Plavix has been sold in Canada since October 7, 1998 at a daily dosage cost of approximately $2.47 per tablet.

5. The Board's Human Drug Advisory Panel (HDAP) classified this product as a category 3 new medicine. The Board's Guidelines provide that the introductory price of a category 3 new medicine is presumed to be excessive if it exceeds the prices of all comparable drug products in the same therapeutic class.

6. On the basis of its review, Board Staff concluded that the introductory price of Plavix exceeded the Guidelines as it was higher than the price of Ticlid (which, at $2.19 per day, was the most expensive comparator recommended by the HDAP) and commenced an investigation into the price of Plavix on April 23, 1999.

7. These prices are considerably higher than the price of ASA, which is often referred to as the "drug of choice" for this indication. On the other hand, the price of Plavix in Canada is lower than the price in all six countries, in which it is sold, that the Board is required to use for purposes of international price comparisons. The Canadian price of Plavix is also lower than the Federal Supply Schedule price in the U.S. of Cdn$2.64.

8. BMS and Sanofi provided additional scientific and economic evidence in support of the price of Plavix. After careful analysis of the evidence provided, Board Staff and the patentees engaged in discussions and agreed to the terms of a VCU, as set out below, that would be referred to the Board. BMS and Sanofi have undertaken:

   1) To agree that the maximum non-excessive (MNE) price for Plavix at the time of introduction is considered as $2.3316 per tablet, 5.6% below the price that was actually charged of $2.4700.

   2) To reduce the current price of Plavix to the MNE price for the year 2000 of $2.4015 per tablet, effective April 10, 2000, using the Board's CPI adjustment methodology.

3) To offset all of the excess revenues received from the sale of Plavix at prices higher than the MNE prices from October 1998 to April 9, 2000 as calculated by the Board in the following manner:
   a) For sales prior to March 1, 2000 by making a payment to Her Majesty in right of Canada no later than 30 days following the acceptance of the undertaking by the Board to offset excess revenues from October 1998 to February 29, 2000; and
   b) By issuing credit notes, no later than 30 days following acceptance of the undertaking by the Board, to pharmacies, wholesalers, hospitals and other customers for the difference between actual prices paid and the MNE price of $2.4015 with respect to sales between March 1, 2000 and April 9, 2000.

9. BMS and Sanofi have reduced the price of Plavix as of April 10, 2000 as per the terms of their VCU and have commenced issuing credit notes.

C. Additional Information

10. Subsequent to the VCU from the patentees, a study by Bennett et al, which is pending publication, was released by the New England Journal of Medicine (NEJM) on April 21, 2000 regarding thrombotic thrombocytopenic purpura (TTP) associated with clopidogrel. On April 27, 2000, the patentees were requested to provide input with respect to the significance of this information and the impact that it may have on any of their submissions made to date. In a response dated May 1, 2000, the patentees stated that cases of suspected TTP have been reported to a number of regulatory agencies, including Health Canada, and that this information does not, in the patentees' view, impact on the VCU.

D. Proposal

11. The Board will consider submissions in this matter in determining whether to accept the VCU.

E. Process for Submissions

12. All persons who wish to make representations in this matter shall file a written submission with the Board on or before June 9, 2000.

13. All submissions by the Ministers of Health will be considered by the Board.

14. All submissions by other persons shall include a clear statement of the person's interest in this matter, and shall state the reasons why the Board should consider the submission.

15. Board Staff and BMS/Sanofi will be given the opportunity to make written submissions in response to any written submission received within 15 days thereafter.

16. Copies of the VCU, the Board Staff memorandum, the April 21, 2000 NEJM article and Sanofi's letter of May 1, 2000 can be obtained from the Secretary of the Board.

17. All submissions shall be filed with the Secretary of the Board at Box L40, 333 Laurier Avenue W., Suite 1400, Ottawa, Ontario K1P 1C1; or by facsimile: (613) 954-8299; or e-mail: sdupont@pmprb-cepmb.gc.ca, and shall be placed on the public record.