

A little more than a month after settling with direct purchasers, Teva agreed to settle similar antitrust claims with the FTC, raising the total settlement to \$1.2 billion, by far the largest settlement ever secured by the FTC.⁷⁰ The settlement occurred five days after an unfavorable ruling from a federal judge in the case.⁷¹

At the end of the day, however, Teva may still have profited handsomely from its behavior – although not nearly as handsomely as it had expected. Shortly after reaching the pay-for-delay settlement in 2006, one high-level executive commented, “We were able to get six more years of patent protection. That’s \$4 billion in sales that no one expected.”⁷² Even considering the FTC’s lower-end estimate of \$3.5 billion in profit from the delay rather than the executive’s \$4 billion comment, the company was still left with at least \$2 billion after settling with the class action plaintiffs and the FTC.⁷³ And, thus, pay-for-delay lives on in a variety of forms, as we will discover in [Chapter 2](#).

⁷⁰ See Ruiz & Thomas, *Teva Settles*, *supra* note 69; Press Release, Fed. Trade Comm’n, Bureau of Competition, FTC Settlement of Cephalon Pay for Delay Case Ensures \$1.2 Billion in Ill-Gotten Gains Relinquished; Refunds Will Go to Purchasers Affected by Anticompetitive Tactics (May 28, 2015), www.ftc.gov/news-events/press-releases/2015/05/ftc-settlement-cephalon-pay-delay-case-ensures-12-billion-ill; Brent Kendall, *Teva, FTC Reach \$1.2 Billion Settlement on Cephalon’s Provigil*, WALL ST. J. (May 28, 2015), www.wsj.com/articles/teva-close-to-ftc-settlement-on-cephalons-provigil-valued-at-roughly-1-billion-1432813288. The \$1.2 billion figure includes the \$512 million secured in the direct purchaser settlement.

⁷¹ Bultman, *FTC Can Seek Disgorgement*, *supra* note 69.

⁷² Complaint for Injunctive Relief at 2, *Fed. Trade Comm’n v. Cephalon, Inc.*, No. 08CV00244, 2008 WL 446785 (D.D.C. Feb. 13, 2008).

⁷³ Bultman, *FTC Can Seek Disgorgement*, *supra* note 69, (noting the FTC’s \$3.5 billion figure).