

overprescribing of drugs. Is it your opinion that the type of advertising that causes this phenomenon would be in the public interest?

Mr. STETLER. I really do not believe it does come from that.

If there is overprescribing—and I am not prepared to say there is—I cannot speak on that with authority. I have read the statements and recent statements there is overprescribing. I doubt that that is so.

However—

Mr. GORDON. If it is so, what would be your answer?

Mr. STETLER. My answer is, I don't know the cause of it. But I have serious doubts that it would come from advertising.

No doctor, no good doctor is going to give a patient a drug that is not necessary or going to give a patient a drug in excessive quantities because he has happened to read a drug ad. I cannot believe that. I think the medical profession is a good deal more responsible than that.

Mr. GORDON. Have you any idea, Mr. Stetler, how many cases have been brought against drug firms in the last few years for false and misleading advertising?

Mr. STETLER. Yes, I do.

Mr. GORDON. Could you tell us what they are? How many PMA members were involved?

Mr. STETLER. Well, I am going to equate that to a claim that was made some time ago, since that is really the extent of the checking I have done.

I cannot tell you, because I do not know, how many questions have been raised by FDA with respect to ad violations or what categories they fall in. But, there was a statement made last year that one-third of the members of the PMA were found to have had ads in violation of the regulations. Now, when this statement was made—and I think it was in April or May of 1966—we attempted very diligently to find out exactly what the data was. We could not get that until September when we received it through a member of the press.

Now, as you know there are hundreds or maybe thousands of ads that are checked routinely, or at least annually, by FDA.

When we checked back—we had at that time I think 138 members—rather than one-third of the PMA members being found in violation, only nine PMA members were involved in ads that were forwarded to the HEW's lawyers for review.

That was less than 5 percent of PMA membership. Only 89 ads at that time in the period indicated were even questioned by FDA medical evaluators. And that was during a 2-year period. The number of companies involved in these cases fell far below the one-third that was alleged.

In other words, that particular allegation was a gross overstatement of the problem.

I hasten to add—there are obviously companies that have been questioned. But when we talk about members being found to have ads in violation of the regulations, that is a case that has been queried and adjudicated. Those are relatively few. But when you are dealing with ad regulations that have subjective terminology, like "fair balance," "brief summary," you are dealing with language where two very reasonable, honest people can have distinct differences of opinion and still the one who may be with the company can have no intention of misleading.