

the same chemical composition, as was testified yesterday—I assume that is correct. Is that what a product differentiation is?

Dr. SCHIFRIN. I would not define it that narrowly, as an economist.

Senator NELSON. But in any event, as to the chemistry involved, I think the testimony was that a differentiated product was of the same chemical composition as the one that is being duplicated.

Dr. SCHIFRIN. That is a common usage of the term, yes. That is the way it has been used.

Senator NELSON. What I do not have clear is why should the company go to the bother of creating a product differentiation, whatever that really means, when all they would have to do is just duplicate the product on the market, the same compound, and give it their brand name and advertise it on the market under their brand name?

What is the reason not following that procedure instead of going to what is called product differentiation?

Dr. SCHIFRIN. Well, Senator, I think there are two types of product differentiation. One is an actual difference in the product, a physical difference. That may be a small difference. That is what the term "molecule manipulation" refers to, to differentiate a product, chemically, and that is done very often, to get a patent on a product that is very much like the product of some other company that is already patented. That is a way of entering their market.

The second way of differentiating a product is really to produce something just like the other firms are producing but to differentiate it by calling it some other name, a trade name differentiation.

Why would a firm do either of these? Well, to have the physical differentiation, they would do it for the sake of acquiring a patent and then having an exclusive item that they could promote under a trade name, hopefully have it prescribed heavily and have these prescriptions filled, as they are at a very high price.

Perhaps a company duplicates a drug that is already on the market; first of all if it were a small firm, in the hope that through being an active price competitor, it could gain large sales. A large firm would do it in hopes of making that trade name stick and thus having physicians prescribe it by its trade name designation and those prescriptions would be filled at much higher prices and thus it would be profitable for the large firm to attempt this nominal differentiation, if it could make that trade name stick for this differentiated product.

Senator NELSON. So in this case, where they simply duplicate the drug already on the market, the differentiation involved is only the differentiation so far as identification by a brand name is concerned, is that correct?

Dr. SCHIFRIN. Yes.

Senator NELSON. And the hope in that case is that by effective advertising, they will be able to get into the market and compete. Is that it?

Dr. SCHIFRIN. Well, to get into a market and compete, but also, here we get into the whole practice of trade names, by promoting under a trade name, of course, they are popularizing the specific trade name they are promoting. They are also engaging in promoting the practice of prescribing by trade names.

Now, the promotion serves both of these purposes. There may be many, many firms producing that product. But only the larger ones