



## Drug Company Settlement Highlights Industry's Dangerous Practices

November 8, 2011 by [Patrick A. Malone](#)

Last week, GlaxoSmithKline agreed to pay \$3 billion to settle several lawsuits over how it creates and markets drugs. It's not as if anybody needed any more evidence that Big Pharma is an industry desperately in need of watch-dogging, but, from the [Reuters report](#), here's the money quote: "... payments would be funded through existing cash resources."

Who except Lindsay Lohan has \$3 billion lying around to pay off their bad behavior?

The settlement relates to several cases filed by the U.S. government, including those related to Avandia, Glaxo's diabetes drug that has been [linked to heart risks](#); how the company exploited Medicaid to boost drug sales profits; and allegations that Glaxo persuaded doctors to prescribe drugs for uses not approved by the FDA (a practice known as off-label marketing).

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The United States has beefed up efforts to address unfair pharmaceutical industry practices. Since 2000, Reuters says, the number of industry settlements with state and federal entities has soared. The government is finally objecting to how pharmaceutical business as usual elevates profits over the interests of patients.

Sales reps often receive bonuses based on reaching target numbers, a practice that encourages off-label promotion, which can result in serious harm to patients.

As reported on the business radio program [Marketplace](#), the government allows doctors the freedom to prescribe as they see fit, but it does not allow sales reps to say anything they want to about the drug.

Pharmaceutical companies are challenging that ban in court, claiming that what sales reps say is a form of free speech and should be protected. The Supreme Court recently ruled that some [drug marketing is free-speech protected](#). And a case now in the federal Court of Appeals could decide whether that protection extends to off-label marketing. Which would mean even larger “cash resources” for Big Pharma.

According to Reuters, Glaxo has promised that it will behave in the future – Chief Executive Andrew Witty said that the settled cases "do not reflect the company that we are today."

Maybe.

But don't forget that last year Glaxo paid \$2.4 billion over patient liability claims relating to Avandia, for an investigation into its former Puerto Rico factory and for anti-trust and product liability litigation over Paxil, an antidepressant.

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The whole industry's character has long been called into question. Several other leading drug manufacturers, Reuters said, have settled U.S. charges for huge amounts, or have been forced to pay significant sums in anticipation of such deals.

- Last month, Abbott Laboratories accepted a \$1.4 billion charge in conjunction with a U.S. federal investigation into marketing Depakote, an anticonvulsant drug.
- In 2009, Pfizer shelled out \$2.3 billion for marketing Bextra (an arthritis drug that has been withdrawn) and other medicines for unapproved uses.
- In 2009, Eli Lilly cut a check for \$1.4 billion after charges were leveled about the improper marketing of Zyprexa, an antipsychotic, for children and elderly patients.

If it makes better business sense to pay billions out of your spare change to make problems go away than it does to expose them to full, legal disclosure, that's the sign of an industry that requires constant observation by outsiders.

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