

13568 COMPETITIVE PROBLEMS IN THE DRUG INDUSTRY



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PUBLIC HEALTH SERVICE
FOOD AND DRUG ADMINISTRATION
ROCKVILLE, MARYLAND 20852

MAY 30 1975

Senator Gaylord Nelson
Chairman, Monopoly Subcommittee
United States Senate
Washington, D.C. 20510

Dear Senator Nelson:

This is in further response to your request of April 1, 1975 for information concerning seven potential criminal prosecutions based on false advertising charges which were forwarded by the Food and Drug Administration (FDA) to the Justice Department, but in which prosecution was declined.

Upon a careful examination of our records, it has been determined that of the seven cases you mentioned six cases dealt with drug advertising charges and the seventh with a company's failure to report certain "alarming" findings with respect to a drug. As requested, you will find enclosed FDA's letters of transmittal and the Department of Justice's negative responses, except that in the cases involving Wyeth Laboratories and the American Cyanamid Company, no letters reflecting the Department of Justice's declinations are available. In these two cases, the basis for the negative decision in each can be gleaned from subsequent correspondence in which FDA asks for reconsideration of the determinations.

For your convenience, also enclosed are summaries of five of the six cases, each of which makes reference to the firm name, date of referral, and the particular product involved. The sixth case, involving the Bristol-Myers Company, is so summarized in the first paragraph of FDA's letter of transmittal.

If we can be of further assistance in any way, please let us know.

Sincerely yours,

Robert C. Wetherell, Jr.
Robert C. Wetherell, Jr., Director
Office of Legislative Services

Enclosure