

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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September 28, 2015

The Honorable Jason Chaffetz
Chairman
Committee on Oversight and Government Reform
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

We are writing to request that the Oversight Committee issue a subpoena compelling Valeant Pharmaceuticals to turn over documents the company is withholding from Congress relating to massive price increases earlier this year for two drugs used by hospitals and other providers to treat serious heart conditions.

Valeant is using precisely the same business model as Martin Shkreli, the 32-year-old former hedge fund manager whose company recently purchased the life-saving drug Daraprim and increased the price from \$13.50 to \$750 per pill “overnight.”¹ In responding to a virtually instant outcry of criticism, Mr. Shkreli tweeted that his price increase is “a great thing for society.”² He also berated a reporter as a “moron” for requesting an explanation for his indefensible price increase.³

Similarly, in February, Valeant purchased the rights to sell Nitropress, which is used to treat congestive heart failure and hypertensive episodes, and Isuprel, which is used to treat heart block and abnormal heart rhythm. The same day, Valeant increased the prices of these drugs to \$805.61 and \$1,346.62, respectively (increases of 212% and 525%). When asked about its price

¹ *Drug Goes From \$13.50 a Tablet to \$750, Overnight*, New York Times (Sept. 20, 2015) (online at www.nytimes.com/2015/09/21/business/a-huge-overnight-increase-in-a-drugs-price-raises-protests.html).

² *Martin Shkreli Is Big Pharma's Biggest A**hole*, Daily Beast (Sept. 21, 2015) (online at www.thedailybeast.com/articles/2015/09/21/martin-shkreli-is-big-pharma-s-biggest-asshole.html).

³ *CEO Who Raised Price of Old Pill More Than \$700 Calls Journalist a 'Moron' for Asking Why*, Washington Post (Sept. 22, 2015) (online at www.washingtonpost.com/news/to-your-health/wp/2015/09/21/ceo-of-company-that-raised-the-price-of-old-pill-hundreds-of-dollars-overnight-calls-journalist-a-moron-for-asking-why/).

increases, a Valeant spokeswoman responded: “Our duty is to our shareholders and to maximize the value” of the drugs.⁴

We believe it is critical to hold drug companies to account when they engage in “a business strategy of buying old neglected drugs and turning them into high-priced ‘specialty drugs’.”⁵ For these reasons, in addition to the subpoena, we also request that the Committee invite the CEO of Valeant to testify before the Committee next week along with Mr. Shkreli since both appear to be engaging in the same business model of acquiring potentially life-saving drugs to maximize their own corporate profits.

Previous Requests for Documents and Hearings with Valeant

More than four months ago, on May 13, 2015, Ranking Member Cummings wrote a detailed letter to you requesting that the Committee hold a hearing and request documents from Valeant about its huge price increases for Isuprel and Nitropress. As Ranking Member Cummings stated in his letter:

These price increases appear to have no bearing on the costs the companies incurred to produce them. As a result of these price increases, hospitals and other providers have warned that increasingly large portions of their budgets will now have to be diverted to cover the increased costs of these drugs.⁶

In his letter in May, Ranking Member Cummings proposed a hearing with the CEO of Valeant Pharmaceuticals, Michael Pearson, as well as additional witnesses. He also provided you with a draft document request the Committee could send to obtain information about the basis for Valeant’s dramatic price increases.

Your staff explained that, before signing on to the document request, they first wanted to obtain a briefing from the company. The Ranking Member agreed. On July 31, 2015, your staffs had a joint call with representatives from Valeant, but they failed to adequately answer our questions about the basis for their skyrocketing prices.

On August 12, Ranking Member Cummings sent the document request to Valeant. You declined to sign that letter, so he joined with Senator Bernie Sanders in sending this request. However, your staff indicated that you would support Democratic efforts to obtain the documents that were being sought.

On September 3, Valeant rejected Ranking Member Cummings’ request in a dismissive two-page letter that refused to provide any of the requested documents. The letter, which was

⁴ *Pharmaceutical Companies Buy Rivals’ Drugs, Then Jack Up the Prices*, Wall Street Journal (Apr. 26, 2015) (online at www.wsj.com/articles/pharmaceutical-companies-buy-rivals-drugs-then-jack-up-the-prices-1430096431).

⁵ *Id.*

⁶ Letter from Ranking Member Elijah E. Cummings to Chairman Jason Chaffetz, House Committee on Oversight and Government Reform (May 13, 2015).

signed by the company's Senior Vice President for Investor Relations, argued that "the specific documents and information referenced in your letter are highly proprietary and confidential."⁷

As a result of Valeant's refusal, we have no specific information to explain the basis for its exorbitant price increases. In fact, the only changes to these drugs since they were purchased appear to be their labels. Both Nitropress and Isuprel were originally manufactured and sold by Hospira. In 2013, Hospira sold the drug rights to Marathon Pharmaceuticals, but Hospira continued to manufacture them. When Valeant purchased the drug rights from Marathon in February, Hospira continued to manufacture them and will continue to do so until at least 2018.⁸

Request for Subpoena and Testimony

Valeant's price hikes on these two critical drugs are already having a huge negative effect on hospitals and other providers. For example, these price increases have reportedly added \$8.6 million to the Cleveland Clinic's budget for this year. In addition, Ascension Health System estimates it will spend \$8 million on the drugs this year—three times its spending on these drugs from previous years.⁹

Since Valeant Pharmaceuticals has refused to provide any documents to Congress to explain its massive price increases for these two heart drugs, we request that the Committee issue a subpoena compelling Valeant to turn over this information. Specifically, we request that you issue a subpoena requiring the production of all documents relating to the following categories of information:

- (1) total gross revenues from the company's sales of these drugs;
- (2) the dates, quantities, purchasers, and prices paid for all sales of these drugs;
- (3) total expenses relating to the sales of these drugs, as well as the specific amounts for manufacturing, marketing and advertising, and purchases of active pharmaceutical ingredients, if applicable;
- (4) sales contracts or purchase agreements for active pharmaceutical ingredients for these drugs, including any agreements relating to exclusivity, if applicable;

⁷ Letter from Laurie Little, Senior Vice President, Investor Relations, Valeant Pharmaceuticals International, Inc., to Ranking Member Elijah E. Cummings, House Committee on Oversight and Government Reform, and Ranking Member Bernard Sanders, Subcommittee on Primary Health and Retirement Security, Senate Committee on Health, Education, Labor and Pensions (Sept. 3, 2015).

⁸ Briefing by Marathon Pharmaceuticals to House Committee on Oversight and Government Reform Staff (July 17, 2015).

⁹ *Pharmaceutical Companies Buy Rivals' Drugs, Then Jack Up the Prices*, Wall Street Journal (Apr. 26, 2015) (online at www.wsj.com/articles/pharmaceutical-companies-buy-rivals-drugs-then-jack-up-the-prices-1430096431).

- (5) descriptions and valuations of the specific financial and non-financial factors that contributed to the company's decisions to increase the price of these drugs;
- (6) any cost estimates, profit projections, or other analyses relating to the company's current and future sales of these drugs;
- (7) prices of these drugs in all foreign countries or markets, including price information for the countries paying the highest and lowest price; and
- (8) the identity of company official(s) responsible for setting the price of these drug over the above time period.

We also request that the Committee invite the CEO of Valeant Pharmaceuticals, Michael Pearson, to testify at a hearing next week with Mr. Shkreli.

Conclusion

Since you have become Chairman, Democratic Committee Members have strongly supported many of your investigative priorities and investigations. Over the past nine months, Ranking Member Cummings and other Democrats have joined in signing more than 300 letters you have sent to federal agencies, private companies, and individuals in support of investigations you initiated.

We believe we have shown good faith in supporting your priorities, and we now ask that you support ours. The American people—including Democrats, Republicans, and Independents—are fed up with drug companies putting profits before people, and this issue affects the constituents of every single Member of Congress.

If you decline to issue a subpoena to Valeant on behalf of the Committee, at the very least we request that you schedule a Committee business meeting during which Committee Members are allowed to vote on our motion for this subpoena. Thank you for your consideration of this request.

Sincerely,

Elijah E. Trnava

Matthew A. Cato

John H. ...

Arnold E. Connolly

Michelle Lujan Grisham

Brenda L. Lawrence

Mark De

Tammy Duckworth

Wm. Lacy Clay

Cassidy B. Maloney

John

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Brenda T. Boyle

Pete Welch

Dominic Watson Coleman

Ted W. Lieu

Paul L. Kelly

[Signature]
