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From:
Danish Ministry of Health and Prevention

To:
European Commission (DG SANCO)

Subject: Reply from the Danish government to the European Commission's consultation regarding rare diseases

The Danish Government welcomes the fact that the European Commission's DG SANCO, as part of its preparations for tabling a proposal on rare diseases during 2008, has decided to hold a broad consultation on the subject, covering the Member States and other stakeholders.

The purpose of the consultation is to obtain the opinions of the Member States and other stakeholders on what further action should be taken at Community level with a view to improving treatment for patients with rare diseases. All things considered, the Danish government agrees that the consultation text contains five relevant subject sections and 14 topical questions concerning rare diseases.

However, the Danish Government must emphasise that the already existing networking at European level should constitute the foundation for the ongoing timetable for 2008, including the continued use of the EU Public Health Programme 2003–2008 (second Programme of Community Action in the Field of Health 2008–2013), without any new specific initiatives in the field of rare diseases.

General

Against the background of the Danish National Board of Health's participation in the EU Task Force and the participation by the Ministry of Health and Prevention in the Working Group on European Reference Networks (ERN) for Rare Diseases, the Danish Government has a fundamentally positive attitude towards initiatives and activities which can promote the exchange of knowledge, medical personnel, data, specimens etc. to the benefit of patients with rare diseases.

At the same time it must be emphasised that Denmark, like most other EU Member States, already has national regulations and arrangements to ensure that cooperation in relevant cases can benefit patients.

For example, such cooperation can already take place where there is a need to directly exchange information and advice relating to specific patients or, where appropriate, perhaps to refer a patient to another country. Accordingly, given the principle of subsidiarity, there is no immediate need for further regulation in this field.

On this basis it is the government's view that the intentions and ideas set out in the consultation text are very far-reaching, and on several points concern the Member States' regulatory mechanisms encroaching upon their organisation of their health systems, including the delivery of social and healthcare services, aspects which are not subject to EU regulatory competence.

Furthermore, the government does not understand why the consultation text refers to articles of a future Health Services Directive which is not yet on the table, and to a Programme of Public Health for 2014–2020.

The definition of rare diseases in the consultation text is based on a prevalence of less than five per 10 000 persons, corresponding to 2 500 persons per disease in Denmark, a figure which does not seem to be particularly low or suggest rarity. In Denmark, a disease is considered to be rare if prevalence is less than 500 patients, corresponding to one per 10 000 persons. Furthermore, a definition referring to prevalence is, in itself, only limited justification for EU-level special arrangements, exchange of knowledge, cooperation or cross-border treatment.

Medical research is organised internationally and cooperation already covers the exchange of knowledge and data in many different ways. There should therefore be clear health-related reasons for each and every special EU initiative relating to a disease.

Generally speaking, it is the Danish Government's view that the present activities at EU level are extremely valuable, as they create the possibility of exchanging experience and knowledge to the benefit of national health authorities, experts and associations of patients/relatives, for example concerning the possible identification of any need for coordination initiatives.

In the field of rare diseases, as also with regard to other diseases, there is a general need for the ongoing development and improvement of diagnosis and treatment. These aspects are included in the ongoing development and improvement of the health service in Denmark. This is based on the national legislation in the health field, under which the National Board of Health is allocated responsibilities for the identification of highly specialised functions and their application at centres in the Danish hospital system.

The present consultation document on some points seems to imply an intention to establish binding and detailed requirements and frameworks for individual countries in respect of services, patients' rights, reporting systems, statistics etc. Denmark does not feel able to support any further work in this direction, which would also run contrary to the discussions of the High Level Group on Health Services and Medical Care.

The Government would also like to stress that cooperation within the HLG's Working Group and the EU Task Force concerning rare diseases is positive with regard to the development of cooperation networks (ERN) linking national expert centres.

The EU Expert Group/Task Force has made the point in this connection that national development and support for the creation of networks linking expert centres, taking account of national rules, will be a constructive and appropriate way to promote development in this field.

The Danish Government feels that the consultation text aims at establishing binding and detailed requirements and frameworks for the individual Member States in respect of services, rights, reporting systems, statistics etc., which it cannot support.

Finally, it is the Government's opinion that existing networking (ERN) should provide the foundation for the ongoing timetable for 2008, including the continued use of the EU Public Health Programme 2003–2008 (second Programme of Community Action in the Field of Health 2008–2013), without any new specific initiatives in the field of rare diseases.

Comments on section 4 of the consultation text

4. Objectives

The Commission's objective is to improve the facilities for identifying, examining and treating patients with rare diseases. No Member State can be opposed to such objectives. However, it is the Member States' job to provide these facilities.

4, first bullet: Strengthening the cooperation between EU programmes
It is the Danish Government's view that coordination between the programmes adopted by the EU is both appropriate and desirable.

4, second bullet: Encouraging EU-27 to develop national health priorities
In principle, the government can support 'soft actions' to encourage the individual countries to develop national health policies on rare diseases as part of their overarching national health policy. The shaping of policies should be based on relevant national issues.

4, third bullet: Ensuring that common policy guidelines are developed and shared everywhere in Europe
It is not the EU's job to ensure that common policy guidelines on rare diseases are developed and shared. On the other hand, its task could be to support ideas and models and promote the sharing of experience, so that it is accessible and can provide support for the individual Member States' practical work.

4.1 To improve identification and knowledge of rare diseases

4.1, first bullet: Common definition of rare disease in the EU, including question 1: 'Is the current EU definition of a rare disease satisfactory?'

The definition is too broad. The definition and demarcation applied by the EU, namely a prevalence of less than five per 10 000, correspond to around 2 500 patients per disease in Denmark, which does not seem particularly rare. In Denmark a disease is generally regarded as rare if its prevalence is less than 500.

As mentioned, the general principle is that improving knowledge of subjects such as genetics means that certain diseases can sometimes be divided into sub-groups based on their specific underlying causes. Examples include autism or epilepsy, as mentioned in the document. We can therefore expect more and more large disease groups to be divided into sub-groups, which will then be classified as rare.

The present definition means that groups of diseases which should be regarded merely as relatively rare or less common, e.g. all malignant haematological diseases, are included in the same category as genuinely very rare genetic diseases e.g. congenital anaemia. The very broad definition harbours a risk that the very rare conditions which should be the main targets of initiatives and programmes might lose out, e.g. under the orphan drug programme.

Furthermore, the concept of 'rare', regardless of any definition or demarcation in terms of prevalence, cannot be seen in isolation or assigned an independent value which expresses whether there is a need for special initiatives and measures. Additional assessment criteria are necessary.

The detailed attempts to describe and characterise the patient group in the document illustrate the difficulties in achieving practical and unambiguous demarcation.

It should also be pointed out here that there are major differences between individual Member States as regards the conditions for satisfying the umbrella concept of 'rare diseases'.

4.1 second bullet: Better codification and classification of rare diseases, including question 2: 'Do you agree that there is a pressing need to improve coding and classification in this area?'

The Danish government agrees that a more detailed disease classification in some fields would be appropriate.

The WHO is responsible for disease classification. It would be appropriate if its ICD-10 classification could be improved in conjunction with the next revision so that more rare diseases can be specifically codified.

It is vital for work on revision of the disease classification system to remain within the WHO. Parallel or competitive work must be avoided. It is recommended that a specialised EU working group should provide contributions to the WHO at the latter's request.

Concerning incorporation of a revised ICD classification into national statistical systems etc., such decisions are made and should continue to be made at national level. Any European operation in this field must respect the individual Member States' national powers of decision, also with regard to requirements relating to the use of statistics and reporting systems etc.

4.1 third bullet: Establishment of an inventory of rare diseases, including question 3: 'Can a European inventory of rare diseases help your national/regional system to better deal with rare diseases?'

Information is already available in various databases such as Orphanet and also national databases, for example in Denmark and Sweden, which are accessible to experts and the public. Information activities can continue within these frameworks.

The establishing of competitive systems is inappropriate.

Nothing is said about the purposes of such an inventory. The difficulties and cost of producing it would substantial, for both subject-related and technical reasons. Significant resources would also be needed to update and maintain it.

The inclusion of a disease in an EU inventory might be perceived as a special EU stamp of approval, without its being clear what that means. The existence of such an inventory without a clear purpose or meaning would be most inappropriate, and we strongly advise against it.

4.2 To improve prevention, diagnosis and care of patients with rare diseases — question 4: 'Should the European Reference Networks privilege the transfer of knowledge? The mobility of patients? Both? How?'

Priority must be given to the transfer of knowledge. See below.

4.2, first bullet: Dissemination of appropriate information
Access to accurate and reliable information through databases such as Orphanet and others is important and should continue to be supported.

4.2, second bullet: Support to information networks
Projects as referred to should continue to be supported.

4.2, third bullet: Development of national/regional centres of reference and EU reference networks
The development and establishment of reference networks linking centres of expertise can be important and useful, cf. report from the EU Rare Diseases Task Force.

With regard to that report, such networks should give priority to the transfer and exchange of knowledge. This will be the most useful and beneficial activity. As mentioned in the report, the fundamental idea should be to exchange knowledge, experts and possibly specimens. The aim should not be for patients to travel.

4.2, fourth bullet: Development of e-Health in the field of rare diseases, including question 5: 'Should online and electronic tools be implemented in this area?'
IT can enable knowledge to be exchanged quickly and easily and must be regarded as a suitable and necessary tool for cooperation and exchange of knowledge. However, there are many technical, quality, safety, economic and legal questions which need to be clarified.

4.2, fifth bullet: Availability and accessibility of accurate diagnostic tests, including genetic tests, including question 6: 'What can be done to further improve access to quality testing for rare diseases?'
Denmark recognises the benefits of cross-border exchanges regarding such tests. Clear standards and procedures would also be appropriate, as would a quality assurance policy for laboratories. Assignment of the task should be clear, so as to avoid duplication, since the Council of Europe, the OECD and the European Commission are all working on the subject.

4.2, sixth bullet: Evaluation of population screening (including neonatal screening) for rare diseases, including question 7: 'Do you see a major need in having an EU-level assessment of potential population screening for rare diseases?'
In the Government's opinion, decisions and assessments relating to screening should remain a national matter. Recommendations concerning cooperation on the production of documentation with a view to establishing a basis for Member States' decisions might possibly be useful in certain cases. However, duplication of the work done by other international bodies should be avoided.

4.2, seventh bullet: Primary prevention measures when possible
As stated in the consultation text, knowledge of the primary prevention possibilities is limited to a very small number of rare diseases. There is no obvious reason for discussions on initiatives in this field to take place at EU level.

4.2, eighth bullet: Best practices on rare disease care
Benchmarking at Member State and international levels is a recognised method of quality development. It is a difficult and demanding specialised task to assess whether there is a valid comparable basis. Publicising non-comparable or unreliable benchmark data will do more harm than good.

4.2, ninth bullet: Equal access to orphan drugs
It is felt that the proposal would interfere inordinately with the arrangements for drug funding in the individual Member States.

Question 8: 'Do you envisage the solution to the orphan drugs accessibility problem on a national scale or on an EU scale?'
In principle, marketing authorisations for orphan drugs are issued by the European Commission (compulsory centralised application procedure), while decisions on use and possible state subsidising are left to the Member States. Administrative delays with regard to subsidising as described in the document are unknown in Denmark.

In recent years the National Board of Health, in cooperation with regional hospital operators, has played an active role in defining the organisation of (highly) specialised treatment involving, among other things, medical technology assessment. It is possible that such assessment is seen as a delay factor by holders of marketing authorisations. The fact that a drug has been approved by the EMEA does not in itself mean that it should be introduced and used without further prior analysis based, for example, on health economics and/or medical technology assessment.

It is the Government's view that the problem is dealt with at national level, but there might be a need to analyse the extent of the problem.

4.2, tenth bullet: Orphan medical devices and orphan diagnostics
At first sight, investigating the possibility of introducing similar incentives as for orphan drugs might seem like a good idea, but implementation and identifying possible products (medical devices and diagnostics) which are exclusively for rare diseases will or may prove difficult or impossible in practice.

Question 9: 'Should the EU have an orphan regulation on medical devices and diagnostics?'
Denmark would find it very difficult at the moment to support initiatives for a regulation on this subject, which will necessitate a specific and in-depth study of, among other things, the extent of the problem and the implications of and possibilities for practical demarcation.

4.2, eleventh bullet: Health technology assessment of orphan drugs
It is correct that assessment of the cost-effectiveness of orphan drugs can be difficult. The development of appropriate assessment methods could for example be a subject of cooperation between medical technology assessment establishments in the EU.

4.2, twelfth bullet: Coordinated compassionate use programme
In special circumstances, following application, the Danish Medicines Agency may authorise the sale or dispensing in limited amounts of medicinal products which are not covered by a marketing authorisation or not marketed in Denmark (compassionate-use permit), cf. section 29 of the Danish Medicines Act. This system has existed for many years and largely covers orphan drugs. In other words, Denmark already has its own national rules, and there is no need for any change.

4.2, thirteenth bullet: Specialised social services, including question 10: 'What kind of specialised social and educational services for rare disease patients and their families should be recommended at EU level and at national level?'

It must be emphasised that social services for individuals are a national responsibility.

Under Danish legislation, social services are provided as needed and in accordance with a person's functional capacity, and not on the basis of diagnosis.

According to the Social Services Act, the municipal authority is responsible for providing and funding support in the form of home-help, including socio-pedagogical assistance, training assistance, practical help, care, advice and guidance. Support is granted to individuals following a specific assessment of their needs.

To support the municipalities' advisory and guidance services in this special field, the State has established VISO, an organisation providing expertise and advice. It operates a network of special advisory services which are available to both authorities and individuals. VISO's activities include the CSH (centre for small disability groups), which functions as a knowledge centre in the field of rare disabilities. The CSH provides advice, also by telephone, for people with rare disabilities and their families. It also sees assistance in creating networks linking people with rare disabilities as one of its tasks.

4.3 To accelerate research and developments in the field of rare diseases and orphan drugs

4.3, first bullet: Supporting databases, registries, repositories and biobanks, including question 11: 'What model of governance and of funding scheme would be appropriate for registries, databases and biobanks?'
The Member States and the Commission have supported various forms of quality development in this field. However, there are many technical, safety, financial and legal issues involved. The ideas set out in the consultation text are considered relevant.

4.3, second bullet: Biomarkers
Many relevant ideas concerning developments in this area are set out here.

4.3, third bullet: Data protection
The Directive on data protection was transposed into Danish law by the Personal Data Act No 429 of 31 May 2000.

4.3, fourth bullet: Networks of research for rare diseases
The Danish Government would like to express its encouragement and support.

4.3, sixth bullet: Intensifying research
Here too, relevant ideas and proposals are set out with a view to solving the problems. However, this matter must be seen in the context of the currently very broad (in fact too broad) definition of rare diseases. There are many diseases (e.g. less common forms of cancer) where industry has carried out intensive research for many years without the need for special incentives. The financial implications here can be significant. For very rare diseases, State involvement is likely to be positive and appropriate.

Question 12: 'How do you see the role of partners (industry and charities) in an EU action on rare diseases? What model would be the most appropriate?'
This question is so broad and vague that it is difficult to give an answer.

4.4 To empower patients with rare diseases at individual and collective level

4.4, first bullet: Common approach to the empowerment of patient organisations
The government advocates continuing support for patients' organisations and their activities relating to rare diseases from, for example, the EU Public Health Programme

2003–2008 (second Programme of Community Action in the Field of Health 2008–2013).

4.5: To coordinate policies and initiatives at Member State level and EU level

4.5, first bullet: Adoption of national/regional plans for rare diseases, including question 13: 'Do you agree with the idea of having action plans? If yes, should it be at national or regional level in your country?'
Action plans can be useful, depending on the circumstances and needs of the individual country. They should be drafted taking account of the organisation and general features of the country's health system. The need for an action plan will be largely dependent on the individual country's overarching health system arrangements, of which action for rare diseases should form an integral part. In the Danish Government's opinion, there is no need for EU coordination of national action plans, nor for European guidelines on their preparation.

On the other hand, the EU can play a role in disseminating experience with models and inspirational materials etc. The point should also be made that ensuring equal access to health services and monitoring service prices and quality is a national matter.

4.5, second bullet: Development of health indicators in the field of rare diseases
It is not immediately realistic or relevant, from the technical/professional point of view, to develop special health indicators in the field of rare diseases, in as far as this field is not clearly defined or demarcated and covers a wide variety of diseases of very different natures.

4.5, third bullet: Organisation of European conferences on rare diseases
The government supports this idea.

4.5, fourth bullet: Creation of the EU Advisory Committee on Rare Diseases
In principle, we are in favour of the tasks which until now have been performed by the EU Rare Diseases Task Force being carried out in future under a possible new name. The new body should be supported by a secretariat and continue to have an advisory function.

The committee's role, secretariat, mandate etc. should be discussed, as we have some doubts about what is stated in the document, e.g. in relation to the implications in terms of resources. The tasks described under (i)–(ix) seem to be very far-reaching and possibly at odds with the principle of subsidiarity. Any expenditure on providing advice should continue to be funded by the existing public health programmes.

4.5, fifth bullet: Rare diseases in the EU budget
Denmark will respond to this when the Commission has tabled a proposal for the creation of such a fund. However, the Government does not understand the reference to a Programme of Public Health (2014–2020) which is still a long way off and part of the next financial period.

4.5, sixth bullet: Establishment of a Community Agency for rare diseases, including question 14: 'Do you consider it necessary to establish a new European Agency on rare diseases and to launch a feasibility study in 2009?'

In the Danish Government's opinion, there is no need to establish a new European Agency on rare diseases. There is nothing in the current issues concerning rare diseases,

or in the present document, in the way of convincing arguments for proposing the establishment of a Community body, i.e. a Community agency, in this field.

In conclusion, the Danish Government would like to confirm its positive reaction to the Commission's consultation. However, it would reiterate that the existing European reference network (ERN) should constitute the foundation for the ongoing timetable for 2008, including the continued use of the EU Public Health Programme 2003–2008 (second Programme of Community Action in the Field of Health 2008–2013), without any new specific initiatives in the field of rare diseases.

Yours faithfully,

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