The Prescription Drug User Fee Act: Cause for Concern?

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Abstract

The Prescription Drug User Fee Act (PDUFA) was originally enacted into law in 1992. PDUFA provides the Food and Drug Administration (FDA) with needed revenue in the form of various fees paid by drug and biologic manufacturers. The FDA utilizes this revenue to streamline the review and approval process for medications. Since the enactment of PDUFA, the median approval time for priority new drug applications and biologics license applications has reduced significantly. The FDA views PDUFA as a successful program that provides a consistent revenue stream to the agency, improves access to medications for patients, and allows industry to have a more predictable product review timeline. However, critics of PDUFA cite concerns including the potential for a lack of FDA independence and medication safety issues involving drugs approved after the existence of PDUFA.

Keywords

medication safety, legal aspects, ethics

President George Bush signed the initial Prescription Drug User Fee Act (PDUFA) into law in 1992.^{1,2} Since its initial enactment, PDUFA has been reauthorized several times with the most recent authorization occurring in 2017.³ Under PDUFA, the Food and Drug Administration (FDA) collects various fees (ie, application, establishment, and product fees) from pharmaceutical and biologic manufacturers.¹ The FDA then uses these funds to hire more necessary staff, upgrade data systems, provide pharmaceutical industry guidance regarding ways to enhance drug development, and improve procedures and standards to make reviews of drugs and biologics more “rigorous, consistent, and predictable.”⁴

Traditionally, the pharmaceutical industry adamantly opposed the adoption of user fees by the FDA.² However, the industry’s viewpoint shifted when it became apparent that the fees would actually benefit the pharmaceutical industry financially due to a significant reduction in the time to review new drug applications (NDAs). Historically, the FDA review process was extensively prolonged; therefore, even a reduction of 1 month in the process could significantly reduce the costs of an NDA by more than the user fee. With the enactment of PDUFA, the FDA significantly improved the median approval time for priority NDAs and biologics license applications; the median time was 13.2 months in 1993 compared with 6.4 months in 2003.⁴ In addition, more than 1000 new drugs and approximately 100 new biologics were approved since the initial passage of PDUFA with 50% of these new drugs initially marketed in the United States, compared with only 8% in the years prior to PDUFA.

The FDA views PDUFA as a successful program as the agency has a consistent revenue stream for needed resources, the public receives access to medications in a more rapid fashion, and the pharmaceutical industry has a more predictable product review timeline.² However, critics of PDUFA note that its existence may potentially undermine public trust in the FDA. These individuals question whether the FDA can truly be independent and provide appropriate review of medications and biologics when industry money finances a significant proportion of its budget; the FDA has collected \$7.67 billion in user fees from the industry since 1992.⁵ Others point to postapproval medication safety issues and suggest that the Act may play a role in exposing patients to medications with significant safety concerns due to the “pressure” to approve new drugs and biologics prior to a PDUFA deadline.² Frank and colleagues reported that drugs approved by the FDA after the passage of PDUFA were more likely to be withdrawn from the market or receive a black box warning than medications approved prior to its enactment (26.7 per 100 drugs vs 21.2 per 100 drugs at up to 16 years of follow-up).⁶ Another analysis by Carpenter and colleagues found that PDUFA requirements “concentrated the number of approval decisions made in the weeks immediately preceding” PDUFA

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deadlines.⁷ Medications approved by the FDA within 2 months prior to their PDUFA deadlines were significantly more likely to be withdrawn from the market for safety reasons, carry a subsequent black box warning, and have 1 or more dosage forms voluntarily discontinued by the manufacturer. Although the results from these analyses may be a reason for concern, they do not definitively establish a causal relationship between aspects of PDUFA and an increased risk to patients.

In summary, PDUFA remains a cornerstone of the current FDA drug review process, particularly because Congress has shown no interest in increasing direct appropriations to the agency. The fees generated by PDUFA have allowed the FDA to hire more staff, significantly improve review times for drugs and biologics, and enhance access to needed therapies for patients. However, critics of PDUFA wonder whether the FDA can truly be independent when the pharmaceutical industry funds a significant portion of its budget and point to data implying an association between PDUFA deadlines and an increase in medication safety concerns.

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