It is conceivable that some degree of price competition might gain a foothold in the prescription drug market. This is not likely to occur, however, even where generic name products are sold in competition with brand name products, for several reasons. First, the physician is probably only infrequently very price-conscious.[36] It has even been argued that the physician who prescribes the more costly drugs will be accorded the greater prestige. Second, drug advertisements virtually never mention prices, and the various physicians' reference manuals never give competitive prices.[37] It is, in fact, apparently illegal for a generic name product price catalog to compare its prices with those of identical products sold under brand names, or even to mention any of the brand name equivalents of a generic name product.[38] Third, the pharmacist has no economic interest in selling the cheapest brand of drug, since the absolute magnitude of his customary markup of 66⅔ per cent over invoice cost will thereby be minimized. Indeed, it may even happen that the pharmacist will buy generic name drugs and sell them at brand name prices, if the product itself is not clearly identified as to manufacturer, and if the policing policies in use among druggists are not adequate. Fourth, and perhaps most important, the large firms who do the advertising, support the trade associations, and hire the detailmen, make every effort to disparage the products of their smaller competitors who sell at lower prices.[39] There is probably no other industry in existence where the disparagement of the quality of lower priced products can so completely substitute for actual price competition.[40]

Physicians are the chief targets for such "educational" disparagement efforts, but the pharmacists and the general public are also exposed to it whenever opportunity allows. Several representatives from the large drug firms, and from the Pharmaceutical Manufacturers Association, showed no reluctance to use the Hearings as a forum for the disparagement of drugs selling at low prices.

The intent behind these various efforts is clearly to deprive the physician of access to all the information necessary to allow him to function as a competent purchasing agent for his patient, and to influence favorably his attitude toward brand names. To the extent that the physician, who does not pay, can be considered to have a demand curve for the drugs he prescribes, the efforts of the drug makers can be interpreted as attempts either to give the physician's demand curve an upward slope within the relevant region of drug prices, or to reduce his demand to zero for prices lower than those charged by the major firms. The demand curve of the patient is perhaps nearly vertical up to prohibitively high prices if he trusts the judgment of his physician; at any rate, it will be very inelastic. The patient has no alternative but to purchase the medication at the specified price, or go without, and thus forego the benefit of the medical advice he is paying for.

No one wishes to be exposed to the hazards of inferior drugs, regardless of their price. Is there reason to suspect that lower priced drugs are of poorer quality than higher priced drugs? Actually, there is very little to be gained by cutting corners in production and quality control, and much to be lost if such a practice is detected by Food and Drug Administration inspectors. The reasons why no quality differences should be expected to exist between the drugs of large and small sellers may be briefly listed. (1) The same standards of identity, potency, and purity are enforced with regard to all makers for drugs listed in the *United States Pharmacopoeia* and the *National Formulary*. The Food and Drug Administration is empowered to inspect any drug produced by any firm at any time, and to impose criminal penalties upon violators. (2) The Food and Drug Administration has concentrated its drug regulation efforts on the smaller firms. From January, 1950, until June, 1960, 8,376 samples of drugs produced by the 22 major firms were examined, and 8,621 samples from some 1,200 smaller firms were examined. The larger firms produced 87 per cent of all ethical drugs.

[36] Mr. Blackman of Premo testified that it once took him two and one-half hours of argument to convince one physician of his acquaintance that the physician was, in fact, acting as a purchasing agent for his patient. *Id.*, pt. 14, at 8223.

[37] Detailmen are also instructed to ignore prices. One doctor persuaded several of his colleagues to interrogate detailmen on drug prices and costs. If pressed, they would generally quote prices, but no one ever mentioned a cost figure. *Id.*, pt. 18, at 10455.

[38] *Id.*, pt. 14, at 8212–13.

[39] An almost prototypical utterance of this genre is the characterization of the lower priced drug seller as providing "the unfair competition of the unscrupulous one who manufactures under unsanitary conditions, cheapens his product with low quality ingredients, and falsely labels his product as being better than it is. . . ." Statement of Dr. Austin Smith, president of the Pharmaceutical Manufacturers Association, *id.*, pt. 19, at 10738.

[40] See the testimony of Dr. Solomon Garb, *id.*, pt. 18, at 10476–77.