Addressing the Challenge of ENDS Regulation

David Graham
President & Managing Partner
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| 1. | The context of conflict and effect of the crossfire |
| 2. | Reducing uncertainty for those in the pursuit of compliance |
| 3. | Building bridges in the interests of the protection of public health |
Challenge?

- a call to fight, as a battle, a duel, etc.
- difficulty in a job or undertaking
- an objection or query as to the truth of something, often with an implicit demand for proof

Dictionary.com / Google Search
If it walks like a duck and it talks like a duck and it sounds like a duck and it looks like a duck, it is a duck,
If it walks like a duck and it talks like a duck and it sounds like a duck and it looks like a duck, it is a duck.
Truth Challenge

- Not all Smokers are alike
- One size doesn’t fit all
- Diversity of need
- Diversity of options needed
  - Products, Strengths, Flavors, Companies

➢ In the Interests of the Protection of Public Health
“Under the right circumstances, e-cigarettes could benefit public health if they help significantly reduce the number of people who use conventional cigarettes and die of tobacco-related disease.” 

Addressing the Challenge of ENDS Regulation

1. The context of conflict and effect of the crossfire

2. Reducing uncertainty for those in the pursuit of compliance

3. Building bridges in the interests of the protection of public health
OVERVIEW OF A PMTA

Product Analyses & Manufacturing (H.1)

Nonclinical & Human Subject Studies (H.2)

Components, Ingredients & Additives (H.1.a & VII A)
Properties (H.1.b)
Principles of Operation (H.1.c)
Manufacturing (H.1.d)

Nonclinical Health Risk Info (H.2.a)
Toxicological & Pharmacological Eval.of Ingreds., Mix of ingredients, & Aerosols
Consumer Perception
Likelihood of Initiation and Cessation By Both Users & Non Users
Product Use Patterns
Labeling Comprehension, Self selection, and Actual Use
Human Factors
Abuse Liability
Biomarkers of Harm & of Exposure
Health Outcomes

Human Health Impact Information (H.2.b)
Toxicological & Pharmacological Eval. of Ingreds, Mix of ingredients, & Aerosols

Components, Ingredients & Additives (H.1.a & VII A)

Properties (H.1.b)

Principles of Operation (H.1.c)

Manufacturing (H.1.d)

Product Analyses & Manufacturing (H.1)

Multi Disciplinary Needs

Engineering

Manufacturing

Analytical

Scientific Writing

Toxicology

Literature Reviews

Behavioral

Population Impact

Clinical

Policy Analysis

FDA Engagement

E-Filing FDA

Nonclinical & Human Subject Studies (H.2)

Nonclinical Health Risk Info (H.2.a)

Human Health Impact Information (H.2.b)

Toxicological & Pharmacological Eval. of Ingreds, Mix of ingredients, & Aerosols

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Health Outcomes
Challenges

ENDS Companies
- Funding
- Capacity
- Experience

Paradigms
- Cigarettes ≠ ENDS ≠ NRT
- CTP ≠ CDER ≠ CDRH
- Tobacco Co’s ≠ ENDS Co’s ≠ Pharma
“…applicants may benefit from consulting with experts outside FDA prior to meeting with the Agency.

These consultants may advise and/or assist applicants in developing the plan to address the regulatory requirements and preparing well-organized submissions.”
Reducing Uncertainty

Meeting with FDA CTP Office of Science
Meeting Information Package
Questions

- An approach that appears capable of addressing scientific requirements?
Unreasonable Uncertainty

Likelihood of Success

$ Cost
The Cost of Success?

LIKELIHOOD OF SUCCESS

$ COST
The Cost of Success?

$\text{COST}$

$\text{LIKELIHOOD OF SUCCESS}$
The Cost of Success?
Why Is This Still So Uncertain?
Addressing Uncertainty

Premarket Tobacco Product Applications for Electronic Nicotine Delivery Systems

Guidance for Industry

DRAFT GUIDANCE

Comments may be submitted within 60 days of publication in the Federal Register of the notice announcing the availability of the draft guidance. Electronic comments may be submitted to http://www.regulations.gov. Alternatively, submit written comments to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Room 1061, Rockville, MD 20852. All comments should be identified with Docket No. FDA-2015-D-2496.

For questions regarding this draft guidance, contact the Center for Tobacco Products at (Tel) 1-877-CTP-1373 (1-877-287-1373) Monday-Friday, 9 a.m. – 4 p.m. EDT.

Additional copies are available online at http://www.fda.gov/TobaccoProducts/Labeling/RulesRegulations/Guidance/default.htm. You may send an e-mail request to SmallBiz.Tobacco@fda.hhs.gov to receive an electronic copy of this guidance. You may send a request for hard copies to U.S. Food and Drug Administration, Center for Tobacco Products, Attn: Office of Small Business Assistance, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993-2000.

U.S. Department of Health and Human Services
Food and Drug Administration
Center for Tobacco Products

May 2016
"The use of the word *should* in Agency guidances means that something is suggested or recommended, but not required."
Unresolved Uncertainty

Premarket Tobacco Product Applications for Electronic Nicotine Delivery Systems

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“Contains Nonbinding Recommendations”

“Draft – Not for Implementation”

“when finalized, this guidance’s focus on ENDS products may result in more specific recommendations”
Unresolved Uncertainty

"Contains Nonbinding Recommendations"

"Draft – Not for Implementation"

"when finalized, this guidance’s focus on ENDS products may result in specific recommendations"
3. Building bridges in the interests of the protection of public health
910(c)(5)(A))
"this finding will be determined, when appropriate, on the basis of well controlled investigations

910(c)(5)(B)
also allows the Agency to consider other “valid scientific evidence” if found sufficient
Bridging

“ Ideally, a PMTA will include studies conducted using the new tobacco product; however, bridging of data from one product to another may be feasible for a subset of products or for certain types of studies.”
FDA ENDS PMTA Public Seminar - Q&A re Bridging

“Would bridging using PK studies for a representative flavor in a class of flavors be sufficient to represent the class?

DR. DRESSLER

“I don't think we're suggesting that you should do these clinical studies on every single flavor. Again, just providing enough rationale and justification for why you're bridging from your specific flavor to other flavors in that category would be helpful.”

DR. SCHROEDER

Bridging
Accessibility to Research?

“FDA also expects the availability of public dockets that will allow manufacturers to access and rely on already available data and studies, to reduce the time it takes to prepare an application in many cases. **FDA is developing a public docket of such research and is also funding more than 70 studies on ENDS products.** Information for these public dockets may be provided by researchers, businesses, stakeholders, **FDA**, or other parties and is likely to include previous work conducted or submitted as part of a publication or application, or other information that can be publicly referenced.”
Bridge the Divide
Bridge the Divide