

GSK China Among 35 Defendants Indicted By Chinese Prosecutor

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Changsha People's Procurator, a Chinese municipal prosecutor in Hunan province, has indicted a total of 35 defendants in the **GlaxoSmithKline** (GSK) commercial bribery case, including GSK's China unit, according to a source familiar with the situation. It is by far the largest anti-corruption prosecution involving a foreign multinational in the country, attorneys said.

The 35 defendants include corporate entities such as GSK's China unit, pharmaceutical distributors and a Chinese travel agency. They also include individuals such as Mark Reilly, the former head of GSK China, other former GSK China managers, employees of the implicated travel agency and pharmaceutical distributors. It is understood that Chinese prosecutors are also charging the alleged recipients of the bribes such as officials in certain regional Administration for Industry and Commerce offices (AICs) and medical doctors.

Indictments in the case are understood to have been issued earlier this month but had not been made public, with charges ranging from the payment of bribes by a corporate entity, bribe taking, and embezzlement. The Changsha prosecutor may bring the case to court for judgment within six weeks, if it decides there is sufficient evidence from the police, sources told the Policy and Regulatory Report (*PaRR*).[\[1\]](#)

On May 14, 2014 the Ministry of Public Security (MPS) held a press briefing on the investigation while the state-run Xinhua News Agency reported that Chinese police have concluded a 10-month investigation and uncovered evidence of "large-scale" bribery in Chinese hospitals and other medical institutions, with illegal income amounting to "billions of Chinese yuan."

Investigators have delivered their findings to Chinese prosecutors, who have begun reviewing the case, the news agency reported, citing unnamed sources with the Hunan police authority. According to the Xinhua report, the police have focused on three allegations: bribing of non-government workers, "bribery by an entity" and the "bribing of entities". It also disclosed that GSK's China management had even bribed officials at AICs in Beijing and Shanghai in an attempt to quash their anti-corruption investigations.

Leon Liu, a partner at MWE China Law Offices and a former prosecutor in the city of Nantong in Jiangsu province, said the public disclosure by the Ministry of Public Security and state media reflects the direction of prosecutor's indictment. "Given the investigation's disclosure today, it is very likely that investigators at public security offices have communicated with the prosecutors," Liu told *PaRR*.

Today's disclosures also bode poorly for GSK's former China executive, who had been accused by police of orchestrating the bribery scheme to boost sales, Liu said. Reilly is a UK national. The disclosures today appear to show that Reilly is not only a defendant but that he will likely

face serious charges such as “bribing non-government workers” and the “bribing of entities”, he said. “It shows that Chinese government is acting tough in this case and determined to call a spade a spade in the investigation,” Liu said. “This is a big wake-up call to foreign senior managers [in China].”

In contrast with Reilly, the four senior managers named defendants in the indictment, who are Chinese nationals, will face charges of accepting bribes and embezzlement for their roles in accepting kickbacks through a travel agency, according to the source. As a corporate entity alleged to have paid bribes, GSK China faces fines as a corporation, and the executives responsible face jail terms of up to five years. While it is still uncertain what the final outcome and sentencing might be, the case already had far reaching impact on businesses operating in China.

“It sure got the attention of the international community,” said Michael Vella, a partner at Jones Day. “It isn’t as isolated...as the Rio Tinto matter, but rather, it seems to be focusing on an entire industry and business practices within that industry, in which multinationals are very active. Of course it causes a lot more concern. In 2009-2010, Chinese prosecutors charged executives of Rio Tinto, including one Australian national, with bribery and commercial secret violations. The commercial secret charge was later dropped. Four of those involved were handed jail terms ranging from 7-14 years.

[1] <http://www.parr-global.com/>