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Whistleblower group sues FDA over antibiotics in livestock

Agency won't provide data claiming it's 'confidential commercial information'

by *Sustainable Food News*
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The U.S. Food and Drug Administration's (FDA) decision to withhold agency data regarding the sale of antibiotics for use in food animals is unlawful, the Government Accountability Project (GAP) said in a lawsuit filed Thursday.

Drug companies are required to report basic information about antibiotic sales to the FDA under the Animal Drug User Fee Act (ADUFA).

Such information includes:

- how much of each drug is sold
- whether the drugs are formulated for use in feed, water, or by injection
- the animals for which each drug is approved

FDA publicly releases a limited summary of ADUFA data each year, but withholds almost all of what companies report.

GAP, the nation's leading whistleblower protection organization, said the lawsuit comes after FDA's failure to respond properly to its Freedom of Information Act (FOIA) request to the agency, which sought data concerning the amount of antibiotics sold for use in food animals in 2009, classified by animal type and dosage information.

The Johns Hopkins Center for a Livable Future (CLF), an academic research center based at the Johns Hopkins Bloomberg School of Public Health, approached GAP for help obtaining these data almost two years ago.

GAP made the request in February 2011, and has exhausted all other steps to get the information, short of litigation. In the end, the agency denied GAP's request, claiming that the requested data is "confidential commercial information."

"The FDA frequently claims that documents sought through the FOIA process contain 'confidential commercial information,'" said Jeff Gulley*, GAP Food & Public Health Counsel. "When tested in court, however, these claims frequently don't hold up. This response by FDA is a violation of FOIA and a wrongful withholding of agency records."

Every year, nearly 30 million pounds of antibiotics – 80 percent of the total antibiotics sold in the United States – are sold for use in food animals.

The misuse of antibiotics in industrial animal agriculture drives the development of antibiotic-resistant bacteria that have made human illnesses more dangerous and difficult to treat.

Instead of enforcing stricter regulations or providing vital information to the public on this issue, FDA has asked companies to reduce certain uses of antibiotics voluntarily, allowing rampant misuse to continue.

"How can we truly know the extent to which these drugs are causing harm if we can't even access information?" asked GAP Food Integrity Campaign Director Amanda Hitt. "The agency's job is to protect the public's health, not industry secrets."

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