Department of Justice

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BRISTOL-MYERS SQUIBB PLEADS GUILTY TO LYING TO THE FEDERAL GOVERNMENT ABOUT DEAL INVOLVING BLOOD-THINNING DRUG

Bristol-Myers Squibb to Pay $1 Million Criminal Fine;
Illegal Actions Threatened to Delay Generic Competition for Drug

WASHINGTON — The Department of Justice announced today that Bristol-Myers Squibb Company (BMS) has agreed to plead guilty and pay a $1 million criminal fine for lying to the federal government about a patent deal involving a popular blood-thinning drug. The Department said that BMS's illegal actions threatened to reduce competition for the drug Plavix that could have reduced the cost of blood-thinning drugs sold to heart attack, stroke and other patients.

According to the two-count criminal charge filed today in the U.S. District Court in Washington, D.C., in 2006, BMS and another company, Apotex Inc., were engaged in litigation over the validity of the patent for Plavix and were negotiating a settlement of that litigation. At the time, BMS was subject to a separate consent decree – for unrelated conduct – with the Federal Trade Commission (FTC) that required BMS to submit any proposed patent settlements for review and approval by the FTC. The FTC warned BMS that it would not approve a settlement of the Plavix litigation if BMS agreed not to launch its own generic version of Plavix that would compete against Apotex for generic sales. After nevertheless entering into such an agreement, BMS concealed it from and then lied about its existence to the FTC. The Department charged BMS with filing two false statements to the FTC as part of its effort to hide part of its agreement with Apotex.

"BMS is charged with both lying to the federal government and with taking steps to conceal its false statement – both serious felonies," said Thomas O. Barnett, Assistant Attorney General in charge of the Department's Antitrust Division. "The seriousness of the offenses is compounded by the fact that BMS' obstructive conduct occurred in connection with the FTC's review of a proposed patent settlement affecting the cost of a lifesaving drug sold to tens of millions of Americans."

Plavix, a patented pharmaceutical, is the most widely prescribed blood-thinning drug in the world. Approximately 48 million Americans take Plavix daily to prevent potentially fatal blood clots. The drug was approved for sale in the United States in November 1997.

The Department alleges that, at a meeting in 2006, a former senior BMS executive made oral representations to Apotex with the purpose of causing Apotex to conclude that BMS would not launch its own generic version of Plavix in the event that the parties reached a final settlement agreement. The Department further alleges that these representations ultimately resulted in an understanding between BMS and Apotex that BMS would not launch its own generic version of Plavix. Finally, the Department charged that BMS took steps deliberately to mislead the FTC by first concealing and then later lying about the existence of its representations to and understanding with Apotex Inc.

BMS – an international pharmaceutical company headquartered in New York, N.Y – participates in the sale and marketing of Plavix in the United States through the Bristol-Myers Squibb Sanofi Pharmaceuticals Holding Partnership. In 2006, the Bristol-Myers Squibb Sanofi Pharmaceuticals Holding Partnership sold more than $3.5 billion of Plavix in the United States.

BMS has agreed to plead guilty to two violations of the federal False Statements Act and to pay a fine of $1 million – the maximum fine permitted for these violations by statute.

This case is part of an ongoing investigation being conducted by the Antitrust Division's National Criminal Enforcement Section with the assistance of the New York Field Office of the Federal Bureau of Investigation. Anyone with information about this matter should contact the Antitrust Division's National Criminal Enforcement Section at 202-307-6694.

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