DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration
Silver Spring, MD 20993

ANDA 208452

ANDA TENTATIVE APPROVAL

Mylan Pharmaceuticals Inc.
781 Chestnut Ridge Road
P.O. Box 4310
Morgantown, WV 26504-4310
Attention: Shane Shupe
Director, Regulatory Affairs

Dear Sir:

This letter is in reference to your abbreviated new drug application (ANDA) received for review on May 20, 2015, submitted pursuant to section 505(j) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) for Emtricitabine, Rilpivirine and Tenofovir Disoproxil Fumarate Tablets, 200 mg/25 mg/300 mg.

Reference is also made to the complete response letter issued by this office on August 3, 2016, 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. The Office of Bioequivalence has determined your Emtricitabine, Rilpivirine and Tenofovir Disoproxil Fumarate Tablets, 200 mg/25 mg/300 mg to be bioequivalent and, therefore, therapeutically equivalent to the reference listed drug (RLD), Complera Tablets, 200 mg/25 mg/300 mg, of Gilead Sciences, Inc. (Gilead).

However, we are unable to grant final approval to your ANDA at this time because of the patent issue noted below. Therefore, the ANDA is **tentatively approved**. This determination is based upon information available to the Agency at this time (e.g., information in your ANDA and the status of current good manufacturing practices (cGMPs) of the facilities used in the manufacturing and testing of the drug product). This determination is subject to change on the basis of new information that may come to our attention. This letter does not address issues related to the 180-day exclusivity provisions under section 505(j)(5)(B)(iv) of the FD&C Act.

The RLD upon which you have based your ANDA, Gilead's Complera Tablets, 200 mg/25 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.S. Patent Number	Expiration Date
5,914,331 (the '331 patent)	January 2, 2018*
5,922,695 (the '695 patent)	January 25, 2018*
5,935,946 (the '946 patent)	January 25, 2018*
5,977,089 (the '089 patent)	January 25, 2018*
6,043,230 (the '230 patent)	January 25, 2018*
6,642,245 (the '245 patent)	May 4, 2021*
6,703,396 (the '396 patent)	September 9, 2021*
6,838,464 (the '464 patent)	February 26, 2021
7,067,522 (the '522 patent)	December 20, 2019
7,125,879 (the '879 patent)	April 21, 2025
8,080,551 (the '551 patent)	April 11, 2023
8,101,629 (the '629 patent)	August 9, 2022
8,592,397 (the '397 patent)	January 13, 2024
8,716,264 (the '264 patent)	January 13, 2024
8,841,310 (the '310 patent)	December 9, 2025
9,457,036 (the '036 patent)	January 13, 2024
9,744,181 (the '181 patent)	January 13, 2024

* with pediatric exclusivity added

Your ANDA contains paragraph IV certifications to the '245, '396, '464, '522, '879, '551, '629, '397, '264, '310, '036 and '181 patents[1] 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 Emtricitabine, Rilpivirine and Tenofovir Disoproxil Fumarate Tablets, 200 mg/25 mg/300 mg, under this ANDA. You have notified the Agency that Mylan Pharmaceuticals Inc. (Mylan) complied with the requirements of section 505(j)(2)(B) of the FD&C Act, and litigation was initiated within the statutory 45-day period against Mylan for infringement of the ‘245, ‘396, ‘397 and ‘264 patents in the United States District Court for the

[1] The Agency notes that the '036 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.

Northern District of West Virginia [Gilead Sciences, Inc. v. Mylan, Inc and Mylan Pharmaceuticals Inc., Civil Action No. 1:15-CV-0149], infringement of the '879, '629, '310 patents in United States District Court for the Northern District of West Virginia [Janssen Pharmaceutica, N.V., Janssen Sciences Ireland UC, Gilead Sciences, Inc., and Gilead Sciences Ireland UC v. Mylan Pharmaceuticals, Inc. and Mylan Inc., Civil Action No. 1:15-cv-0152] and infringement of the '879, '629, '310 patents in United States District Court for the District of Delaware [Janssen Pharmaceutica, N.V., Janssen Sciences Ireland UC, Gilead Sciences, Inc., and Gilead Sciences Ireland UC v. Mylan Pharmaceuticals, Inc. and Mylan Inc., Civil Action No. 1:15-cv-0760].

Therefore, final approval cannot be granted until:

1. a. the expiration of the 7.5-year period provided for in sections 505(j)(5)(B)(iii) and 505(j)(5)(F)(ii) of the FD&C Act,

   b. the date the court decides[2] that the '245, '396, '397, '264, '879, '629, and '310 patents are invalid or not infringed (see sections 505(j)(5)(B)(iii)(I), (II), and (III) of the FD&C Act), or

   c. the '245, '396, '397, '264, '879, '629, and '310 patents have expired, and

2. The Agency is assured there is no new information that would affect whether final approval should be granted.

The RLD upon which you have based your ANDA, Gilead's Complera Tablets, 200 mg/25 mg/300 mg, is subject to periods of exclusivity. As noted above, the pediatric exclusivity period associated with the '331 patent is scheduled to expire on January 2, 2018 and the pediatric exclusivity associated with the '695, '946, '089, and '230 patents is scheduled to expire on January 25, 2018. Therefore, final approval cannot be granted until expiration of the pediatric exclusivity periods associated with the '331, '695, '946, '089, and '230 patents. See section 505A(b)(1)(B)(i) of the FD&C Act.

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.

RESUBMISSION

To request final approval, please submit an amendment titled "FINAL APPROVAL REQUESTED" with enough time to permit FDA review prior to the date you believe that your ANDA will be eligible for final approval. A request for final approval that contains no new data, information, or other changes to the ANDA generally requires a period of 90 days for Agency review. Accordingly, such a request for final approval should be submitted no later than 90 days prior to the date on which you seek approval. A request for final approval that contains substantive changes to this ANDA or changes in the status of the manufacturing and

[2] This decision may be either a decision of the district court or the court of appeals, whichever court is the first to decide that the patent is invalid or not infringed.

testing facilities' compliance with cGMPs will be classified and reviewed according to OGD policy in effect at the time of receipt. Applicants should review available agency guidance for industry related to amendments under the generic drug user fee program to determine the duration of Agency review needed to review the changes submitted. The submission of multiple amendments prior to final approval may also result in a delay in the issuance of the final approval letter.

The amendment requesting final approval should provide the legal/regulatory basis for your request for final approval and should include a copy of a court decision, settlement or licensing agreement, or other information described in 21 CFR 314.107, as appropriate. It should also identify changes, if any, in the conditions under which the ANDA was tentatively approved, e.g., updated information such as final-printed labeling, chemistry, manufacturing, and controls data as appropriate. This amendment should be submitted even if none of these changes were made, and it should be designated clearly in your cover letter as a "FINAL APPROVAL REQUESTED."

In addition to the amendment requested above, the Agency may request, at any time prior to the date of final approval, that you submit an additional amendment containing information as specified by the Agency. Failure to submit either or, if requested, both types of amendments described above may result in a delay in the issuance of the final approval letter.

This drug product may not be marketed without final Agency approval under section 505(j) of the FD&C Act. The introduction or delivery for introduction into interstate commerce of this drug product before the final approval date is prohibited under section 301 of the FD&C Act. Also, until the Agency issues the final approval letter, this drug product will not be deemed approved for marketing under section 505(j) of the FD&C Act, and will not be listed in the Orange Book.

ANNUAL FACILITY FEES

The Generic Drug User Fee Amendments of 2012 (GDUFA) (Public Law 112-144, Title III) established certain provisions[3] 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.

In addition, we note that GDUFA requires that certain non-manufacturing sites and organizations listed in generic drug submissions comply with the self-identification requirement. The failure

[3] Some of these provisions were amended by the Generic Drug User Fee Amendments of 2017 (GDUFA II) (Public Law 115-52, Title III).

of any facility, site, or organization to comply with its obligation to self-identify and/or to pay fees when due may raise significant concerns about that site or organization and is a factor that may increase the likelihood of a site inspection prior to approval. FDA does not expect to give priority to completion of inspections that are required simply because facilities, sites, or organizations fail to comply with the law requiring self-identification or fee payment.

Additionally, we note that the failure of any facility referenced in the application to self-identify and pay applicable fees means that FDA will not consider the GDUFA application review goal dates to apply to that application.

The Electronic Common Technical Document (eCTD) is CDER's standard format for electronic regulatory submissions. Beginning May 5, 2017, ANDAs must be submitted in eCTD format and beginning May 5, 2018, drug master files must be submitted in eCTD format. Submissions that do not adhere to the requirements stated in the eCTD Guidance will be subject to rejection. For more information please visit: www.fda.gov/ectd.

For further information on the status of this ANDA or upon submitting an amendment to the ANDA, please contact Dara Nardini, Regulatory Project Manager, at (240) 402-2703.

Sincerely yours,

{See appended electronic signature page}

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

Sarah Kurtz

Digitally signed by Sarah Kurtz
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