

Foreign corrupt practices act and teva pharmaceuticals



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Teva Pharmaceuticals is the largest generic pharmaceutical manufacturer in the world[1]. As of December 22, 2016, Teva Pharmaceuticals now holds the record for the largest fine by a pharmaceutical company for violating the foreign corrupt practices act. The settlement amount includes \$283 million fine from the DOJ and a subsequent \$236 million fine from the SEC. This total fine of \$519 million far outweighs the previous record of Johnson & Johnson's \$70 million fine from 2011[2]. The question remains, what did TEVA Pharmaceuticals do that required a fine of \$519 million? This paper will discuss the purpose of the FCPA, what Teva Pharmaceuticals did to receive a fine, and what we can learn from their mistake.

The purpose of the Foreign Corrupt Practices Act (FCPA) is to prohibit bribery by any company or person who does business in the United States. This includes not only United States citizens, but also foreign executives and businesses that have operations in the United States. While the act is imposed on businesses that have dealings in the United States, the FCPA was especially designed to prohibit bribery in countries outside the United States. The United States doesn't want its companies or people to use bribery as a form of persuasion abroad-whether legal or illegal. By allowing companies to give bribes, this would give these companies an unfair advantage over their competition and give a bad representation for United States. Even if the bribe is " typical" business conduct in another country, the government will impose harsh fines for those who violate this act.

Over the last few years, Teva Pharmaceuticals, specifically Teva Russia and Teva Mexico (Fully owned subsidiaries of Teva Pharmaceuticals) have been bribing foreign officials in order for them to buy more of their drug named Copaxone[3]. While nothing was wrong with this drug from a scientific aspect, Teva was implementing many different measures to increase revenue for the company. Keisha Hall, a former employee and director of finance for the Latin American division, filed a lawsuit stating that, “Teva’s unethical practices included unauthorized payments to doctors in Chile, bribes to physicians working in regional hospitals, and low inventory controls in Mexico[4].” In another report coming from Ukraine, Teva “...provided various things of value to a Ukrainian Official to induce him to use his official position within the Ukrainian government to improperly influence the registration of Teva pharmaceutical products in Ukraine.”

The DOJ investigation revealed emails that explained how TEVA would pay these government officials with money from the incredibly high margins their drugs were being sold for in exchange for influencing the Russian government to purchase this drug through Teva.

Teva subsequently entered a plea deal to cooperate with DOJ and SEC. However, because Teva failed to “voluntarily self-disclose the FCPA violations to the Fraud Section” the fine was not discounted. Teva claims it has since redone its corporate governance program, ceased relationships with fraudulent 3rd parties, and removing any necessary employees[5]. They have also boosted their internal control procedures.

Teva Pharmaceuticals disobeyed the law and reaped over \$214 million in excess illicit profits by paying government officials around \$60 million in kickbacks[6]. While some may argue they were just trying to increase revenue and weren't harming anyone, they manipulated the market and broke the law. A fine that is roughly double what they made in illicit profits now seems reasonable. Teva Pharmaceuticals has received pretty negative press and the stock price reflects consumer sentiment. Since 2015, the stock has fallen from \$70 per share to \$33 per share. While bribing may seem like a quick way to generate extra revenue, the downside outweighs any benefit. As the government continues to give out these large fines, hopefully corporate America will start to act more ethical.

[1]<https://www.verywell.com/the-top-7-generic-drug-companies-2663110>

[2]<http://fcpaprofessor.com/depth-519-million-teva-fcpa-enforcement-action/>

[3]<http://fcpaprofessor.com/depth-519-million-teva-fcpa-enforcement-action/>

[4]<http://www.fiercepharma.com/pharma/teva-sets-aside-520m-to-settle-bribery-investigations-by-doj-sec>

[5]<https://www.bloomberg.com/news/articles/2016-12-22/teva-agrees-to-pay-519-billion-to-settle-u-s-bribery-probe>

[6]<http://www.marketwatch.com/story/sec-doj-fine-teva-pharmaceutical-519-million-to-settle-foreign-bribery-charges-2016-12-22>

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