### Licensing Executives Society (U.S.A. and Canada), Inc.



# **BioPharmaceutical Royalty Rates & Deal Terms Report**

# Licensing Executives Society (U.S.A. & Canada), Inc.

June 2008

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#### **Introductory Letter**

The LES (USA & Canada) HealthCare Sector is pleased to present the first "LES BioPharmaceutical Royalty Rates and Deal Terms Survey". This landmark report is one of the many benefits of LES (USA & Canada) membership and reflects the organization's objective to provide its members with relevant, cutting edge licensing educational information.

We believe you will find this report contains many gems on some of the most important areas of deal making in our industry.

We would like to specifically acknowledge and relay our appreciation to each survey contributor. We applaud their efforts and willingness to share their deal-related information. It is because of you that we have this survey report to issue. **Thank you, and your companies, for your participation.** 

LES (USA & Canada) was assisted in this effort by Veris Consulting, a survey research firm in the Washington DC area, specializing in studies for industry and professional associations. The Veris survey instruments ensured the confidentiality of all company and deal information reported. We appreciate their fine work in assisting with the design, implementation and tabulation of the survey results.

Finally, we want to acknowledge the contributions of the Survey Committee members (listed below). It was their aggregate efforts that made the survey a reality for the professional benefit of LES (USA & Canada) members. If you have any suggestions on the survey, or would like to be involved in the future, please contact any of us at <a href="mailto:info@les.org">info@les.org</a>.

Jake Schaible Chair, HealthCare Sector, 2007-2008 Jim McCarthy Survey Committee, Chairperson



### **2008 LES Survey Committee**

#### 2008 LES BioPharmaceutical Royalty Rates and Deal Terms Survey Committee Members

#### Start to Finish

Steven Renwick, Ph.D., PharmaVentures\*
Jim Lynch, Strategic Access
Jim McCarthy, Expression Genetics (EGEN), Chairperson
Dan McGavock, CRA International
Deni Zodda, NovaDel Pharma, Inc.

Major Contributors who Joined During the Project Ben Bonifant, Campbell Alliance\* James Forte, Campbell Alliance Jeff Snell, CRA International



<sup>\*</sup> Key contributors

#### Introduction

The Licensing Executives Society (U.S.A. and Canada), Inc. (LES) is a professional society representing nearly 6,000 members engaged in the transfer, use, development, manufacture and marketing of intellectual property. With the growing economic importance of intellectual property, LES membership has increased to encompass business, technical and legal professionals in a broad range of industries.

This report summarizes the results of a targeted survey to LES members in the Health Care (Biotechnology and Pharmaceutical) Sector, in an attempt to benchmark important areas of deal-making for licensing professionals.

In particular, this report illustrates detailed analysis on fixed royalties, tiered royalties, valuation, and therapeutic areas. It provides a more current perspective on licensing royalty rates and deal terms than the Freedom of Information (FOI) approach allows. Actual survey results are also summarized in aggregate form, presented in Appendix A.

The last LES survey of this kind was performed in 1992. We hope that this report is useful to LES members and others who are interested in the dynamically expanding field of licensing and intellectual asset management.

All responses to this survey have been kept strictly confidential and at no point will anyone other than select Veris Consulting, LLC (Veris) employees be granted access to respondents' submissions.

If you have any questions or comments on this report, please send them to info@les.org.



#### Report Highlights

#### **Profile and Composition of Responses**

- 230 total deal responses were submitted. Of these deals, 157 responses were complete. The report presented here incorporates 155 complete deals, while excluding 2 outliers.
- Respondent Deal Composition: 28% Pharmaceutical Companies, 26% Biotech Companies, 35% Academic Institutions, and 11% Other.
- Respondent Organization Composition: 36% Pharmaceutical Companies, 37% Biotech Companies, 13% Academic Institutions, and 15% Other.

#### **Deal Statistics**

- 77% of the submitted deals were completed in 2006 or 2007.
- 70% of reported deals were reported by the licensors.
- Close to 50% of deals were related to Small Molecule.
- Anticancer, CNS, and Other deals were the most prevalent therapeutic area types submitted.



#### Report Highlights

#### **Deal Statistics (continued)**

- Close to 60% of all deals submitted were still in the Preclinical stage of development.
- 88% of deals were categorized as exclusive.
- Over 90% of licenses included the U.S. and close to 70% of licenses were considered "worldwide" in scope.
- 57% of deals represented peak U.S. Annual Sales of < \$100.0 million.

#### **Fixed and Tiered Royalties**

- Of the 155 deals, 83 deals were of the fixed royalty type, 54 were of the tiered royalty type, and 18 did not have any royalty components.
- 59% of fixed royalty deals were in the Preclinical stage while 50% of Tiered royalty deals were in the same stage.

#### **Valuation**

- While "upfront payment" was the most frequently indicated financial component (80%), "sales milestones" displayed the greatest average amount (\$56,387,000) and median (\$15,000,000).
- Significant differences in deal terms are noted in the academic deals compared to Biotech and Pharma Deals.



### Methodology

In the spring and summer of 2007, Veris staff coordinated with the Licensing Executives Society and a specially selected committee of LES members to develop a survey instrument that would help determine royalty rate and deal terms benchmarks for the Licensing Industry. The survey was designed to focus on the Health Care Sector of the Licensing Industry, specifically the Biotechnology and Pharmaceutical segments and collect data on deals from the previous 3 years.

After multiple planning meetings, Veris drafted and tested the survey instrument with the help of the LES Royalty Rate Survey Committee. Veris incorporated edits and changes based on this exercise to construct and refine the final online survey instrument.

Veris worked with the committee to create a survey package that included:

- 1. Survey promotions;
- 2. The online, web-based survey instrument, and
- 3. Scheduled reminder emails.

During the LES (USA & Canada) annual meeting in October 2007, LES officially announced the survey to all appropriate LES members. In late October, LES provided Veris with a list of 1,569 email addresses that identified the senior LES member for each company with LES membership. Veris emailed each company a unique survey account on November 1, 2007. All companies were sent updates of their progress and reminders to continue throughout the survey collection phase. In order to garner further participation, the LES Royalty Rate Committee personally contacted the top 50 Pharmaceutical companies.

The survey ended on January 2, 2008 with 230 total respondents. Based on the responses, a majority of the participants represented the Biotechnology and Pharmaceutical industries. During the Chicago meeting in May 2008, the LES Royalty Rate Committee presented the survey's preliminary findings. A final report in electronic format was provided to LES members June 2008.

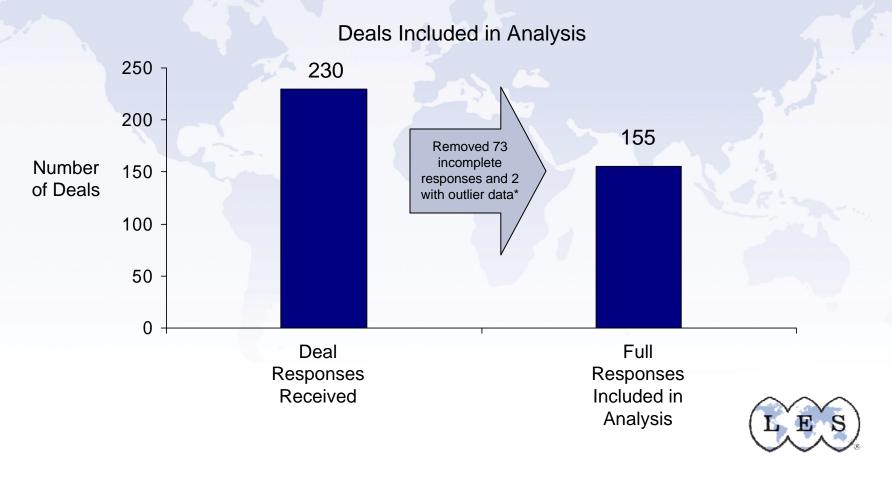


### A Profile of Responses



### A Profile of Responses Deals

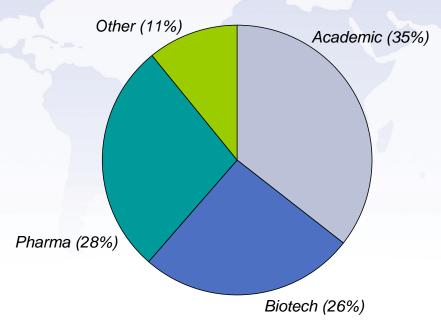
There were 230 deal responses with some information. After a review of the information provided, 155 deals were included in the analysis.



### A Profile of Responses Deals

The <u>number of deals</u> was relatively evenly split among types of respondents. Approximately half of the deals included were provided by pharmaceutical or biotech companies and one-third by "academic"

Responses Included in Analysis (n=155 deals)



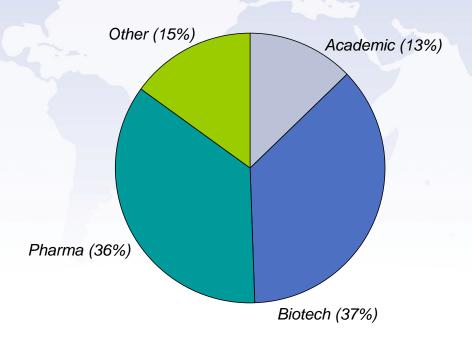


Profile Question A) What type of Organization are you?

# A Profile of Responses Organizations

Several <u>organizations</u> reported multiple deals. From an organization view, there is a higher concentration in the <u>number</u> of pharma and biotech <u>organizations</u> represented.

Responses Included in Analysis (n=86 Organizations)

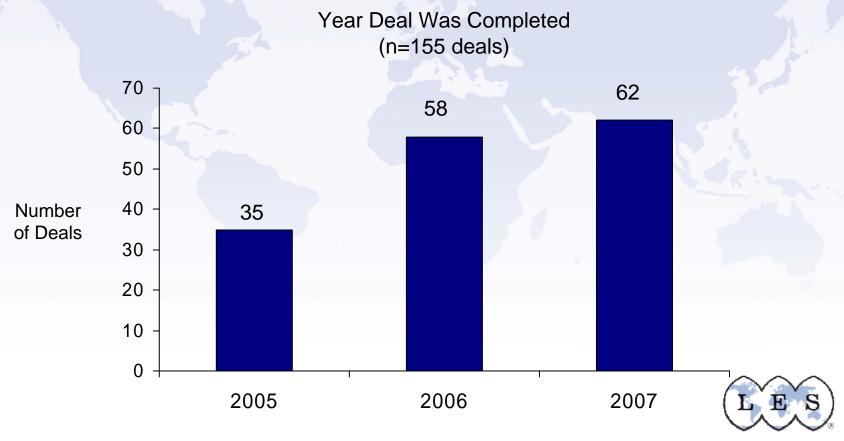




Profile Question A) What type of Organization are you?

### A Profile of Responses Year of Deal

There was a bias toward more recent deals. 77% of the deals included in the analysis were completed in 2006 or 2007.

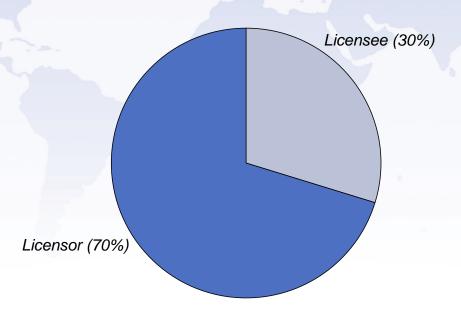


Q1. What year did deal take place?

## A Profile of Responses Role in Deal

There were a greater number of deals reported by licensors than licensees.

Responses Included in Analysis (n=155 deals)





Q2: Were you the Licensor or Licensee?

# A Profile of Responses Partnering Organization

Approximately 70% of the deals were reported by the licensor. In over 80 % of cases the partner was a biotech or pharma company.

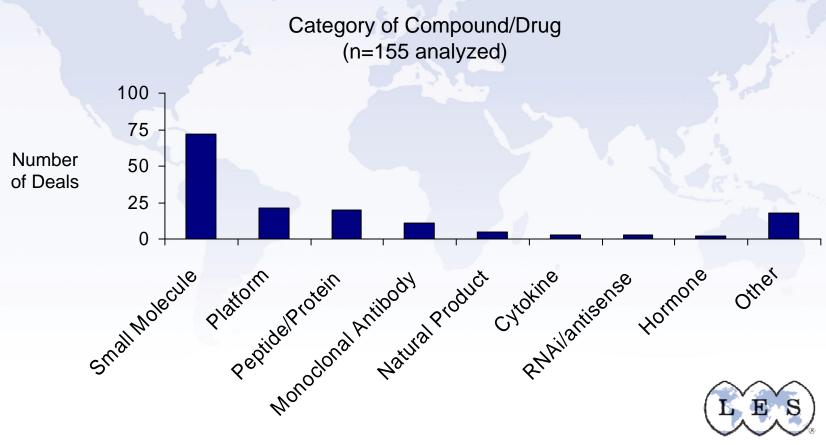
		Partner Organization				
		Academic	Biotech- nology	Pharma	Other	Total
Licensor Reporting Company	Academic	1	26	23	5	55
	Biotechnology	2	11	10	0	23
	Pharma	1	2	13	0	16
	Other	0	8	1	6	15
	Total	4	47	47	11	109

		Partner Organization				
		Academic	Biotech- nology	Pharma	Other	Total
	Academic	0	0	0	0	0
Licensee Reporting Company	Biotechnology	5	7	4	1	17
	Pharma	4	5	18	0	27
	Other	0	0	2	0	2
_	Total	9	12	24	1	46

Q3. Type of Partnering Organization?

## A Profile of Responses Type of Product

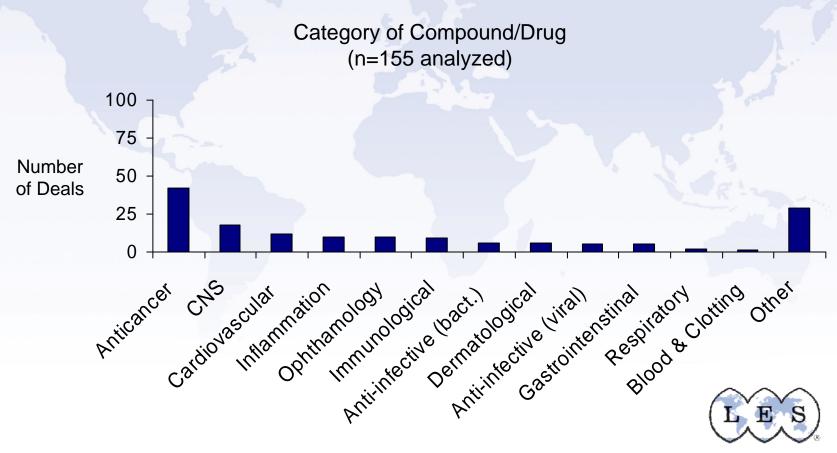
Small molecules represented approximately half of the deals received and analyzed.



Q5: Type or Category of Compound / Drug?

## A Profile of Responses Therapeutic Area

Anticancer deals comprised almost one third of the reported and analyzed deals.



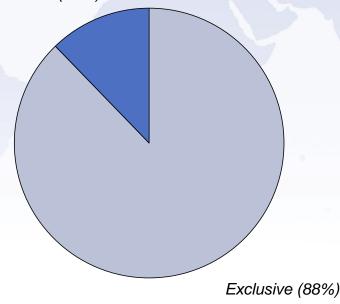
Q6: Principle Therapeutic Area for License?

## A Profile of Responses Exclusivity

A strong majority of the deals reviewed were exclusive.

Responses Included in Analysis (n=155 deals)

Non-Exclusive (12%)

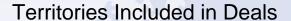


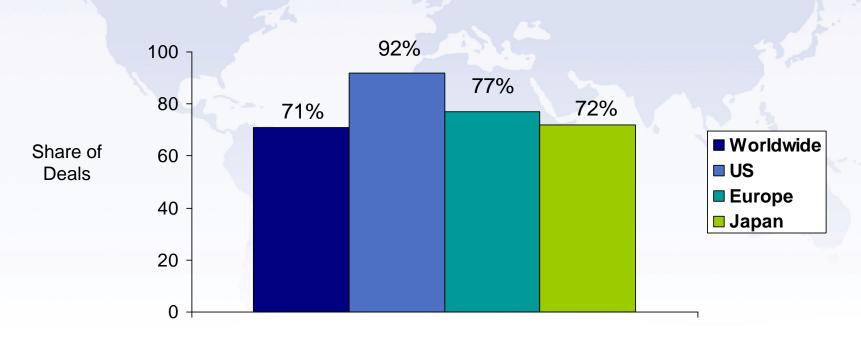


Q8: Exclusive or Non-Exclusive License?

## A Profile of Responses Territories

More than 90% of the deals included at least the US and approximately 70% covered worldwide rights.





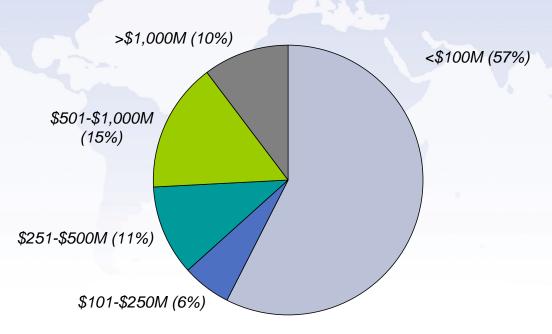


**Q9** Which Territories Included

### A Profile of Responses Peak US Sales

Just over half of the deals were for products with <u>estimated peak US sales</u> of less than \$100M, while one-fourth were for greater than \$500M





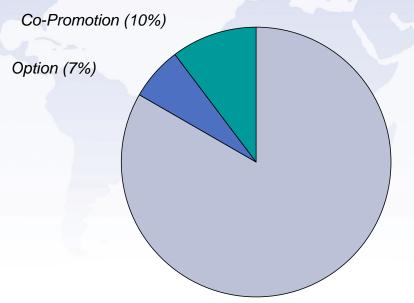


Q10: Estimated Peak U.S. Annual Sales?

## A Profile of Responses Co-Promotion/Co-Marketing

Only approximately 10% of deals included co-promotion or co-marketing.

Responses Included in Analysis (n=155 deals)



No Co-Promotion (83%)



Q11: Deal Include Co-Promo or Co-Marketing Rights?

# A Profile of Responses Royalty Type

#### The Royalty Analysis draws from a balanced set of deals





<sup>\*18</sup> deals had no royalty component.

### Fixed Royalties



## Fixed Royalties Introduction

The discussion of fixed royalties draws from the values reported for 83 deals.

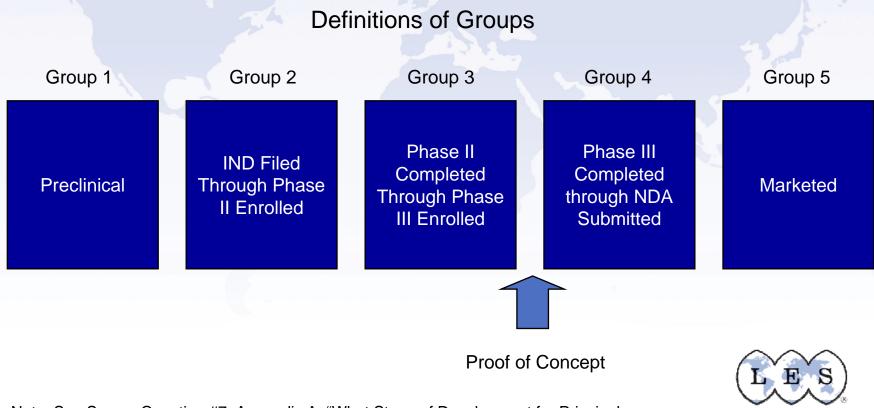




<sup>\*18</sup> deals had no royalty component.

## Fixed Royalties Introduction

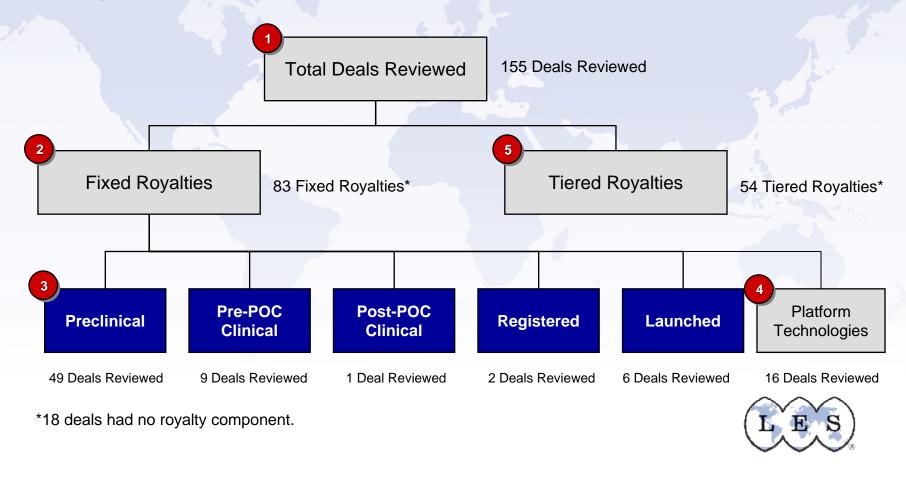
At several points in this analysis, we have grouped the observations according to key points in development.



Note: See Survey Question #7, Appendix A: "What Stage of Development for Principal Indication?"

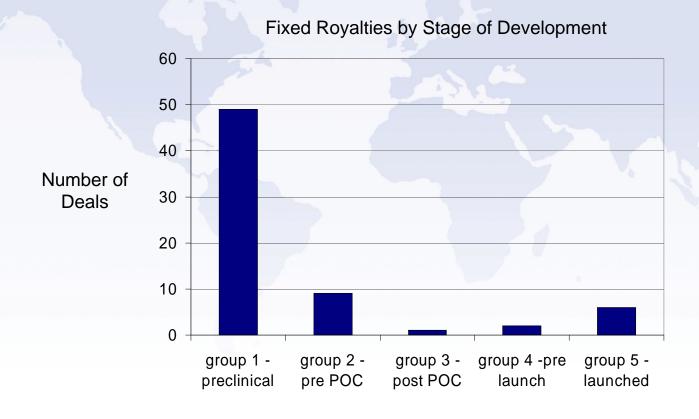
## Fixed Royalties Introduction

For our review of fixed royalties, we look first at deals that did not involve platform technologies.



# Fixed Royalties Number of Deals by Stage of Development

#### The majority of deals with fixed royalties are for <u>preclinical</u> products

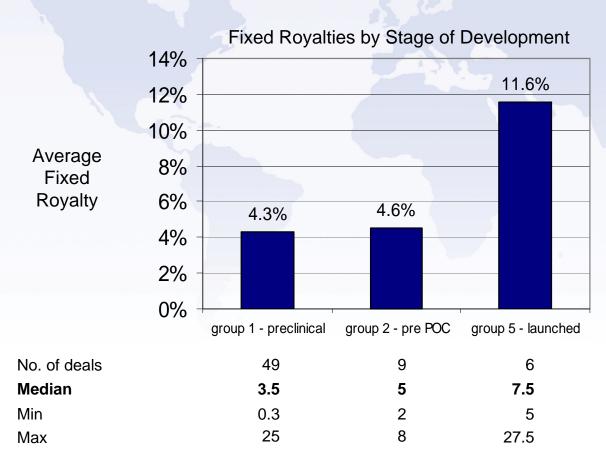


Stage of Development



# Fixed Royalties Average Royalty by Stage of Development

We observed negligible difference between mean preclinical and pre-POC fixed royalties, although median values highlighted difference. Both the min and the max for preclinical deals were extremes compared to pre-POC group.





# Fixed Royalties Royalties vs. Estimated US Revenue

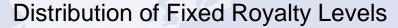
No clear trend between <u>fixed royalty</u> and <u>predicted sales</u> for <u>preclinical products</u>. Majority of preclinical products predicted to have peak sales <\$100 M

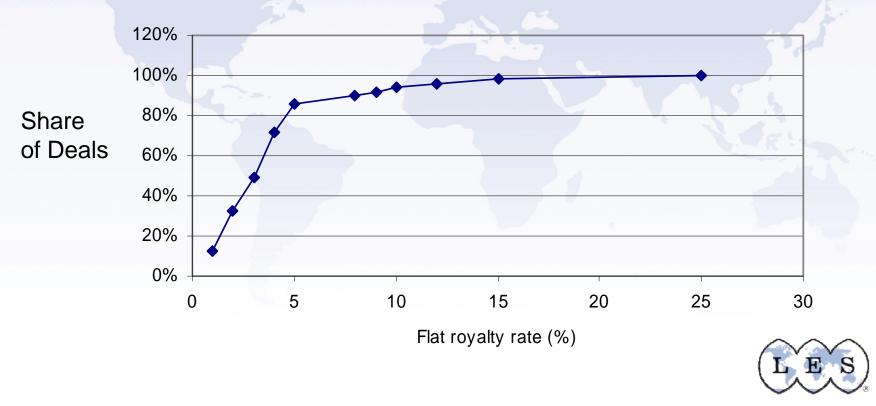
Preclinical Deals: Average Fixed Royalties by Predicted Sales



# Fixed Royalties Distribution of Fixed Royalty Levels

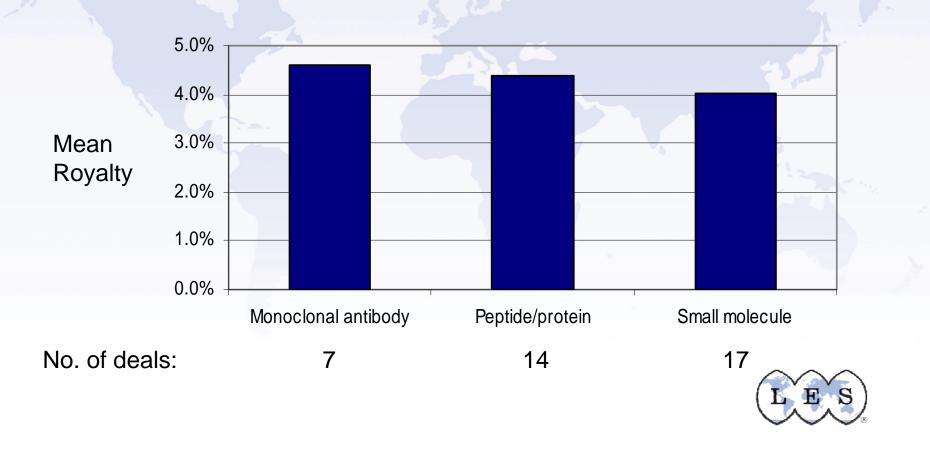
86% of <u>preclinical fixed royalty deals</u> had a royalty rate of <5%. 49% of deals had a fixed royalty rate of <3%.





# Fixed Royalties Fixed Preclinical Royalty by Product Type

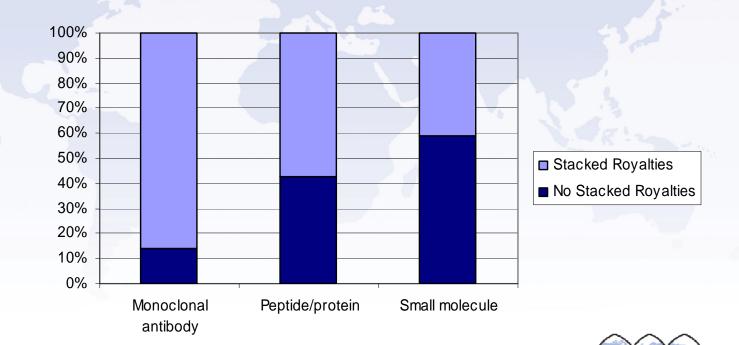
In the sample of <u>preclinical</u> deals, biological products were observed to attract slightly higher royalty rates than small molecules



# Fixed Royalties Fixed Preclinical Royalty by Product Type

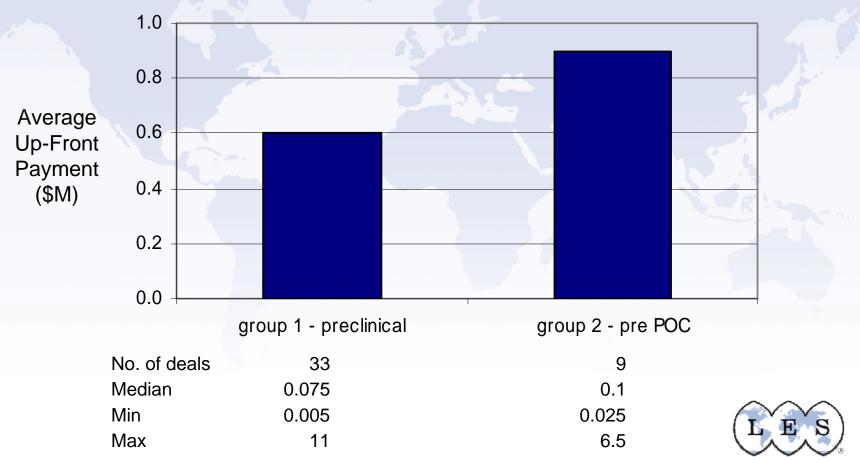
Deals for biological products tend to involve stacked royalties.

Share of Deals with Stacked Royalties



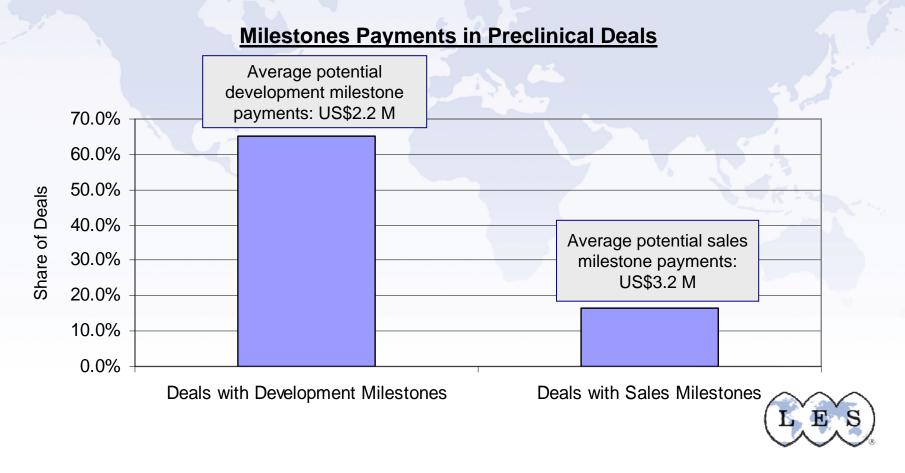
# Fixed Royalties Up-Front Payments for Early Stage Deals

Upfront payments for these <u>early stage</u> deals with <u>fixed royalties</u> averaged below one million dollars.



# Fixed Royalties Up-Front Payments for Early Stage Deals

A majority of the <u>preclinical deals</u> with fixed royalties include development milestone payments. Few of the deals include sales milestones.



# Fixed Royalties Platform Technology Deals

Number of Deals	16
Mean	5.1%
Median	4%
Minimum	1%
Maximum	17%



# Fixed Royalties Profile of Preclinical Fixed Royalty Deals

	Proportion of deals (%)	Average (US\$ M)	Median (US\$ M)	Range (US\$ M)
Upfront	67.3	0.6	0.075	0.005-11
Research Funding	8.2	3.3	3.3	0.2-25
Development Milestones	65.3	2.2	0.9	0.2-16.9
Sales Milestones	16.3	3.2	1.3	0.1-17.5
Royalties	-	4.3%	3.5%	0.3-25%

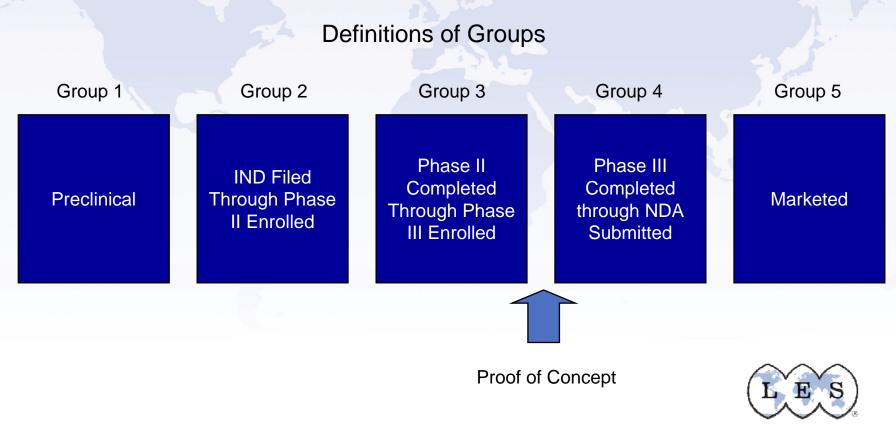


### Tiered Royalties



### Tiered Royalties Introduction

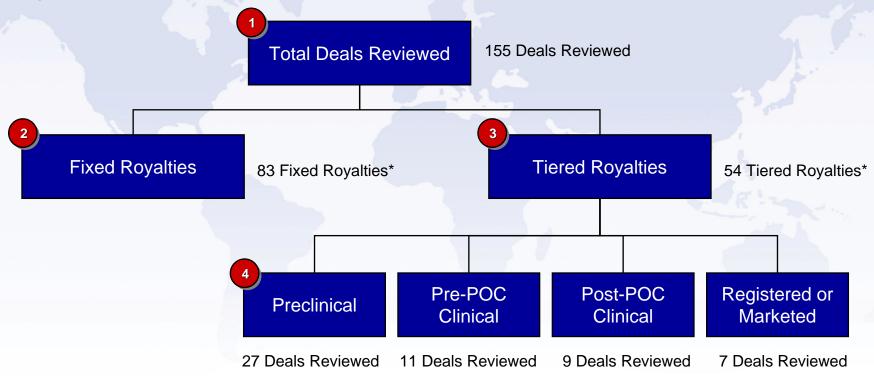
At several points in this analysis, the observations are grouped according to key points in development.



Note: See Survey Question #7, Appendix A: "What Stage of Development for Principal Indication?"

### Tiered Royalties Introduction

We organize our discussion of tiered royalties according to the development categories.

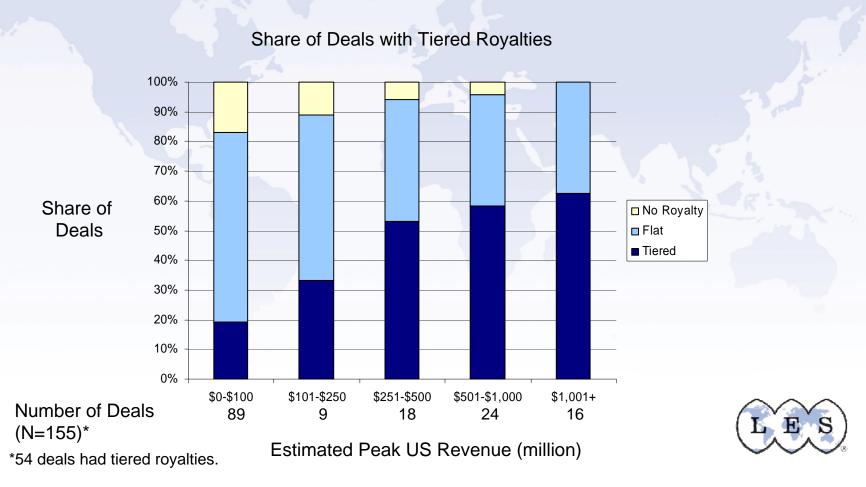




<sup>\*18</sup> deals had no royalty component.

# Tiered Royalties Deals with Tiered Royalties

In this sample, the use of a tiered royalty structure increased as the estimated peak sales volume increased.



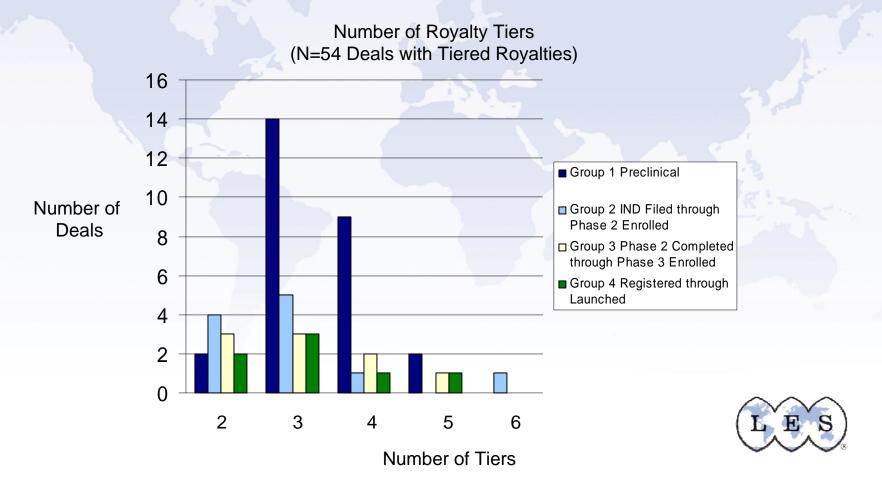
# Tiered Royalties Number of Tiers

### Deals most frequently had three royalty tiers.



### Tiered Royalties Number of Tiers

While the most frequently observed number of tiers was three, it is interesting to observe that many preclinical deals were fairly complex with four or five tiers.



# Tiered Royalties Approach to Comparing Tiers

Because different thresholds were used for changing rates, we used six standardized revenue levels to compare royalties.

Approach for Comparing Tiered Royalty Levels

Provided in Survey Responses

Number of Tiers, Thresholds for Each Tier, and Royalty Rate at Each Threshold



Set Standardized Revenue Levels at \$50M, \$100M, \$250M, \$500M, \$750M, and \$1B



Calculated to Compare Rates Across Deals

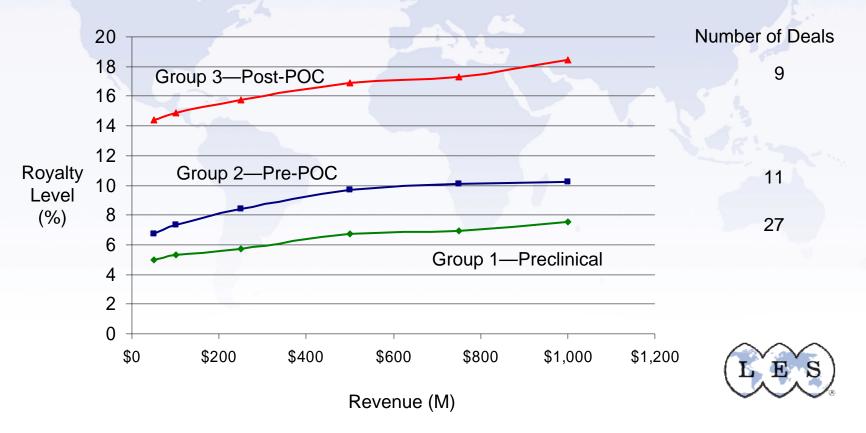
Calculated the Royalty Level at Each Standardized Revenue Level



# Tiered Royalties Tiered Royalties by Stage of Development

The results are consistent with expectations, but interesting in the detail they provide.

Royalty Level vs. Revenue for Deals with <u>Tiered Royalties</u>



# Tiered Royalties Tiered and Fixed Royalties

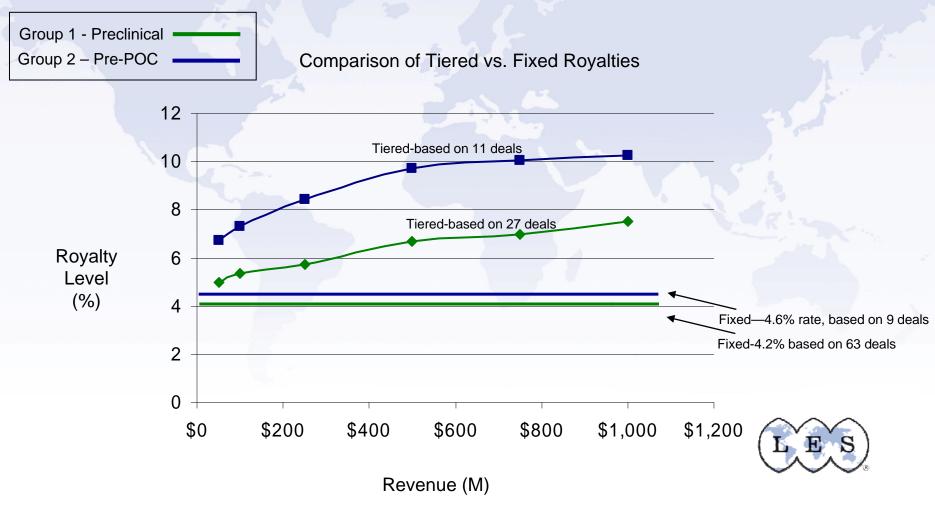
Because of data limitations, we were only able to compare tiered and Fixed royalties for Groups 1 and 2.

	Group 1— Preclinical	Group 2— Pre-POC	Group 3— Post-POC	Group 4— Phase III Through Filed	Group 5— Launched	Total
Fixed Royalty	63	9	2	3	7	84
Tiered Royalty	27	11	9	2	5	54
Total	88	21	11	5	12	138



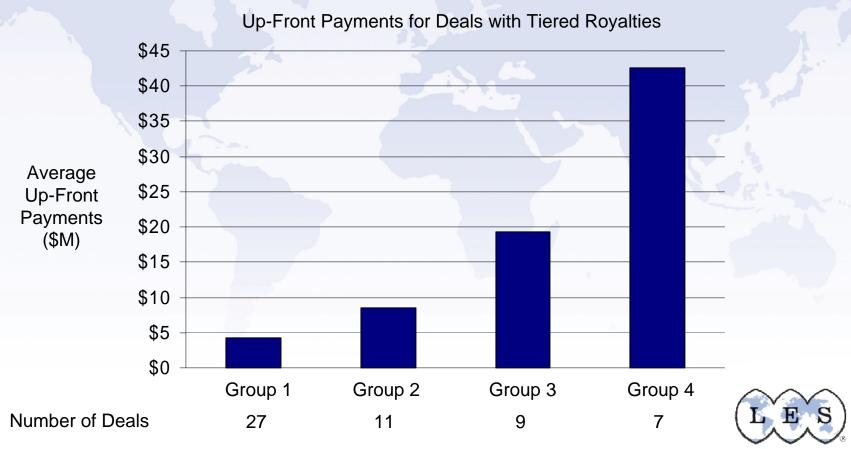
# Tiered Royalties Tiered and Fixed Royalties

Within groups, mean <u>fixed</u> royalty levels were <u>below</u> the values for <u>tiered</u> royalties.



# Tiered Royalties Up Front Payments

Not surprisingly, the <u>up-front payments</u> "increased" with the <u>level of development</u> progress for those deals with <u>tiered royalties</u>.

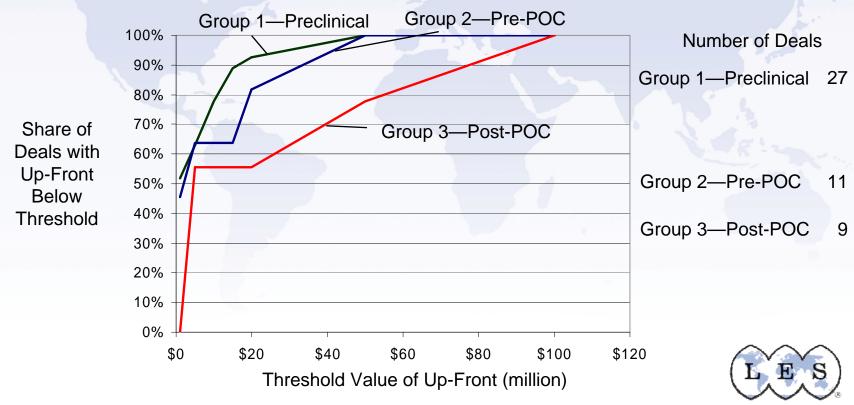


Note: If respondent left the answer to this question blank, a value of \$0 was assumed.

# Tiered Royalties Up Front Payments

For each group reviewed, a large share of deals involved relatively low up-front payments. The spread in deal values is driven by the high-value deals.

Distribution of Up-Front Payments for Deals with Tiered Royalties



Note: If respondent left the answer to this question blank, a value of \$0 was assumed.

# Tiered Royalties Up Front Payments

While some negotiators may be trading off up-front payments and royalty rates, highly valued assets appear to be licensed with terms on the high-end of both dimensions.

Comparison of Royalty Rate and Up-Front Payment (**Preclinical Deals Only**, n=27)

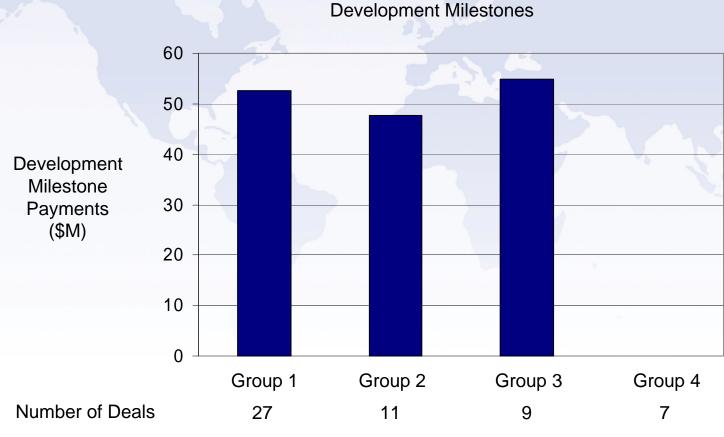




Note: If respondent left the answer to this question about up-front payments blank, a value of \$0 was assumed.

# Tiered Royalties Development Milestones

The average development milestone payments for this sample did not vary a great deal.



Note: If respondent left the answer to this question blank, a value of \$0 was assumed.

### Tiered Royalties Sales Milestones

Reported sales milestones tended to be higher as development progress occurred, although Group 4 deals reflected modest sales milestones.



Note: If respondent left the answer to this question blank, a value of \$0 was assumed.

# **Tiered Royalties** *Summary*

This set of deals indicated increasing financial returns associated with later points in development.

	Group 1— Preclinical	Group 2—Pre- POC	Group 3—Post- POC
Sample Size	27	11	9
Average Royalty Rate	~5% growing to ~8%	~7% growing to ~10%	~14% growing to ~18%
Up-Front Payment	\$4M	\$9M	\$19M
Development Milestones	\$53M	\$48M	\$55M
Sales Milestones	\$29M	\$53M	\$105M



# **Tiered Royalties**Summary of Observations

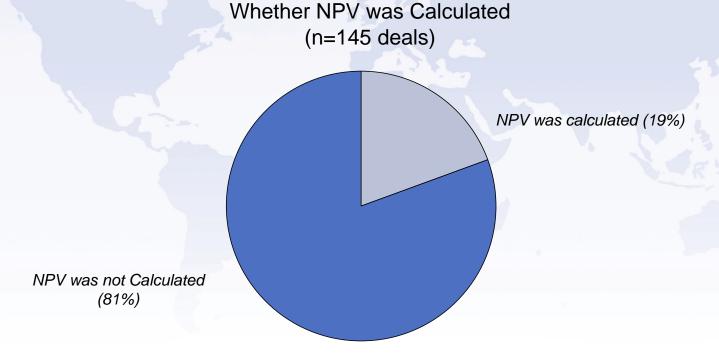
- As the estimated peak revenue increases, there is a greater likelihood that a tiered royalty structure will be employed.
- In this sample, the deals with tiered royalty structures had higher overall royalty levels than those with fixed royalties.
- Average values for upfront and milestone payments can be deceiving a small number of deals with large payments have a large influence on the averages.
- The "Median" values and "overall" deal terms are important.
- Review data in the context of the overall deal.





### **Valuation** *Calculation of NPV*

A NPV was computed in only 19% of the deals reviewed.

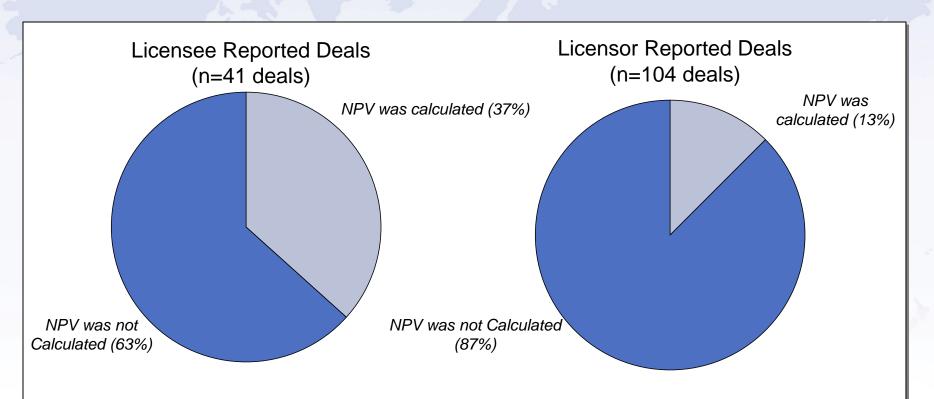


- -Based on 145 total responses excludes the 11 survey responses in which respondents did not answer the question, "Did you calculate an estimated net present value (ENPV) for this deal?"
- -Numbers in parentheses after descriptions in the legend represent numbers of responses.



### **Valuation** *Calculation of NPV*

### Licensees computed NPVs more frequently than licensors



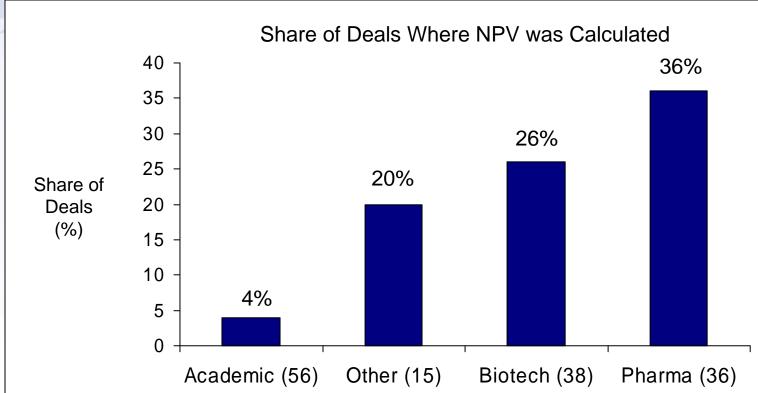
### Notes:

- -Based on 41 total responses excludes the 6 survey responses in which respondents did not answer the question, "Did you calculate an estimated net present value (ENPV) for this deal?"
- -Numbers in parentheses after descriptions in the legend represent numbers of responses.

- -Based on 104 total responses excludes the 5 survey responses in which respondents did not answer the question, "Did you calculate an estimated net present value (ENPV) for this deal?"
- -Numbers in parentheses after descriptions in the legend represent numbers of responses.

### **Valuation** *Calculation of NPV*

### NPVs were computed by biotech and pharma companies more frequently than by academic institutions

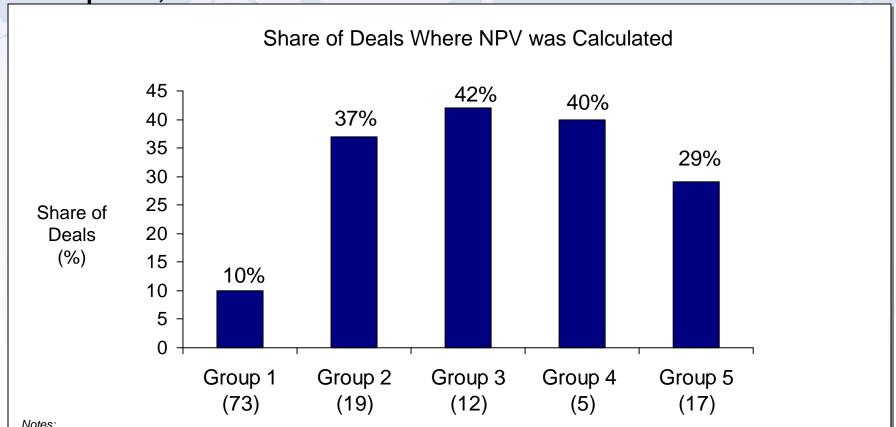


<sup>-</sup>Based on 145 total responses – excludes the 11 survey responses in which respondents did not answer the question, "Did you calculate an estimated net present value (ENPV) for this deal?"

<sup>-</sup>Numbers in parentheses after X-axis data labels represent numbers of responses.

### **Valuation** Calculation of NPV by Stage of Development

The frequency of computing NPVs increases through the Group 3 stage of development, but then declines

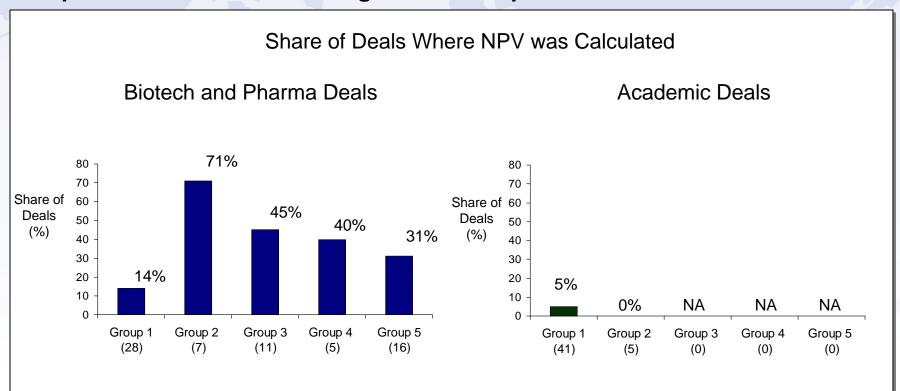


<sup>-</sup>Based on 126 responses – excludes 30 responses either representing platform technologies or failing to answer the guestion, "Did you calculate an estimated net present value (ENPV) for this deal?"

<sup>-</sup>Numbers in parentheses after X-axis data labels represent numbers of responses.

# **Valuation**Calculation of NPV by Stage of Development

### Some interesting results regarding the frequency at which companies computed NPVs at various stages of development...



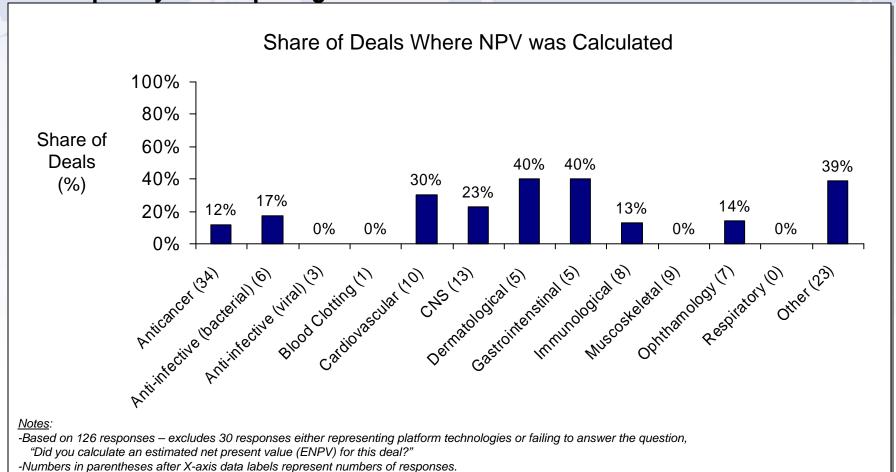
### Notes.

- -Based on 67 responses excludes responses either representing platform technologies or failing to answer the question, "Did you calculate an estimated net present value (ENPV) for this deal?"
- -Numbers in parentheses after X-axis data labels represent numbers of responses.

- -Based on 46 responses excludes responses either representing platform technologies or failing to answer the question, "Did you calculate an estimated net present value (ENPV) for this deal?"
- -Numbers in parentheses after X-axis data labels represent numbers of responses.

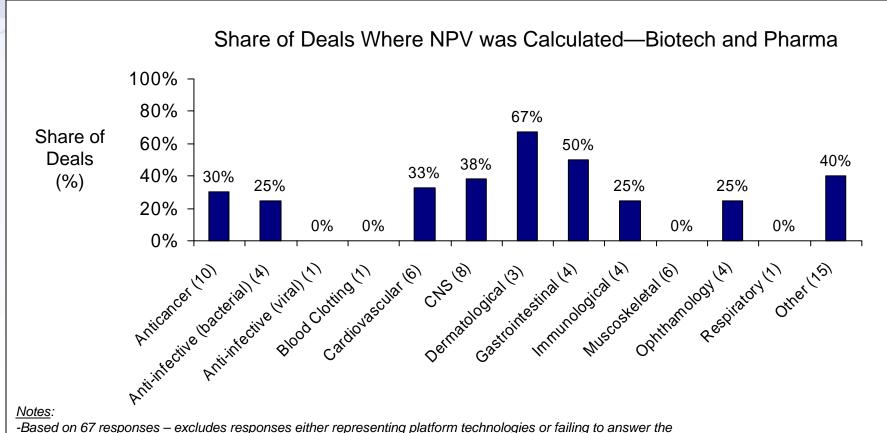
## **Valuation** *Calculation of NPV by Therapeutic Area*

There were some large disparities between various therapeutic areas as to the frequency of computing NPVs.



## **Valuation** *Calculation of NPV by Therapeutic Area*

Deals reported by biotech and pharma companies also have a large disparity in the frequency of computing NPVs by therapeutic area.

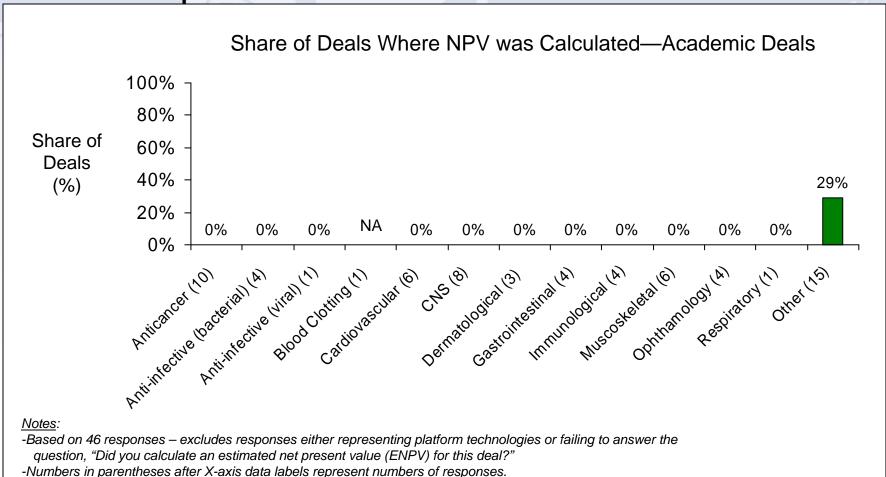


question, "Did you calculate an estimated net present value (ENPV) for this deal?" -Numbers in parentheses after X-axis data labels represent numbers of responses.

<sup>2007</sup> LES BioPharmaceutical Royalty Rates and Deal Terms Survey

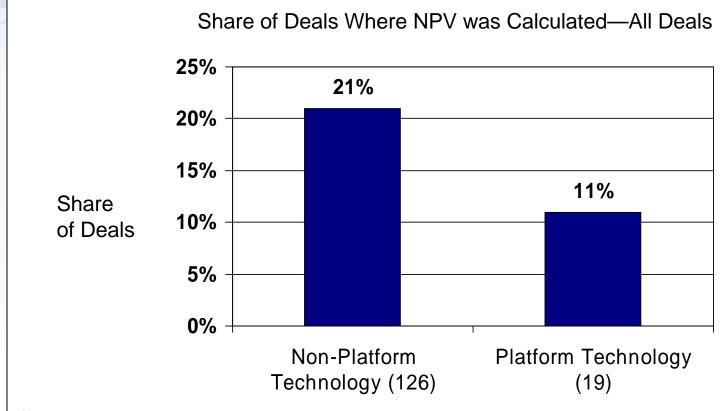
## **Valuation** *Calculation of NPV by Therapeutic Area*

NPVs were computed in very few deals reported by academic institutions across all therapeutic areas.



### **Valuation**Calculation of NPV for Platform Deals

NPVs were computed for non-platform technology deals more frequently than they were for platform technology deals



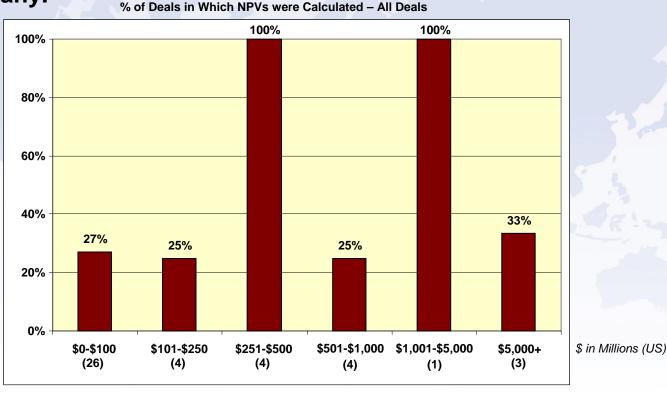
<sup>-</sup>Based on 145 total responses – excludes the 11 survey responses in which respondents did not answer the question, "Did you calculate an estimated net present value (ENPV) for this deal?"

<sup>-</sup>Numbers in parentheses after X-axis data labels represent numbers of responses.

# **Valuation** *Calculation of NPV by Company Size*

The frequency of computing NPVs does not appear to be related to the size of the company.

\*\* of Does in Which NBVs were Calculated All Does.\*\*



### Notes:

-Excludes responses for platform technologies and responses failing to answer the question, "Did you calculate an estimated net present value (ENPV) for this deal?"

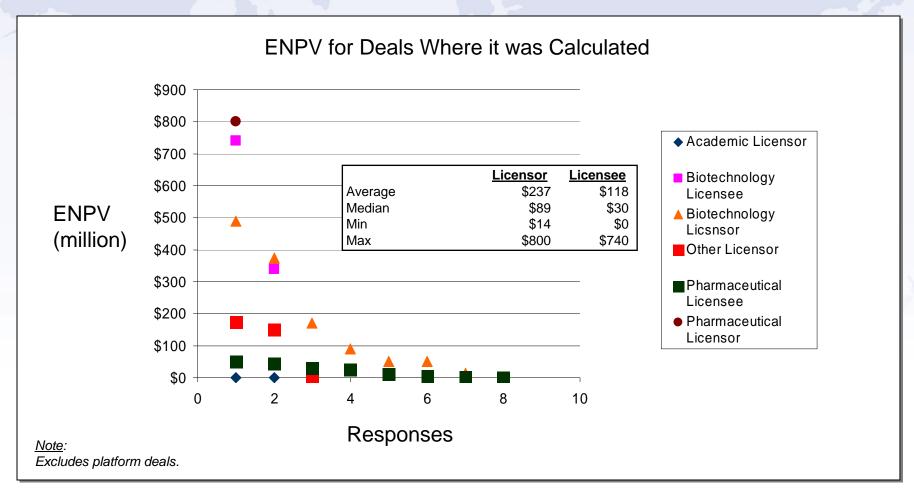
<sup>-</sup>Numbers in parentheses after X-axis data labels represent numbers of responses where respondents answered the question, "Did you calculate an estimated net present value (ENPV) for this deal?" and reported their company size in terms of annual revenue. For example, for companies reporting annual revenue between \$0 and \$100 million, there were 26 responses to the question "Did you calculate an estimated net present value (ENPV) for this deal?" In 27% of these deals (or 7 of the 26 deals), respondents indicated they did calculate an NPV; in 19 of the 26 deals, respondents indicated they did not calculate an NPV.



<sup>-</sup>Excludes deals where respondents answered, "Pre-commercial" to the question, "What was your 2006 annual pharmaceutical sales revenue? (US\$ Millions)."

## **Valuation** *Range in NPV Values*

The majority of biotech and pharma reported NPVs are relatively low compared with the few, large NPVs reported.



### While upfront payments are the most prevalent, amounts are small compared with development and sales milestones

All Deals							
Upfront Research Technol Payment Funding Access				Develop- ment Milestones	Sales Milestones	Equity Investment	
Share of Deals	80%	21%	4%	63%	33%	13%	
Average	\$9,823	\$6,499	\$2,067	\$34,000	\$56,387	\$10,371	
Median	Median \$450	\$5,000	\$600	\$3,000	\$15,000	\$5,000	
Min	\$3	\$200	\$50	\$65	\$100	\$32	
Max	\$250,000	\$50,000	\$6,000	\$420,500	\$500,000	\$75,000	

(\$ in thousands)



<sup>-</sup>Excludes platform deals.



<sup>-</sup>Blue font represents highest result; red font represents lowest result.

Sales and development milestones comprise the majority of lump sum payments in deals reported by biotech and pharma companies.

Biotech and Pharma Deals						
	Upfront Payment	Research Funding	Technology Access Fee	Develop- ment Milestones	Sales Milestones	Equity Investment
Share of Deals	80%	29%	5%	56%	40%	16%
Average	\$16,627	\$7,530	\$1,788	\$64,949	\$76,540	\$14,085
Median	\$2,000 \$	\$5,000	\$550	\$17,000	\$26,250	\$9,000
Min	<b>\$25</b> \$200	\$200	\$50	\$75	\$200	\$225
Max	\$250,000	\$50,000	\$6,000	\$420,500	\$500,000	\$75,000

(\$ in thousands)



<sup>-</sup>Excludes platform deals.



<sup>-</sup>Blue font represents highest result; red font represents lowest result.

Development milestones are much more prevalent than sales milestones in deals reported by academic institutions.

	Academic Deals							
Upfront Payment		Research Funding	Technology Access Fee	Develop- ment Milestones	Sales Milestones	Equity Investment		
Share of Deals	74%	9%	2%	68%	19%	9%		
Average	\$107	\$329	\$250	\$1,625	\$967	\$1,615		
Median	\$25	\$325	\$250	\$600	\$750	\$715		
Min	\$3	\$215	\$250	\$65	\$100	\$32		
Max	\$1,050	\$450	\$250	\$14,000	\$3,000	\$5,000		

(\$ in thousands)



<sup>-</sup>Excludes platform deals.



<sup>-</sup>Blue font represents highest result; red font represents lowest result.

Highest ratios of up front payments to NPV were in "Group 1" deals.

All Deals: "Average" up front payment to NPV = 15% and "Median" of 7%

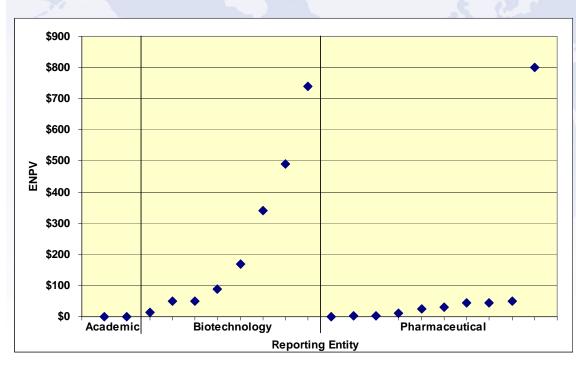
	Up Front Payments / NPV						
	# of Deals	<u>Average</u>	<u>Median</u>	<u>Min</u>	<u>Max</u>		
All Deals	21	15%	7%	0%	80%		
Biotech Deals	7	14%	8%	1%	40%		
Pharma Deals	9	11%	4%	0%	33%		
Group 1 Deals	7 6	26% 5%	22% 4%	1% 0%	80%		
Group 2 Deals Group 3 Deals	5	16%	7%	4%	13% 33%		
Group 4 Deals	1	0%	0%	0%	0%		
Group 5 Deals	2	5%	5%	0%	11%		

Note:

Excludes 2 platform deals, 3 deals for which the NPV was not available, 1 deal with a reported NPV of \$0, and 1 deal with an up front payment that greatly exceeded the NPV of the deal. All Deals and Groups include Academic and Other deals as well as Biotech and Pharma.



The majority of the high NPV deals were biotech deals; the only 2 academic deals with a reported NPV were very small.

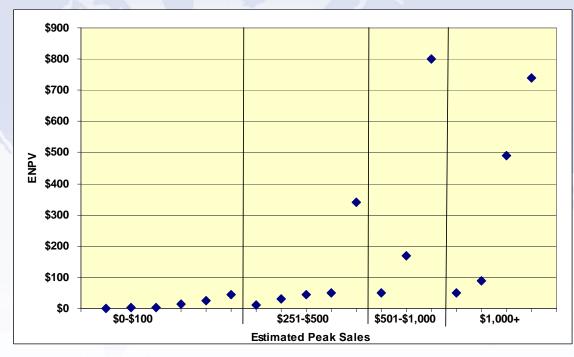


	<u>Academic</u>	<b>Biotech</b>	<u>Pharma</u>
Average	\$0.14	\$243	\$101
Median	\$0.14	\$130	\$28
Min	\$0.01	\$14	\$0
Max	\$0.27	\$740	\$800

Note: Excludes platform deals.



### As expected, the higher the estimated peak sales, the higher the NPV

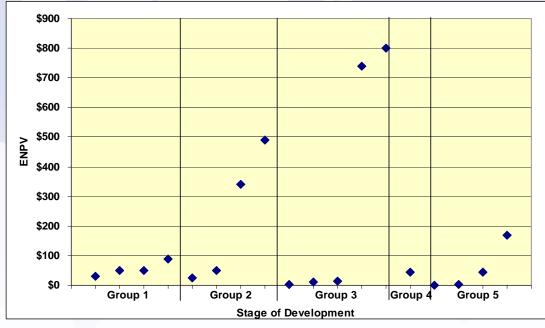


Note: Excludes platform deals; biotech and pharma deals only.

	<u>\$0-\$100</u>	<u>\$251-\$500</u>	<b>\$501-\$1,000</b>	\$1,001+
Average	\$15	\$95	\$340	\$342
Median	\$9	\$45	\$170	\$289
Min	\$0	\$12	\$50	\$50
Max	\$45	\$340	\$800	\$740



The highest reported NPVs were for compounds or drugs that were at relatively early stages of development.



Note:

Excludes platform deals; biotech and pharma deals only.

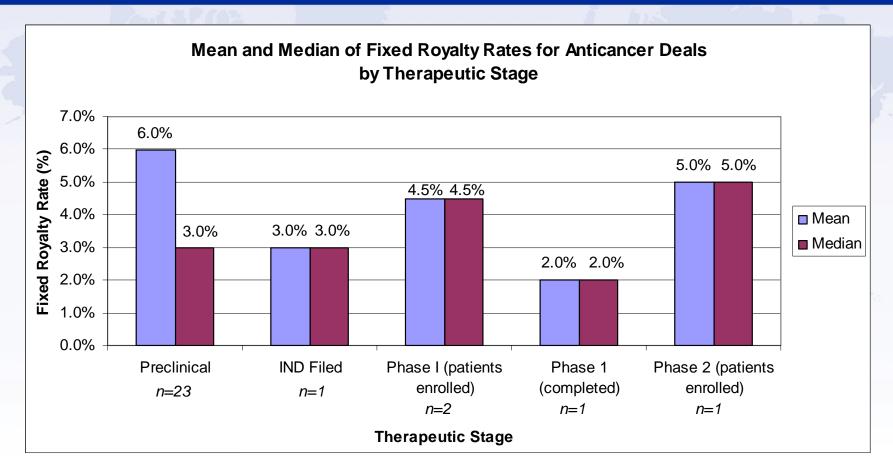
	Group 1	Group 2	Group 3	Group 4	Group 5
Average	\$55	\$226	\$314	\$45	\$55
Median	\$50	\$195	\$14	\$45	\$24
Min	\$30	\$25	\$4	\$45	\$0
Max	\$89	\$489	\$800	\$45	\$170



Royalty Rate & Upfront Payment



#### Analysis of Therapeutic Areas Anticancer – Fixed Royalty Rates



n = number of deals

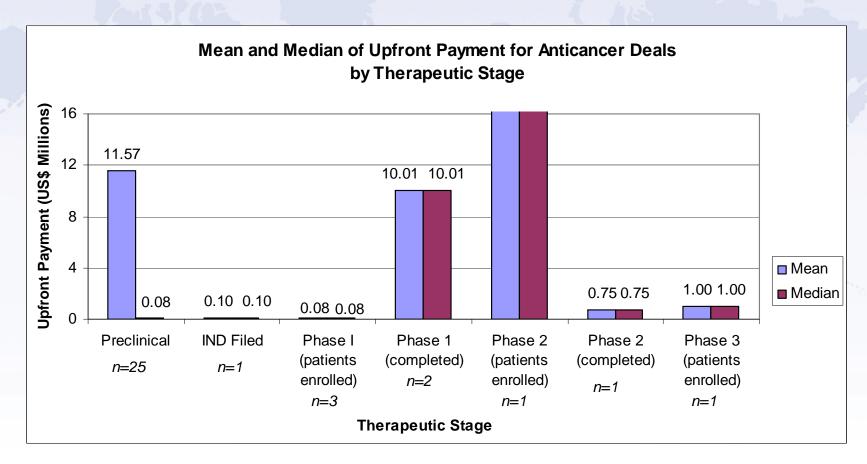


#### Analysis of Therapeutic Areas Anticancer – Type of Royalty Rate

Royalty Rates								
Anticancer	cer # of Deals Min				Mean			
<u>Preclinical</u>								
Fixed Royalty Rate	23	0.3%	3%	50%	6.0%			
Tiered Royalty Rates	7							
No royalty component	4							
IND Filed								
Fixed Royalty Rate	1	3%	3%	3%	3.0%			
Phase I (patients enrolled)								
Fixed Royalty Rate	2	2%	5%	7%	4.5%			
Tiered Royalty Rates	1				4			
Phase 1 (completed)								
Fixed Royalty Rate	1	2%	2%	2%	2.0%			
Tiered Royalty Rates	1							
Phase 2 (patients enrolled)								
Fixed Royalty Rate	1	5%	5%	5%	5.0%			
Phase 2 (completed)								
No royalty component	1							
Phase 3 (patients enrolled)								
Tiered Royalty Rates	2							
Approved/Launched								
Tiered Royalty Rates	1							



#### **Analysis of Therapeutic Areas** *Anticancer – Upfront Payment*



n = number of deals



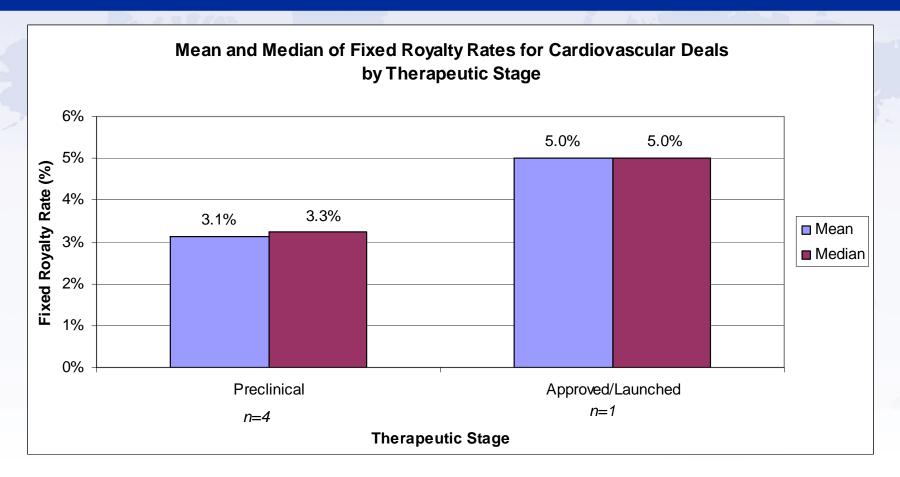
## Analysis of Therapeutic Areas Anticancer – Upfront Payment

Upfront Payment (US\$ Millions)									
Anticancer	# of Deals*	Min	Median	Max	Mean				
Preclinical	25	0.003	0.08	250.00	11.57				
IND Filed	1	0.10	0.10	0.10	0.10				
Phase I (patients enrolled)	3	0.01	0.08	0.15	0.08				
Phase 1 (completed)	2	0.03	10.01	20.00	10.01				
Phase 2 (patients enrolled)	1	200.00	200.00	200.00	200.00				
Phase 2 (completed)	1	0.75	0.75	0.75	0.75				
Phase 3 (patients enrolled)	1	1.00	1.00	1.00	1.00				
Approved/Launched	0	no data	no data	no data	no data				

<sup>\*</sup> Deals with an upfront payment



#### Analysis of Therapeutic Areas Cardiovascular – Fixed Royalty Rates



n = number of deals

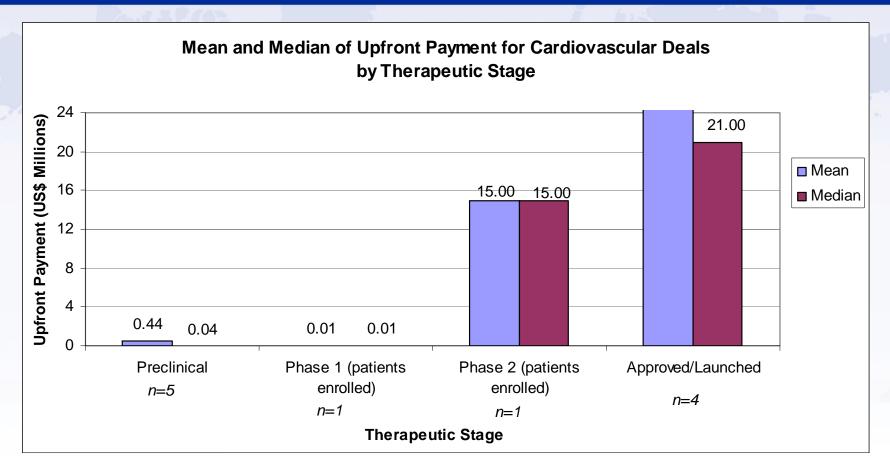


### Analysis of Therapeutic Areas Cardiovascular – Type of Royalty Rate

Royalty Rates								
Cardiovascular		# of Deals	Min	Median	Max	Mean		
Preclinical								
Fixed		4	2%	3%	4%	3%		
Tiered		2	7 .					
Phase 1 (patients	enrolled)							
Tiered		1				A 07		
Phase 2 (patients	enrolled)							
Tiered		1				1		
Approved/Launche	ed							
Fixed		1	5%	5%	5%	5%		
Tiered		3						



#### Analysis of Therapeutic Areas Cardiovascular – Upfront Payment



n = number of deals



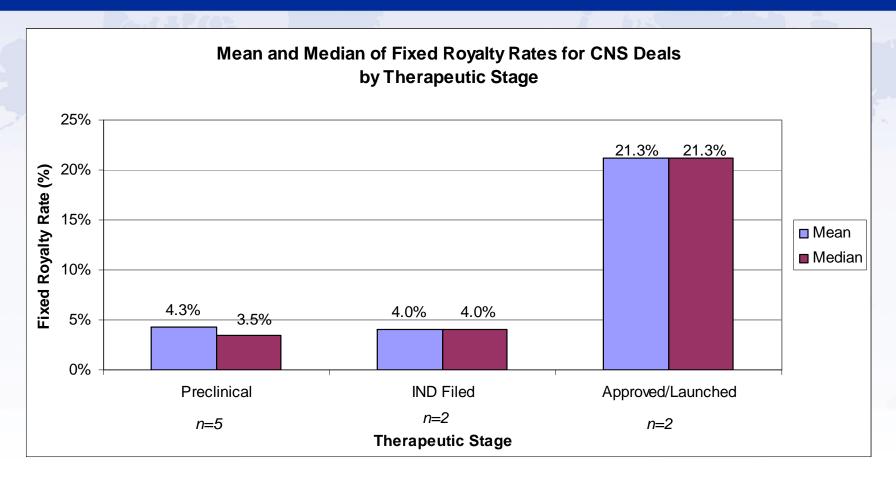
#### Analysis of Therapeutic Areas Cardiovascular – Upfront Payment

Upfront Payment (US\$ Millions)								
Cardiovascular # of Deals* Min Median Max								
Preclinical	5	0.01	0.04	2.00	0.44			
Phase 1 (patients enrolled)	1	0.01	0.01	0.01	0.01			
Phase 2 (patients enrolled)	1	15.00	15.00	15.00	15.00			
Approved/Launched	4	0.33	21.00	250.00	73.08			

<sup>\*</sup> Deals with an upfront payment



#### Analysis of Therapeutic Areas CNS – Fixed Royalty Rates



n = number of deals



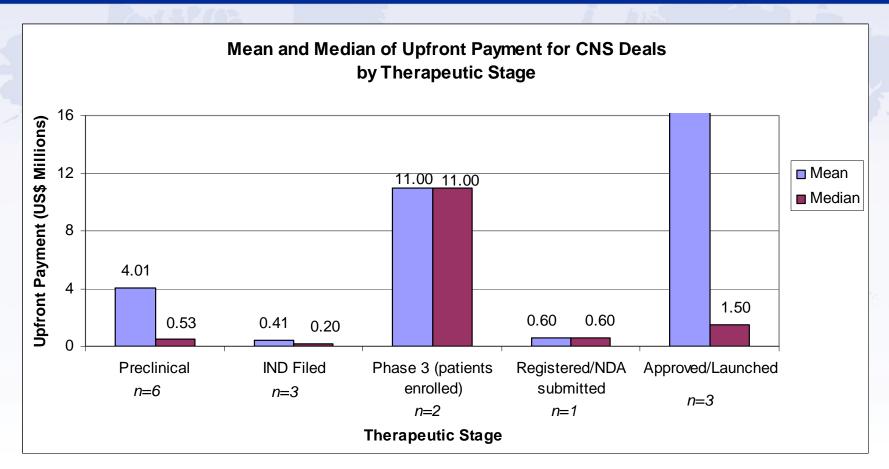
#### **Analysis of Therapeutic Areas**CNS – Type of Royalty Rate

Royalty Rates								
CNS	# of Deals	Min	Median	Max	Mean			
Preclinical								
Fixed	5	2%	4%	10%	4%			
Tiered	4							
IND Filed								
Fixed*	2	4%	4%	4%	4%			
Tiered	2							
Phase 3 (patients enrolled)								
Tiered	2							
Phase 3 (completed)								
Tiered	1							
Registered/NDA submitted								
Tiered	1				(1 - 2/7 d)			
Approved/Launched								
Fixed	2	15%	21%	28%	21%			
No royalty component	2				-			

<sup>\*</sup> only 1 deal provided rate information



#### **Analysis of Therapeutic Areas**CNS – Upfront Payment



n = number of deals



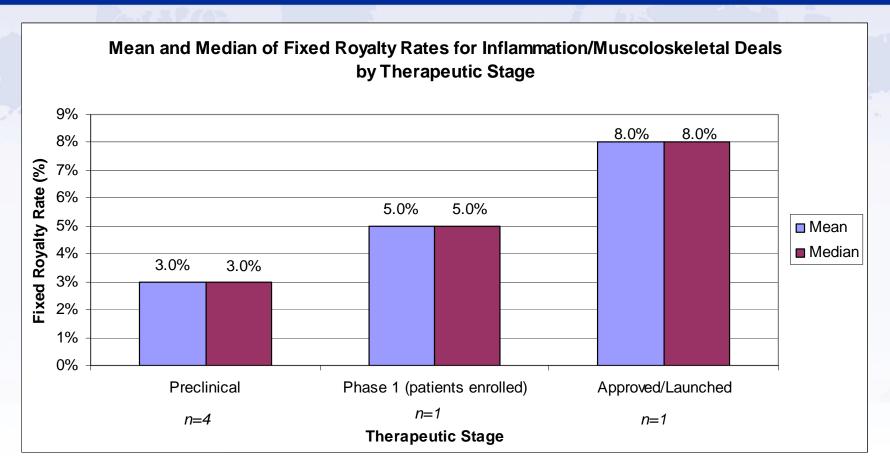
## Analysis of Therapeutic Areas CNS – Upfront Payment

Upfront Payment (US\$ Millions)									
CNS	# of Deals*	Min	Median	Max	Mean				
Preclinical	6	0.01	0.53	22.00	4.01				
IND Filed	3	0.04	0.20	1.00	0.41				
Phase 3 (patients enrolled)	2	2.00	11.00	20.00	11.00				
Phase 3 (completed)	no data	no data	no data	no data	no data				
Registered/NDA submitted	1	0.60	0.60	0.60					
Approved/Launched	3	1.00	1.50	105.00	35.83				

<sup>\*</sup> Deals with an upfront payment



#### Inflammation/Musculoskeletal – Fixed Royalty Rates



n = number of deals

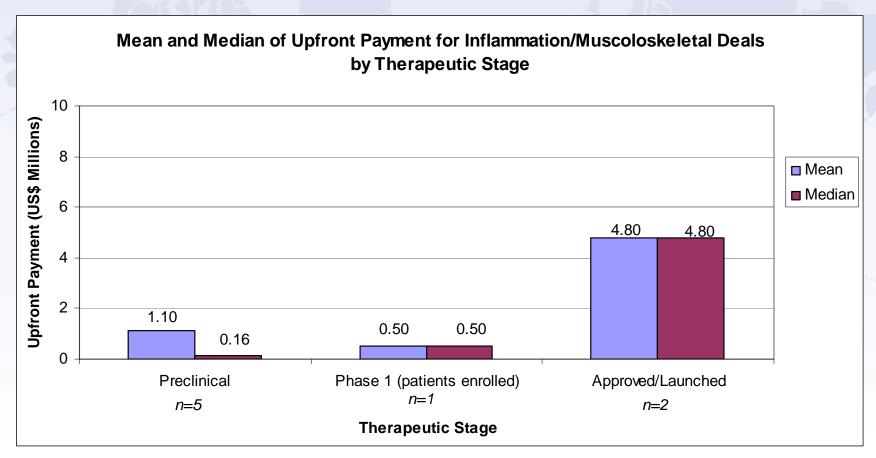


Inflammation/Musculoskeletal – Type of Royalty Rate

Royalty Rates								
Inflammation/Muscoloskeletal	# of Deals	Min	Median	Max	Mean			
Preclinical								
Fixed	4	1%	3%	5%	3%			
Tiered	3							
No royalty component	1							
Phase 1 (patients enrolled)								
Fixed	1	5%	5%	5%	5%			
Approved/Launched								
Fixed	1	8%	8%	8%	8%			
Tiered	1							



#### Inflammation/Musculoskeletal – Upfront Payment



n = number of deals



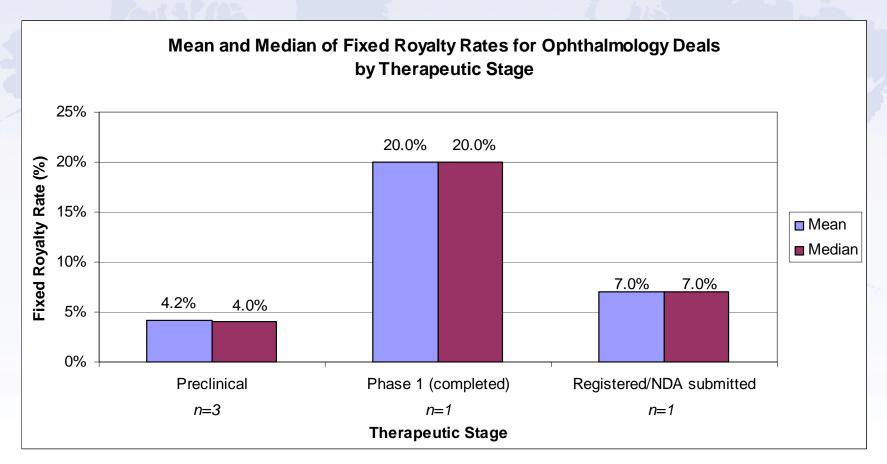
Inflammation/Musculoskeletal – Upfront Payment

Upfront Payment (US\$ Millions)									
Inflammation/Muscoloskeletal # of Deals* Min Median Max Mean									
Preclinical	5	0.01	0.16	5.00	1.10				
Phase 1 (patients enrolled)	1	0.50	0.50	0.50	0.50				
Approved/Launched	2	4.60	4.80	5.00	4.80				

<sup>\*</sup> Deals with an upfront payment



#### Analysis of Therapeutic Areas Ophthalmology – Fixed Royalty Rates



n = number of deals

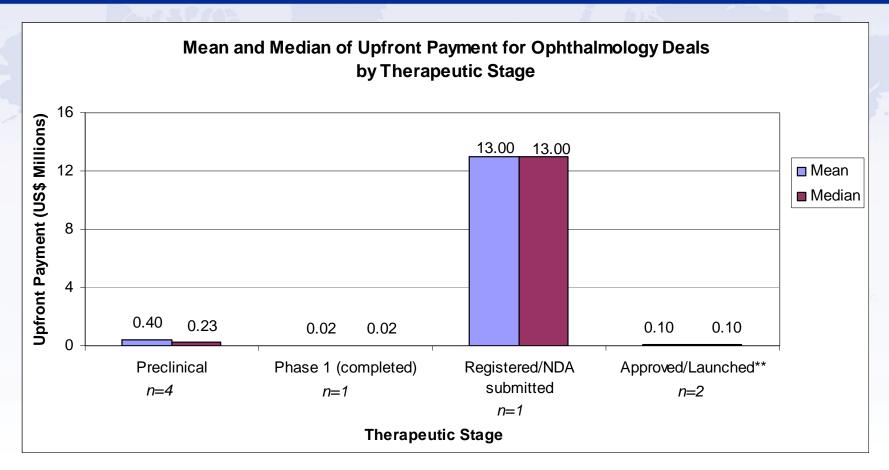


#### Analysis of Therapeutic Areas Ophthalmology – Type of Royalty Rate

Royalty Rates									
Ophthalmology	# of Deals	Min	Median	Max	Mean				
Preclinical									
Fixed	3	4%	4%	5%	4%				
Tiered	3		2						
Phase 1 (completed)									
Tiered	1	3							
Registered/NDA submitted									
Fixed	1	20%	20%	20%	20%				
Approved/Launched									
Fixed	1	7%	7%	7%	7%				
Tiered	1				4				



#### Analysis of Therapeutic Areas Ophthalmology – Upfront Payment



n = number of deals



### Analysis of Therapeutic Areas Ophthalmology – Upfront Payment

Upfront Payment (US\$ Millions)								
Ophthalmology	# of Deals*	Min	Median	Max	Mean			
Preclinical	4	0.15	0.23	1.00	0.40			
Phase 1 (completed)	1	0.02	0.02	0.02	0.02			
Registered/NDA submitted	1	13.00	13.00	13.00	13.00			
Approved/Launched**	2	0.10	0.10	0.10	0.10			

<sup>\*</sup> Deals with an upfront payment



<sup>\*\*</sup>Both deals had the same upfront payment.

#### Appendix A

# Aggregate Survey Results by Question



QA. What type of Organization are you?

Number of Comp	anies	Number of L	Deals	Pct. Selec	ted	Choice
	22		69	30.	0%	Academic
	45		55	23.	9%	Biotechnology
	52		64	27.	8%	Pharmaceutical
	38		42	18.	3%	Other *
	Total		230	10	0%	

<sup>\*</sup>Other organizations include BD & Advisory, Chemical Suppliers, CROs, Consulting, Executive Recruiters, Federal Contractors, Finance/Investment Banking, Medical Devices, Non-profit Research Institutes, Law Firms, Private Equity Funds, and Venture Capitals.

QB. What were your 2006 annual Pharma sales revenues?

		5 , 6 , , ,	01 1
Number of Companies	Number of Deals	Pct. Selected	Choice
48	96	41.7%	Academic organization/Not applicable
49	59	25.7%	Pre-commercial
33	43	18.7%	\$0-\$100
5	6	2.6%	\$101-\$250
5	5	2.2%	\$251-\$500
5	8	3.5%	\$501-\$1,000
3	3	1.3%	\$1,001-\$5,000
9	10	4.3%	\$5,000+
Total	230	100%	



• Q1. What year did deal take place?

Number of Con	npanies	Number of L	Deals	Pct. Selec	ted	Choice
	65		80	43.	2%	2007
	45		67	36.	2%	2006
	22		38	20.	5%	2005
	Total		185	10	0%	

• Q2. Were you the Licensor or Licensee?

Number of Companies	Number of Deals	Pct. Selected	Choice
72	130	70.3%	Licensor
44	55	29.7%	Licensee
Total	185	100%	

• Q3. Type of Partnering Organization?

Number of Companies	Number of Deals	Pct. Selected	Choice
16	16	8.6%	Academic
41	62	33.5%	Biotechnology
66	97	52.4%	Pharmaceutical
7	10	5.4%	Other*
Total	185	100%	

\*Other partnering organizations include Antibody Products, Bio/Pharm, Holding Companies, Law Firms, Medical Devices, Nutraceuticals, and Research Tools.



Q4. Partnering Organization's Est. 2006 Pharma Sales?

Number of Companies	Number of Deals	Pct. Selected	Choice
15	15	8.1%	Academic organization/Not applicable
31	64	34.6%	Pre-commercial
27	36	19.5%	\$0-\$100
7	8	4.3%	\$101-\$250
6	6	3.2%	\$251-\$500
8	10	5.4%	\$501-\$1,000
12	13	7.0%	\$1,001-\$5,000
29	33	17.8%	\$5,000+
Total	185	100%	

Q5. Type or Category of Compound / Drug?

	_		
Number of Companies	Number of Deals	Pct. Selected	Choice
3	3	1.7%	Cytokine
3	3	1.7%	Hormone
8	12	6.8%	Monoclonal antibody
7	7	4.0%	Natural product
13	22	12.5%	Peptide/protein
14	21	11.9%	Platform Technology
3	3	1.7%	RNAi/antisense (or similar)
60	84	47.7%	Small molecule
16	21	11.9%	Other *
Total	176	100%	

<sup>\*</sup>Other compound/drugs include anti-infective, artificial tear, assay, biodegradable nanoparticles, biomaterial, database/software, medical device, hyaluronic acid, oligodinucleotides, polyclonal, proprietary gene panel, unique human cell line, vaccine



Q6. Principle Therapeutic Area for License?

Number of Companies	Number of Deals	Pct. Selected	Choice
26	47	26.7%	Anticancer
9	9	5.1%	Anti-infective (b
7	7	4.0%	Anti-infective (vi
2	2	1.1%	Blood & clotting
9	12	6.8%	Cardiovascular
16	21	11.9%	CNS
9	9	5.1%	Dermatological
5	5	2.8%	Gastrointenstina
6	9	5.1%	Immunological
9	11	6.3%	Inflammation/m
9	10	5.7%	Ophthalmology
2	2		Respiratory
23	32	18.2%	Other*
Total	176	100%	

<sup>\*</sup>Other areas include aging, anemia, anti-parasitic, cancer supportive care, cleansing lotion, diabetes, diagnostic, endocrine, hormonal, metabolic, nutraceutical, nutrigenomics screening, ob/gyn, obesity, post surgical adema, preeclampsia, research, surgical, urological, veterinary, and women's health.



Q7. Stage of Development for Principal Indication?

Number of Companies	Number of Deals	Pct. Selected	Choice
60	108	61.4%	Preclinical
5	5	2.8%	IND Filed
4	6	3.4%	Phase 1 (patients enrolled)
7	7	4.0%	Phase 1 (completed)
5	5	2.8%	Phase 2 (patients enrolled)
5	5	2.8%	Phase 2 (completed)
8	9	5.1%	Phase 3 (patients enrolled)
4	4	2.3%	Phase 3 (completed)
3	3	1.7%	Registered/NDA submitted
17	24	13.6%	Approved/Launched
Total	176	100%	

Q8. Exclusive or Non-Exclusive License?

Number of Companies	Number of Deals	Pct. Selected	Choice
97	154	87.5%	Exclusive
14	22	12.5%	Non-exclusive
Total	176	100%	



Q9. Territories Included in the License?

Number of Companies	Number of Deals	Pct. Selected	Choice
71	122	69.3%	Worldwide
96	160	90.9%	US
79	132	75.0%	Europe
75	127	72.2%	Japan
80	140	79.5%	Other
Total	176	NA Tota	al

• Q10. Estimated Peak U.S. Annual Sales?

Number of Companies	Number of Deals	Pct. Selected	Choice
37	90	52.9%	\$0-\$100
10	11	6.5%	\$101-\$250
21	22	12.9%	\$251-\$500
26	27	15.9%	\$501-\$1,000
19	20	11.8%	\$1,001+
Total	170	100%	

• Q11. Deal Include Co-Promo or Co-Marketing Rights?

Number of Companies	Number of Deals	Pct. Selected	Choice
17	18	10.6%	Yes
79	141	82.9%	No
10	11	6.5%	Option to "opt-in"
Total	170	100%	•



Q12. Who has ultimate responsibility for the following function?

Research
Product development
Clinical trials
Regulatory
Manufacturing

		Licensor	2 2		Licensee	
	Companies	Deals	Pct Selected	Companies	Deals	Pct Selected
1	50	67	39%	53	103	61%
	32	39	23%	69	131	77%
	29	35	21%	74	135	79%
	22	26	15%	80	144	85%
	30	36	21%	74	134	79%

• Q13. Deal Have Flat or Tiered Royalties?

Number of Companies	Number of Deals	Pct. Selected	Choice
47	88	51.8%	Flat
54	64	37.6%	Tiered
14	18	10.6%	No royalty component
Tota	170	100%	

• Q14. If this deal did not have royalties, was there a profit-sharing component?

Total	18	100%	
10	13	72.2%	No
4	5	27.8%	Yes
Number of Companies	Number of Deals	Pct. Selected	Choice



Q15. What was the Flat Royalty Rate for this deal?

45
89
0.3%
2.3%
4.0%
7.0%
50.0%
5.0%
6.6%
9.0%

- Q16. Please provide the royalty tier structure that most closely resembled your deal. For each tier (up to 6) enter the maximum sales to which this tier applied, and the royalty rate for that tier.

  (all results are located in Analysis and Results Tiered Royalties section of the report)
- Q17. Did this deal have stacked royalties?

Number of Companies	Number of Deals	Pct. Selected	Choice
26	52	37.7%	Yes
60	86	62.3%	No
Total	138	100%	



Q18. What was the value of the following financial components of the deal terms? (US\$ Millions)

(A total of 150 deals entered data for at least 1 of the below components. The calculations below exclude blanks and zeroes.)

			% of Deals								
			with this								
	Number of	Number of	Financial		FIRST		THIRD				STD.
Financial Component	Companies	Deals	Component	MIN	QUARTILE	MEDIAN	QUARTILE	MAX	MODE	MEAN	DEV.
Upfront payment	71	133	89%	0.003	0.1	0.3	4.6	250.0	0.1	10.3	36.6
Research funding	29	35	23%	0.10	0.4	5.0	10.0	100.0	5.0	9.6	18.5
Technology access fee	8	8	5%	0.05	0.1	0.6	2.0	6.0	NA	1.7	2.4
Total development										8	
milestone payments	60	99	66%	0.07	0.6	2.8	19.5	420.5	0.9	34.5	73.5
Total sales milestones									95		
payments	36	50	33%	0.10	1.5	13.5	57.5	500.0	1.0	51.5	96.4
Equity investment	19	24	16%	0.03	1.0	5.0	10.0	75.0	5.0	8.6	15.2

• Q19. When do the royalties from this deal stop?

Number of Companies	Number of Deals	Pct. Selected Choice	
8	10	6.4% After a	set time period
44	71	45.2% Expiry	of last patent
9	9	5.7% Expiry	of key patent or patents
		Expiry	of last patent or X years from the date of the first commercial
23	46	29.3% sale, v	hichever is longest
		Other	(Please specify) Responses will be included in Appendix of Final
13	21	13.4% Repor	t.
Total	157	100%	



• Q20. Did you calculate an estimated net present value (ENPV) for this deal?

Number of Con	npanies	Number of	f Deals	Pct. Selected	Choice
	24		30	20.4%	Yes
	59		117	79.6%	No
	Total		147	100%	

Q20a. Please enter the ENPV in US\$ millions.

Number of Companies	23
Number of Deals	26
MIN	0.005
1st QUARTILE	15
MEDIAN	50
3rd QUARTILE	173
MAX	800
MODE	50
MEAN	155
STD. DEV.	224



Q21. Did you calculate a deal split assessment of the overall value?

Number of Companies		Number of Deals		Pct. Selected	Choice
	17		19	12.1%	Yes
	73		138	87.9%	No
	Total		157	100%	

Q22. If yes, what was the deal split sharing?

Licensor	Licensee
18	18
20	20
3	10
40	40
50	50
60	60
90	97
50	50
50	50
19	19
	18 20 3 40 50 60 90 50 50



#### Appendix B

#### LES BioPharmaceutical Royalty Rate and Deal Terms Survey



LES Pharmaceutical Royalty Rate & Deal Terms Survey

LES would like to gather as much information as possible about <u>recently completed deals since January 2005</u>. You will have the opportunity to submit as many deals as you would be willing to share. They may be entered all in one session or you may enter them gradually over the course of the data collection process. Please submit one deal at a time starting with your most recent.

A.	What <b>type of organization</b> are you?
	Academic
	Riotechnology

Pharmaceutical

Other (Please specify)

B. What was your 2006 annual pharmaceutical sales revenue (US\$ Millions)?

Academic organization/Not applicable

Pre-commercial

\$0 - \$100

\$101 - \$250

\$251 - \$500

\$501 - \$1000

\$1,000 - \$5,000

\$5,000+



1. What year did this deal take place?

2007

2006

2005

2. Were you the licensor or licensee?

Licensor

Licensee

3. What was the **type** of the **partnering organization**?

Academic

Biotechnology

Pharmaceutical

Other (Please specify)

4. What was the partnering organization's estimated 2006 annual pharmaceutical sales revenue? (US\$ Millions)

Academic organization/Not applicable

Pre-commercial

\$0 - \$100

\$101 - \$250

\$251 - \$500

\$501 - \$1000

\$1,000 - \$5,000

\$5,000+



5. Please choose the type or category	of compound/drug that was the subject of this deal.
Cytokine	
Hormone	
Monoclonal antibody	
Natural product	
Peptide/protein	
Platform Technology	
RNAi/antisense (or similar)	
Small molecule	
Other (please specify)	

6. Please select the **principle therapeutic area** for which the product was licensed.

Anticancer

Anti-infective (bacterial)

Anti-infective (viral)

Blood & clotting

Cardiovascular

**CNS** 

Dermatological

Gastrointestinal

Immunological

Inflammation/musculoskeletal

Ophthal mology

Respiratory

Other (please specify)



7. What <b>stage of development</b> was the product at for	r the principle indication?
Preclinical	
IND Filed	
Phase 1 (patients enrolled)	
Phase 1 (completed)	
Phase 2 (patients enrolled)	
Phase 2 (completed)	
Phase 3 (patients enrolled)	
Phase 3 (completed)	
Registered/NDA submitted	
Approved/Launched	
8. Was this an <b>exclusive or non-exclusive</b> license?	
Exclusive	
Non-exclusive	
	heck all that apply. For worldwide deals select Worldwide.
Worldwide	
US	
Europe	
Japan	
Other	

			A
1(	). What were the $\epsilon$	<b>timated peak US annual sales</b> for this product? (US\$ Millio	on)
	\$0 - \$100		
	\$101 - \$250		
	\$251 - \$500		
	\$501 - \$1,000		
	\$1,001+		

11. Did this deal include **co-promotion or co-marketing rights**?

Yes

No

Option to "opt-in"

12. Who has the **ultimate responsibility** for the following functions?

	Licensor	Licensee
Research		
Product development		
Clinical trials		
Regulatory		·
Manufacturing		

13. Did this deal have **flat or tiered royalties**?

Flat (Skip to #15)

Tiered (Skip to # 16)

No royalty component



	eal did <b>NOT</b> include royalties, was there	a <b>profit-sharing component</b> ? (Skip to #18)
Yes		
No		
15. What wa	as the <b>flat royalty rate</b> for this deal? (%).	(Skip to #17)
	%	
16. Please p	provide the <b>royalty tier structure</b> that mo	ost closely resembled your deal.
-	· ·	hich this tier applied, and the royalty rate for that tier. Tier 1 indicate
the bottom t		The same of the sa
ine conom.		
Your TOP t	ier will not have maximum sale, so nlease	provide the royalty and leave the maximum sales BLANK.
1011 101 1	ier wii noi nave maximum saic, so picase	provide the royally and leave the maximum sales Bizhvi.
	Maximum Sales (US\$ Millions)	Royalty for this Tier (%)
Tier 1	Wide Millions	Noyaity for this fier (70)
Tier 2		
Tier 2		
Tier 4		
Tier 5		
Tier 6		
17. Did this	deal involve <b>stacked royalties</b> ?	

Yes No

10	XX 71 4	- 11	1	C 41 C	11	C* 1	C 41		14 0 /	TICO A T'11'
lð.	wnat	was the	value (	of the f	ollowing	i ilnanciai	components of th	ie deai	terms : (	US\$ Millions

Upfront payment \$\_\_\_million

Research funding \$\_\_million

Technology access fee \$\_\_million

Total development milestone payments \$\_\_million

Total sales milestone payments \$\_\_million

Equity investment \$\_\_million

#### 19. When do the **royalties** from this deal **stop**?

After a set time period.

Expiry of last patent.

Expiry of key patent or patents.

Expiry of last patent or X years from the date of first commercial sale, whichever is longest.

Other (please specify)

#### 20. Did you calculate an estimated net present value (ENPV) for this deal?

Yes (Please enter the ENPV in US\$ millions) \_\_\_\_\_\_No

#### 21. Did you calculate a **deal split assessment** of the overall value?

Yes

No (Skip to # 23)



22. If yes, what	was the <b>dea</b> l	l split sł	naring?
Licensor		_ %	
Licensee _		%	
	100%		

23. Would you please submit another deal?

Yes (You will be returned to the welcome page where you can add another deal.)

No

LES plans to conduct this survey again in the future. What improvements or additional questions would you like to see in future iterations of this survey?

Thank you again for participating in the first LES Pharmaceutical Royalty Rate & Deal Terms Survey!

