



ANDA 091215

**ANDA APPROVAL**

Teva Pharmaceuticals USA, Inc.  
425 Privet Road  
Horsham, PA 19044  
Attention: John Derstine  
Director, Regulatory Affairs, US Generics

Dear Sir:

This letter is in reference to your abbreviated new drug application (ANDA) received for review on December 29, 2008, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Efavirenz, Emtricitabine, and Tenofovir Disoproxil Fumarate Tablets, 600 mg/200 mg/300 mg.

Reference is also made to the tentative approval letter issued by this office on September 30, 2011, the complete response letter issued by this office on February 16, 2018, and to any amendments thereafter.

We have completed the review of this ANDA and have concluded that adequate information has been presented to demonstrate that the drug is safe and effective for use as recommended in the submitted labeling. Accordingly, the ANDA is **approved**, effective on the date of this letter. The Office of Bioequivalence has determined your Efavirenz, Emtricitabine, and Tenofovir Disoproxil Fumarate Tablets, 600 mg/200 mg/300 mg, to be bioequivalent and, therefore, therapeutically equivalent to the reference listed drug (RLD), Atripla Tablets, 600 mg/200 mg/300 mg, of Gilead Sciences, LLC. (Gilead).

The RLD upon which you have based your ANDA, Gilead's Atripla Tablets, 600 mg/200 mg/300 mg, is subject to periods of patent protection. The following patents and expiration dates are currently listed in the Agency's publication titled *Approved Drug Products with Therapeutic Equivalence Evaluations* (the "Orange Book"):

<u>U.S. Patent Number</u>	<u>Expiration Date</u>
6,642,245 (the '245 patent)	May 4, 2021*
6,703,396 (the '396 patent)	September 9, 2021*
8,592,397 (the '397 patent)	January 13, 2024
8,598,185 (the '185 patent)	April 28, 2029
8,716,264 (the '264 patent)	January 13, 2024
9,018,192 (the '192 patent)	June 13, 2026
9,457,036 (the '036 patent)	January 13, 2024
9,545,414 (the '414 patent)	June 13, 2026

9,744,181 (the '181 patent)

January 13, 2024

\* with pediatric exclusivity added

Your ANDA contains paragraph IV certifications to each of the patents<sup>1</sup> under section 505(j)(2)(A)(vii)(IV) of the FD&C Act stating that the patents are invalid, unenforceable, or will not be infringed by your manufacture, use, or sale of Efavirenz, Emtricitabine, and Tenofovir Disoproxil Fumarate Tablets, 600 mg/200 mg/300 mg, under this ANDA. You have notified the Agency that Teva Pharmaceuticals USA, Inc. (Teva) complied with the requirements of section 505(j)(2)(B) of the FD&C Act and that litigation was initiated within the statutory 45-day period against Teva for infringement of the '245 and '396 patents in the United States District Court for the Southern District of New York [Gilead Sciences, Inc. and Emory University v. Teva Pharmaceuticals USA, Inc., et al., Civil Action No. 09-04463]. You have also notified the Agency that this case was administratively closed on May 26, 2010 “with the understanding that the related case of *Gilead Sciences, Inc. v. Teva Pharmaceuticals USA, Inc.*, 08 Civ. 10838, adequately represents all of the claims raised in [this] case[,]” and that Civil Action No. 08-10838 was dismissed on February 13, 2014.

With respect to 180-day generic drug exclusivity, we note that Teva was the first ANDA applicant to submit a substantially complete ANDA with a paragraph IV certification for Efavirenz, Emtricitabine, and Tenofovir Disoproxil Fumarate Tablets, 600 mg/200 mg/300 mg. As a first applicant, Teva was eligible for 180 days of generic drug exclusivity. The Agency has determined, however, that Teva has forfeited its eligibility for 180-day exclusivity because Teva failed to obtain tentative approval within 30 months after the date on which the ANDA was filed<sup>2</sup>. See section 505(j)(5)(D)(i)(IV) of the FD&C Act.

Under section 506A of the FD&C Act, certain changes in the conditions described in this ANDA require an approved supplemental application before the change may be made.

Please note that if FDA requires a Risk Evaluation and Mitigation Strategy (REMS) for a listed drug, an ANDA citing that listed drug also will be required to have a REMS. See section 505-1(i) of the FD&C Act.

## **REPORTING REQUIREMENTS**

Postmarketing reporting requirements for this ANDA are set forth in 21 CFR 314.80-81 and 314.98 and at section 506I of the FD&C Act. The Agency should be advised of any change in the marketing status of this drug or if this drug will not be available for sale after approval. In particular, under section 506I(b) of the FD&C Act, you are required to notify the Agency in writing within 180 days from the date of this letter if this drug will not be available for sale within 180 days from the date of approval. As part of such written notification, you must include (1) the identity of the drug by established name and proprietary name (if any); (2) the ANDA number; (3) the strength of the drug; (4) the date on which the drug will be available for sale, if known; and (5) the reason for not marketing the drug after approval.

## **PROMOTIONAL MATERIALS**

You may request advisory comments on proposed introductory advertising and promotional labeling materials prior to publication or dissemination. Please note that these submissions are

voluntary. To do so, submit, in triplicate, a cover letter requesting advisory comments, the proposed materials in draft or mock-up form with annotated references, and the package insert (PI), Medication Guide, and patient PI (as applicable) to:

OPDP Regulatory Project Manager  
Food and Drug Administration  
Center for Drug Evaluation and Research  
Office of Prescription Drug Promotion  
5901-B Ammendale Road  
Beltsville, MD 20705

Alternatively, you may submit a request for advisory comments electronically in eCTD format. For more information about submitting promotional materials in eCTD format, see the draft Guidance for Industry (available at:

<http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM443702.pdf>).

You must also submit final promotional materials and package insert(s), accompanied by a Form FDA 2253, at the time of initial dissemination or publication [21 CFR 314.81(b)(3)(i)]. Form FDA 2253 is available at:

<http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM083570.pdf>.

Information and Instructions for completing the form can be found at:

<http://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM375154.pdf>. For

more information about submission of promotional materials to the Office of Prescription Drug Promotion (OPDP), see <http://www.fda.gov/AboutFDA/CentersOffices/CDER/ucm090142.htm>.

### **ANNUAL FACILITY FEES**

The Generic Drug User Fee Amendments of 2012 (GDUFA) (Public Law 112-144, Title III) established certain provisions<sup>3</sup> with respect to self-identification of facilities and payment of annual facility fees. Your ANDA identifies at least one facility that is subject to the self-identification requirement and payment of an annual facility fee. Self-identification must occur by June 1st of each year for the next fiscal year. Facility fees must be paid each year by the date specified in the Federal Register notice announcing facility fee amounts.

All finished dosage forms (FDFs) or active pharmaceutical ingredients (APIs) manufactured in a facility that has not met its obligations to self-identify or to pay fees when they are due will be deemed misbranded. This means that it will be a violation of federal law to ship these products in interstate commerce or to import them into the United States. Such violations can result in prosecution of those responsible, injunctions, or seizures of misbranded products. Products misbranded because of failure to self-identify or pay facility fees are subject to being denied entry into the United States.

### **CONTENT OF LABELING**

As soon as possible, but no later than 14 days from the date of this letter, submit, using the FDA automated drug registration and listing system (eLIST), the content of labeling [21 CFR 314.50(l)] in structured product labeling (SPL) format, as described at:

<http://www.fda.gov/ForIndustry/DataStandards/StructuredProductLabeling/default.htm>, that is

identical in content to the approved labeling (including the package insert, and any patient package insert and/or Medication Guide that may be required). Information on submitting SPL files using eLIST may be found in the guidance for industry titled "SPL Standard for Content of Labeling Technical Qs and As" at:

<http://www.fda.gov/downloads/DrugsGuidanceComplianceRegulatoryInformation/Guidances/UCM072392.pdf>. The SPL will be accessible via publicly available labeling repositories.

Sincerely yours,

*{See appended electronic signature page}*

For Vincent Sansone, PharmD  
Deputy Director  
Office of Regulatory Operations  
Office of Generic Drugs  
Center for Drug Evaluation and Research

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- <sup>1</sup> The Agency notes that the '397, '185, '264, '192, '036, '414, and '181 patents were submitted to the Agency after submission of your ANDA. Litigation, if any, with respect to these patents would not create a statutory stay of approval.
  - <sup>2</sup> Teva's ANDA was received on December 29, 2008. 091215 was never tentatively approved on/by June 29, 2011. The Agency finds that Teva's failure to obtain tentative approval within 30 months was not caused by a change in or review of the requirements for approval, nor was a related citizen petition submitted that was subject to section 505(q) of the FD&C Act.
  - <sup>3</sup> Some of these provisions were amended by the Generic Drug User Fee Amendments of 2017 (GDUFA II) (Public Law 115-52, Title III).



Priya  
Shah

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