

20 States Accuse Generic Drug Companies of Price Fixing



A Teva pharmaceutical factory in Godollo, Hungary. Teva, the world's largest generic-drug maker, is among the six companies accused of price fixing. Akos Stiller/Bloomberg

By **Katie Thomas**

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A wide-ranging investigation into generic drug prices took its most significant turn yet on Thursday, as state attorneys general accused two industry leaders, Teva Pharmaceuticals and Mylan, and four smaller companies of engaging in brazen price-fixing schemes — and promised that more charges were coming.

A civil complaint filed by 20 states accuses the companies of conspiring to artificially inflate prices on an antibiotic and a diabetes drug, with executives coordinating through informal industry gatherings and personal calls and text messages. Officials said the case was a small example of broader problems in the drug business.

“We believe that this is just the tip of the iceberg,” George C. Jepsen, Connecticut’s attorney general, whose office started the inquiry that led to the charges, said in an interview on Thursday. “I stress that our investigation is continuing, and it goes way beyond the two drugs in this lawsuit, and it involves many more companies than are in this lawsuit.”

The accusations, as well as continuing investigations at the state and federal levels, have left a cloud of uncertainty over the industry. While several other big generic drug companies have received subpoenas, it is unclear where the inquiries will eventually lead. The generic drug business is already on the defensive and struggling to recover from a barrage of public criticism in the past year over high prices.

[The complaint](#) on Thursday describes a cozy industry culture defined by regular dinners and social outings, and argues that those events often cross the line to violate antitrust rules. Generic drug makers hoping to begin selling a new drug first seek out rivals, the suit says, in hopes of reaching an agreement on how to maintain market share and avoid competing on price.

“These agreements had the effect of artificially maintaining high prices for a large number of generic drugs and creating an appearance of competition when in fact none existed,” the lawsuit says.

Teva, an Israeli drug maker, is the world’s largest manufacturer of generic medicines. Mylan faced intense criticism this year after it sharply raised prices on EpiPen, a severe allergy treatment. The charges filed on Thursday are not related to EpiPen, a branded product that has little competition.

Both Teva and Mylan, the suit says, engaged in anticompetitive behavior, but not with each other — coordinating instead with smaller companies.

A Teva spokeswoman said, “We have not found evidence that would give rise to any civil or criminal liability.” A spokeswoman for Mylan offered a similar statement, saying the company knew of “no evidence that Mylan participated in price-fixing.”

The suit's focus is two drugs, a delayed-release form of the antibiotic treatment doxycycline hyclate, and glyburide, a commonly used diabetes drug. The price of doxycycline has surged in recent years, and it was singled out by members of Congress and others as a prime example of unexplained price increases for generic drugs.

One form of doxycycline, for example, went from an average market price of \$20 for a bottle of 500 pills in October 2013 to an average market price of \$1,849 in April 2014, according to [a congressional report](#).

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The suit filed by the attorneys general says the investigation began in Connecticut in July 2014 and “uncovered evidence of a broad, well-coordinated and long-running series of schemes to fix the prices and allocate markets for a number of generic pharmaceuticals in the United States.”

On Wednesday, [federal prosecutors made similar claims](#) against two former executives at Heritage Pharmaceuticals, a small company, accusing them of engaging in a price-fixing scheme for the same two drugs. Heritage was also one of the companies named in the complaint on Thursday.

That complaint, in Federal District Court in Connecticut, identifies Heritage as the “principal architect and ringleader” of the activities involving the two drugs, and said that employees of the company, including the two former executives, Jeffrey Glazer and Jason Malek, contacted competing companies and sought to make illegal deals over pricing before entering the market for the two drugs.

Heritage fired Mr. Glazer, the former chief executive, and Mr. Malek, a former president, in August and is suing the two men, claiming that they “looted” tens of millions of dollars from the company. Heritage, which has said it is cooperating with the authorities, declined to comment on the lawsuit filed Thursday.

Other companies named in the suit, including Aurobindo Pharma, Citron Pharma and Mayne Pharma, did not reply to requests for comment.

The court actions this week could have wide implications, particularly if, as officials suggest, they are just the beginning. More than 80 percent of all prescriptions dispensed in the United States are for generic drugs, which have been credited with saving consumers and taxpayers billions of dollars by introducing competing products to a drug losing patent protection.

“It blows that entire assumption out of the water when you hear that generic companies are getting together to increase prices,” Michael A. Carrier, an antitrust professor at Rutgers Law School, said.

The lawsuit, filed by Democratic and Republican attorneys general, portrays a close-knit circle of generic drug executives and sales representatives who regularly socialize at conferences and gatherings like golf outings, cocktail parties and “girls’ night out” events in the New Jersey area, where many of the companies are based.

But the collegial relationships, while common in many industries, veered into more overt anticompetitive tactics, Mr. Jepsen, Connecticut’s attorney general, said.

“It’s very damning,” he said. “It reveals a culture of cronyism where, whether it’s over a game of golf or a dinner or drinks, there’s just systematic cooperation.”

He described the behavior as deliberate. “There’s nothing hidden about it,” he said.

In the case of doxycycline, the complaint says that in 2013 Heritage contacted Mylan, the only other maker of a delayed-release version of the product at the time, and told executives there that Heritage planned to release its own version. According to the complaint, Mylan agreed to “walk away” from at least one major wholesaler and one large pharmacy chain to allow Heritage to gain a foothold in the market. The complaint quotes from emails that are redacted in the publicly available version and

that the suit says show how Mylan and Heritage executives hammered out the details.

When a third competitor, Mayne, planned to enter the doxycycline market in 2014, it contacted Heritage and Mylan to negotiate details of how prices would be set and customers would be allocated, the suit says.

A spokesman for the Generic Pharmaceutical Association, the industry's lobbying group, declined to comment on the investigation. But he said that the group supports laws that promote competition, and "believes competition is the key to providing affordable and accessible medicines to patients, while also constraining costs."

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