

purchaser in a nonprofit institution, a municipal hospital, paying the same price as the pharmacist does, if you will look a little further, you will see that they did not purchase on a system of competitive bidding.

Dr. SCHIFRIN. Yes, sir.

Senator NELSON. So, the brand name identification in the mind of the doctor, in part at least, accounts for the higher price consistently charged the community pharmacist. The industry is not afraid that an unknown firm's drug would be prescribed. Is that the situation?

Dr. SCHIFRIN. Absolutely.

Mr. GORDON. May I interrupt at this point?

Dr. SCHIFRIN. Yes, sir.

Mr. GORDON. Can I conclude that even if a small company has a patent, it cannot really protect itself against the large company?

Dr. SCHIFRIN. That is true, because as I say, the large company can frequently obtain a patent on a therapeutic equivalent of slight chemical difference, you see. The difference in chemical structure would warrant the patent application and then it would have a therapeutic agent here to rival that of the small firm and through its promotional effort could in fact get the bulk of the market and the small firm, although having come up with a significant development and having acquired a patent, may not succeed very well financially in obtaining innovational profits for the accomplishment.

Senator NELSON. If a new chemical compound is discovered by a small company and patented, can another firm actually take that compound, do some molecular manipulation, and end up patenting the slightly modified product? I have some serious doubt about that without knowing anything about it.

Dr. SCHIFRIN. Well, it seems to me that when the small firm acquires the patent for its development, the patent comes at the price of significant disclosure. That disclosure, of course, can serve as the basis for a structural change that the large firm might accomplish to come up with its rival therapeutic agent.

Secondly, I think a lot of the development occurs simultaneously. That is, there is a lot of literature in the professional journals about progress, technology, chemical manufacture and so on. It may only be that the small firm may beat the large firm at certain times just by a very narrow margin in the development of its product. The large firm is almost up to the small firm and when it sees the small firm has a patent, it can do a little sidestep and obtain a patent on a slightly different chemical substance.

Mr. GORDON. Do you have examples of that?

Dr. SCHIFRIN. The only case I can think—it is a little bit different. For example, meprobromate. We know that it has been an enormous financial success for Carter and Wyeth. But meprobromate was actually discovered by Dr. Berger in England. Rather than initiate production as a small manufacturer, he went with his discovery into the employment of Carter and entered the market through a large firm. I think this reflects the very unstable and uncertain position that a small firm making a development would face in the market. That was avoided in that case by going directly to the large firm.

Senator NELSON. In some of these developments where a number of researchers and companies around the world are working on the