

**Statement of
Federal Trade Commission Chairman Jon Leibowitz
Pay-for-Delay Press Conference
January 13, 2010**

Pay-for-delay deals are a bad prescription for America; when drug companies agree not to compete, consumers lose. Ending this practice as part of health care reform is one simple, effective, and straightforward way for Congress to help control costs. I want to thank Congressman Van Hollen, Chairman Rush, and Representative Kilroy for their leadership on this matter. I also want to thank Chairman Waxman and Chairman Kohl for their steadfast work.

This is most assuredly not a partisan issue. Although my Republican colleague FTC Commissioner Rosch could not be here today, he feels so strongly that he provided a statement saying why these anticompetitive agreements must be stopped.

The problem with these sweetheart deals is clear. Branded pharmaceutical companies are literally paying their generic competitors to stay off the market. Does it seem right that a company can make money by not selling its product? Of course not. Yet beginning in 2005, a few misguided courts began to bless these deals. As today's study demonstrates, after those decisions the number of these agreements increased dramatically. In 2004, there were no pay-for-delay deals. Last fiscal year, there were a record 19.

Generic drugs offer consumers low-cost alternatives, so these agreements mean less choice and higher prices for consumers. Here's why: when the first generic becomes available, it is generally priced 20 to 30 percent lower than its branded counterpart. When there are multiple generics, usually six months later, the generic price can be 90 percent lower. Today's study finds that settlements with payments delay competition, on average, 17 months longer than those without payments. In other words, consumers must wait almost a year and a half longer for

lower prices. Moreover, FTC economists estimate that these deals cost consumers \$3.5 billion a year in higher drug prices. That's why every single FTC Commissioner since 1999 – Democrats, Republicans, and an Independent – has called for an end to these unconscionable agreements. And that's why I'm so grateful that so many members of Congress are working to make stopping pay-for-delay agreements part of health care reform.

We also must remember that behind the abstract numbers that show these deals increasing are real people with critical health care needs. Many Americans struggle to pay for prescription drugs, especially the elderly and uninsured. When those drugs cost too much, people have to make tough choices, and sometimes they can't afford the medicines they need. Let me introduce you to someone who is paying the price for one of these agreements. Don Gading is a retired businessman from Bloomington, Indiana. Mr. Gading takes a drug called Androgel.

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