

Licensing deals morph to acquisitions in seller's market

That big pharma's impoverished pipeline is forcing it to pay stunning prices for acquisitions is no secret. What is less evident is the way this neediness is changing the face of partnering. With more buyers in the market, including potential acquirers, pharma is under greater pressure not only to cut partnering deals that give biotech a greater commercial presence, but also to grant biotech more favorable licensing terms.

"The people outlicensing are asking far more questions because they are in a position to be pickier," says Paul McCubbin, head of business development at London-based BTG, a company that sources products externally for in-house development, then turns around and outlicenses them for late-stage development and commercialization. In his role, McCubbin is privy to the sentiment driving both sides of the deal-making dynamic.

"Pharma is now far more flexible and creative in the deals it is prepared to do," he says. "As a result, there is a more exciting agenda on how we can look to capture value through codevelopment or retaining geographical rights."

One recent deal exemplifying this trend is Palo Alto, California-based Anacor Pharmaceuticals' \$625 million agreement in February to license its phase 2 antifungal ANA2690 to Schering-Plough of Kenilworth, New Jersey, yet retain rights to copromote it in the US. Other deals include the UK biotech Oxford BioMedica's \$690 million agreement with Paris-based Sanofi-Aventis to license its cancer immunotherapeutic TroVax (vaccinia-delivered tumor-associated antigen 5T4), in which Oxford keeps certain codevelopment rights (*Nat. Biotechnol.* 25, 493, 2007), and Antisoma's deal to license its vascular disrupting agent AS1404 to Basel-based Novartis. That deal provides \$100 million in near-term payments to Antisoma plus a potential \$890 million in milestones, and also requires Novartis to help Antisoma build its own sales force, enabling the London-based biotech to commercialize the product in the US.

The palpable air of confidence surrounding both Oxford BioMedica and Antisoma in the months leading up to announcing their respective agreements was a sure sign of the current seller's market. Anyone who has listened over the years to CEO promises of big deals tomorrow could tell the two companies this time were dealing from strength. Indeed, Antisoma has been around long enough to have weathered several seasons of pharma partnering, including significant relationships with Roche, in Basel, and Abbott Park, Illinois-based Abbott Laboratories. But whereas a few years ago its strategy was to do pure licensing deals, it now wants commercial rights.

At the same time, although retaining a copromotion right preserves some of the upside potential of a product while bringing in cash (usually in the form of milestones as well as eventual royalties on product sales), a license is nonetheless encumbering to future deal-making, including the option of selling the company. It's a trade-off.

That was the situation Arrow Therapeutics found itself in. Eighteen months ago, the London-based biotech teamed up with Novartis in a \$217 million deal on the development of A60444, Arrow's lead compound, a treatment for respiratory syncytial virus. Then in February of this year, AstraZeneca acquired it for \$150 million.

"Clearly, it was an issue that the lead product was partnered, because anyone acquiring the company would have preferred complete freedom to operate," explains Ken Powell, founding CEO of Arrow, in reference to the acquisition discussion. "But it was absolutely essential that

we did the Novartis deal at the time, to give our investors confidence in what we are doing."

That may remain true for many companies, but especially in the US, investors' thinking about licensing has advanced, in part influenced by their view of company exits. Indeed, the days of being driven to partner lead products for external validation are being consigned to folk memory. "We've got a ton of money, so what is the point of external validation?" asks Kate Bingham, general partner of SV Life Sciences, one of the largest venture capital investors in both the US and Europe. "US investors have the funds to see investments through to the highest-value exits."

The subtext is that the venture capital community is taking advantage of pharma's neediness and putting pressure on for sales, rather than licenses. SV Life Sciences boasts that acquisitions enabled it to exit investments in companies worth \$2 billion in 2005 and 2006, including PowderMed, in Oxford, UK, to New



Biotech is finding new leverage in licensing discussions, in part because of big pharma's new-found taste for acquisitions. AstraZeneca, whose London headquarters are shown here, is buying top-tier biotech MedImmune. It has also snatched up Arrow Therapeutics and KuDOS Pharmaceuticals in the past year and a half.

York-based Pfizer; Cambridge, UK-based KuDOS Pharmaceuticals to AstraZeneca; and the US/UK high-throughput DNA sequencing specialist Solexa to the San Diego diagnostics firm Illumina.

Bingham freely admits that all these trade sales started out as negotiations to license technologies. "These days we wouldn't partner, other than if that's how we are going to make the most money," she says.

One curiosity shaping the partnering landscape is that initial public offerings (IPOs) no longer represent exits for venture capitalists (VCs) in either the US or Europe. Pharmasset, for example, of Princeton, New Jersey, raised \$45 million when it listed in April—far short of the \$75 million it had hoped to take. This gives the company a similar valuation to the price AstraZeneca paid for Pharmasset's European antivirals counterpart Arrow Therapeutics, the difference being that Arrow investors got the money, whereas investors in Pharmasset merely received the opportunity to cash out at a later date.

The same is true on the Alternative Investment Market (AIM) in London, where in many instances the only way to get IPOs off the

ground has been for VCs to pledge to take part.

A case in point is the tissue replacement specialist Intercytex Group. The Manchester-based company raised \$26.5 million when it joined AIM just over a year ago. When it came back to the market in May 2007 for a further \$24 million, according to CFO Richard Moulson, the VCs were still on board. "The price recently has not been good and VCs think they should be able to get a better price. This placing will increase the free float, so hopefully we will see more liquidity."

Although the amount of pharma money flowing in biotech's direction is influencing both the shape and size of partnering deals in the US and Europe, there are different factors in play when it comes to timing.

European companies backed by European VCs are still obliged to do earlier-stage deals, and this is not just related to the size of their VCs' pockets. It is also about expertise, believes Powell. "US VCs have been through three or four rounds of [biotech] investment by now and they are confident about the assets: most European VCs have not even exited once," he says.

A further factor is the different structure of the sectors in the US and Europe, with Europe

nurturing a 500-strong band of privately held biotechs. "There are relatively more private companies, and they are more tightly controlled by their investors," says William Powlett Smith, head of biotech at consultants Ernst & Young, in London.

According to a report from the European Commission, "Removing Obstacles to Cross-Border Investments by VC [venture capital] Funds," published at the end of April, European VCs raise less capital and then spread it more thinly than their US counterparts, investing an average of €900,000 (\$1.2 million) per company, compared with €6.1 (\$8.2) million in the US. In the biotech sector this forces companies to consider licensing earlier rather than later simply to keep operating.

But overall, argues Powlett Smith, pharma's current need for products means there is no such thing as a typical partnership anymore. "It's very dangerous to generalize because no two deals are the same.... While cash and some sort of milestones is one driver, we are talking about a diversity of products, geographical markets, developing the same product for different applications, and so on," he says.

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