

industry has changed must be based on the assumption that the basic nature of man has changed in 12 years. I know of no evidence that supports such an assumption.

When I went into the drug industry a door opened and exposed drug industry practices that are unknown to any one who is not in, or has not been in the industry. Similarly, when I left the industry, that door closed and I have had only one reliable guide that permits me to draw conclusions about changes in the drug industry. That guide is the advertising and promotion practices that always have been and still are exposed to public view. The manner in which a drug firm advertises and promotes its products is a reliable index of the firm's philosophy. Since I have seen no change in these practises since I left the industry I find little reason to conclude that other practises have changed.

Yet it is possible that improvements have occurred and that I have been unaware of that improvement. It is equally possible that the situation has deteriorated and I have no knowledge of that either. The practises I have described and criticized arise out of a basic conflict between the profit incentive that motivates any big business and the ethical considerations of medical practice. The practises derive from human frailty which always has been, and still is with us.

Quoting from the individual views of Senator Wiley in the Kefauver Subcommittee report to the parent Judiciary Committee he said, "Still there is often a tendency, both on the part of individuals and of business, to become preoccupied with their own point of view and their own narrow outlook in a manner which is contrary to the best public interest". I find no reason to believe that this fundamental observation on the nature of man and of business has changed in the past 12 years. Poor research, poor designs in clinical studies, the use of testimonials, and shabby methods of advertising and promoting drugs derive from this fundamental conflict and from the nature of man. The few improvements that have occurred are those that were forced by the 1962 legislation. The drug industry opposed those changes and still uses every trick in the book to evade the law.

Answering Senator Javits' question specifically:

1. Since I left the industry 12 years ago I have had no direct contact with the industry. My only reliable guide has been a continuing study of advertising and promotion practices. Drug industry practices are similar to an iceberg. Only a small portion of the practices are exposed. Until the portion that is exposed shows significant changes there is no good reason to conclude that the unexposed portion has changed. There has been no significant change for the better in the advertising and promotion practices over the past 20 years. If there has been any change it has been for the worse.

2. Even superficial perusal of advertising and promotion will demonstrate that the testimonial still plays the same significant role it played during the time I was in the industry. Examples can be found in the record of these hearings. Probably 90% or more of the letters the FDA has received relative to the proposed ban on fixed antibiotic combinations have been testimonials and I have yet to see evidence of any attempt to supply data which would satisfy the definition of efficacy contained in the Kefauver-Harris Amendments. Testimonials were used when I was in the industry. They were used in 1963 in the proposed ban on antibiotic-cold preparations that I described in my testimony. They were used in 1968 and are still being used in 1969.

3. The last experience I had with the contradictory practices used in the domestic versus the overseas markets was the Marsalid episode I described. I believe that we must strain reasoning more to conclude that those practices have changed than to conclude that they have not changed. I am quite certain that chloramphenicol is still marketed in other countries without adequate warnings. If I am wrong about this I would appreciate it if evidence that I am wrong is brought to my attention.

4. During the time I was in the industry I had close contact with physicians employed by other drug companies. Since I left I have maintained some contact with some of these physicians who became friends. Nevertheless I would not want to leave the impression that this contact has been significant or that it has furnished me with a pipe-line into the inner workings of the industry; it has not.

5. My 50% figure was an estimate and I called it such. I also said, "I know of no accurate way to arrive at such an estimate." My response was a reasonably informed guess and was made relative to higher percentages estimated by other witnesses.