

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., November 13, 1967.

Hon. GAYLORD NELSON,
Chairman, Monopoly Subcommittee,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: The Attorney General has asked us to reply to your letter dated November 2, 1967, the receipt of which he acknowledged to you by letter dated November 3, 1967.

Your letter requested our views as to a special advertising section placed in the Reader's Digest by the Pharmaceutical Manufacturers Association, reprints of which were thereafter circulated by the Association without disclosing that the reprint was a paid advertisement and not part of the editorial content of that publication.

Such an omission from the reprints might mislead the recipients into believing that material prepared by the Association or its members for purposes of an advertisement was initiated by disinterested authorities for the purpose of discouraging the sale of generic drugs. Accordingly, this circulation of the reprints may raise problems under Section 5 of the Federal Trade Commission Act which proscribes unlawful and deceptive practices in commerce.

We are conferring with representatives of the Federal Trade Commission to determine what further action should be taken.

Sincerely yours,

EDWIN M. ZIMMERMAN,
Acting Assistant Attorney General,
Antitrust Division.

FEDERAL TRADE COMMISSION,
Washington, D.C., November 14, 1967.

Re file No. 682 3194.

Hon. GAYLORD NELSON,
Chairman, Monopoly Subcommittee, Select Committee on Small Business,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with your request, I have made inquiry as to the status of the consideration being accorded by the Bureau of Deceptive Practices to the matter of the publication of a section in the November, 1967, issue of The Reader's Digest, paid for by the Pharmaceutical Manufacturers Association, and the dissemination of a reprint thereof.

I am advised that the staff is now engaged in an inquiry seeking to develop sufficient evidence to enable the Commission to determine whether the practices in question constitute a violation of section 5 of the Federal Trade Commission Act, which prohibits unfair methods of competition and unfair or deceptive acts or practices in commerce.

You will, I am sure, understand that I cannot at this time offer any comment respecting the legality of the practice, inasmuch as the matter will be before me for decision when the pending investigation has been concluded.

With best wishes, I am,

Sincerely yours,

PAUL RAND DIXON,
Chairman.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
FOOD AND DRUG ADMINISTRATION,
Washington, D.C.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Monopoly, Select Committee on Small Business,
U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: This responds to your request for our comments on the advertisement by the Pharmaceutical Manufacturers Association, which appeared in the November, 1967 issue of Reader's Digest.

This advertisement is not product oriented in the usual sense. Primarily because the advertisement is not specific as to the name of a drug manufactured, packed or distributed by a named firm, we do not believe that the Federal Food, Drug, and Cosmetic Act provides a clear basis for proceeding against the ad or its subsequent use as a promotional pamphlet under any provisions of the