

12242 COMPETITIVE PROBLEMS IN THE DRUG INDUSTRY

UNITED STATES OF AMERICA  
GENERAL SERVICES ADMINISTRATION

ENCLOSURE 1

DATE: September 27, 1974  
REPLY TO: LEM  
ATTN OF:  
SUBJECT: Legal Strictures on Dealing with  
Nongovernment Representatives  
L. Sorett - AMP

*Office of General Counsel*  
Washington, D.C. 20405

Short Answer:

A recent District of Columbia District Court case suggests that any participation by industry or nongovernmental representatives must be accomplished according to the procedural requirements of the Federal Advisory Committee Act.

This Act calls for the formal establishment of an Advisory Committee by filing of a Charter by the agency head with Congress, annual reports on the activities and recommendations of the Advisory Committee, public notice and public participation at committee meetings, and public availability of advisory committee documents.

Even absent the strictures of the Federal Advisory Committee Act, the constitutional requirement of equal protection would require that any solicitation of comments be done in a fair and non-discriminatory manner. Any limitation on the scope of such solicitations should have a reasonable purpose behind it.

The procedures which must be followed in establishing an Advisory Committee are outlined in GSA Order ADM 5420.40A.