

## Is Dr. Robert Jarvik Public Health Enemy Number 1? Pharmaceutical Promotion in a Free Society

By John R. Graham

- Congressman John Dingell is threatening to prevent Dr. Robert Jarvik from speaking out about a beneficial prescription drug, simply because he appears in a pharmaceutical advertisement.
- While drugmakers' communications are regulated, the Internet is dominated by unqualified sources of medical information.
- Advertising is critical to competition, and is associated with increased research and development.
- Regulatory restrictions on drugmakers' freedom of speech likely reduce the amount of direct-to-consumer (DTC) advertising well *below* the optimal level.

Suppose that American politicians decided that spending on roads and highways was "unsustainable." How could they cut those costs? One tactic would be to pass laws banning automobile advertising.

Governments would invest in research showing that automobile ads are inaccurate and confusing. Because car manufacturers are only interested in profits, their ads simply show the benefits of cars, but never how many people are injured in accidents, how expensive it is to operate and insure a car, how much time drivers spend in traffic jams, or how they can never find a parking space.

With seductive advertising prohibited, people would buy fewer cars. Manufacturers would not be allowed to tell potential customers about the different qualities of their competing models, so they would invest less in product development, slowing innovation, and reinforcing the reduction in demand. People would eventually use trains and buses more, eventually forgetting the choices that they had lost, and governments would spend less on the roads. Let's transfer that argument to the realm of prescription drugs.

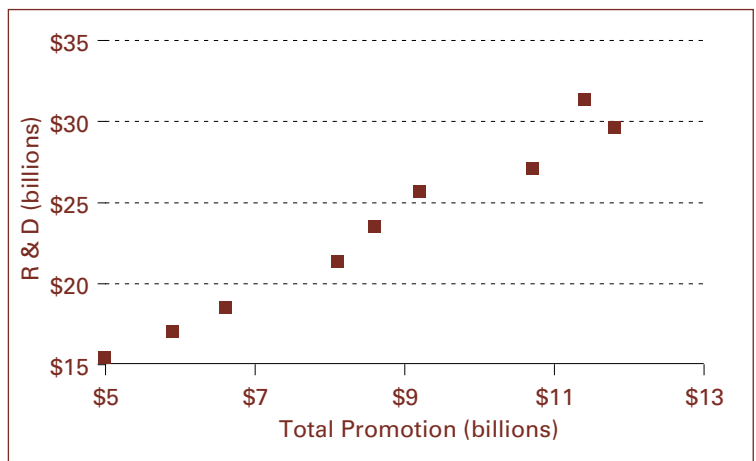
With the passage of Medicare Part D, which subsidizes senior citizens' prescriptions, and ever-expanding Medicaid programs, taxpayers are on the hook for an increasing share of America's prescription bill.<sup>1</sup> This has led to a renewed concern about pharmaceutical costs, which is fair enough. However, instead of focusing

on the more difficult challenge of optimizing patients' incentives to use the right drugs, at the right time, and in the right quantity, our congressional leaders have spotted a convenient villain: Dr. Robert Jarvik, who might ring a bell. He's the fellow who has been inventing artificial hearts for almost four decades.<sup>2</sup>

Rep. John Dingell, Chair of the U.S. House of Representatives' Energy & Commerce Committee, who has never invented an artificial heart, has recently demanded to know by what right Dr. Jarvik appears in advertisements for Lipitor,<sup>TM</sup> a popular drug for cholesterol. The mainstream media, of course, is all over the "scandal."

In an absurd interview on ABC's *Good Morning America*, a dignified Dr. Jarvik tries to convince an incredulous Diane Sawyer that he has trouble identifying himself as "Public Health Enemy Number 1." Bizarrely, she challenges his promotion of Lipitor,<sup>TM</sup> instead of competing medicines, in an advertisement funded by the drug's manufacturer, Pfizer, Inc. We might as well expect Ms. Sawyer to urge viewers to watch Julie Chen on CBS' *The Early Show*, or Meredith Vieira on NBC's *Today*!<sup>3</sup>

**Figure 1: US Pharmaceutical R&D vs. Total Promotional Spending, 1997-2005**



Source: GAO.<sup>4</sup>

Drugmakers are uniquely handicapped from communicating the effects of their medicines to the American public. They must jump through hoops of regulatory approval before advertising a prescription drug, but anyone can go on the Internet to promote quackery or troll for “victims” of the pharmaceutical complex. A recent study reported the results of using the Google™ search engine to find information about Crestor™ and Avandia,™ two medicines legally prescribed in the U.S. Of the first three pages of results for each medicine, 43 percent of the websites were recruiting patients for class-action lawsuits against the medicines’ manufacturers, while 11 percent were either explicit anti-pharma activists or blogs whose qualifications could not be verified.

Only 12 percent of the “hits” were from websites for legitimate drugmakers or responsible government agencies.<sup>5</sup> And yet, our government wants to rein in Dr. Robert Jarvik. There is little doubt that innovation and competition in the pharmaceutical industry has outpaced bureaucrats’ ability to meddle in it. Every year, the Food and Drug Administration (FDA) issues a small number of letters requesting removal of advertising that the agency believes violates regulations: 19 in 2004 and 2005. It took an average of eight months to issue these letters after the offending advertising had started, versus the early 21st century, when it only took an average of two weeks to crank out such a letter.<sup>6</sup>

In 2006, the Government Accounting Office (GAO) concluded that “studies about DTC advertising and the increased utilization of prescription drugs it can prompt suggest that its effect on consumers can be both positive, such as encouraging them to talk to their doctors about previously undiagnosed conditions, and negative, such as increases in prescriptions for advertised drugs when alternatives may be more appropriate.”<sup>7</sup> How’s that for news: policies have both costs and benefits!

Actually, research critical of DTC advertising unwittingly leads to the conclusion that more of it would be beneficial, because this research counts only the costs, and never the benefits of advertising. A “classic” in the young field is a 2002 survey of doctors and patients indicating that doctors are much more “ambivalent” about prescribing drugs requested by patients than non-requested drugs. Nevertheless, doctors are far more likely to write prescriptions for patients who requested them.<sup>8</sup> Basically, the authors conclude that “pushy” patients are influencing doctors to prescribe inappropriately, and recommend that DTC advertising be forbidden.

The survey’s results, however, actually indicate that patients’ requesting drugs improves doctors’ prescribing. Consider two extreme scenarios: one with DTC advertising, where patients *always* request drugs; and a scenario where DTC advertising is forbidden, where patients *never* request drugs. Doctors’ “ambivalence” is

not defined in the survey, so let’s assume it means that there is a 50/50 chance that the prescription will cause a “bad” outcome, versus a “good” outcome. Table 1 shows the distribution of outcomes from prescriptions in both scenarios, derived from the 2002 survey.

**Table 1: Distribution of Outcomes from Prescriptions in Two Scenarios**

Scenario	Population	Prescriptions	Doctors’ Ambivalence Rate	“Bad” Outcomes (Prescriptions * Ambivalence Rate * 0.5)	“Good” Outcomes (Prescriptions - “Bad”)
DTC advertising permitted	100	79	40%	16	63
DTC advertising forbidden	100	26	12%	2	24
Difference		53		14	39

Source: Author’s calculations from Mintzes, *et al* (2002), figures rounded.<sup>9</sup>

In the scenario where DTC advertising is forbidden, only 26 percent of the population receives prescriptions, of which two percent are inappropriate and 24 percent are appropriate. In the “extreme” DTC scenario, 79 percent receive prescriptions, and the number of inappropriate prescriptions increases to 16. However, the number of appropriate prescriptions increases as well. Overall, there are 39 more *appropriate* prescriptions versus 14 more *inappropriate* prescriptions. In the real world, the fraction of patients who respond to DTC advertising is much less than in this extreme scenario.<sup>10</sup> So DTC advertising clearly produces a *massive* net social benefit, under ordinary assumptions.<sup>10</sup>

Restricting DTC advertising would not only harm today’s patients, but future ones as well, because it would lead to a reduction in scientific research and development (R&D). According to Families USA, a self-styled advocacy group: “Company spending on marketing, advertising, and administration both highlights the industry’s attention to marketing and deflates its arguments that R&D would necessarily be the area to suffer if drug prices were lowered.” In other words, there is a fixed “pot” of money allocated to the pharmaceutical industry, and that which is invested in “promotion” (or, even worse, cast off as profits), detracts from real medical progress.<sup>12</sup> In fact, the opposite is true.

Analysis of U.S. data from 1997 to 2005 shows a very positive relationship between promotional spending and spending on R&D (Figure 1).<sup>13</sup> Promotional spending does not *take away* from R&D spending. Instead, they *complement* each other, rising in almost complete lockstep. (The correlation is 0.98, close to a perfect 1.00.)

Because competitors in pharmaceutical innovation are somewhat free to promote their inventions in the U.S., they have to invest continually in R&D in order to develop medicines that people value. If prevented from communicating the value of their products to patients, the incentive to invest in R&D would be much less.

In a free society, someone who wants you to do something must *persuade* you. That comes with a cost, but it's a lot less than when the government *commands* you. For the sake of our health, let not the government silence Dr. Robert Jarvik.

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## Endnotes

- <sup>1</sup> See: John R. Graham, "Taming the Medicaid Monster: The President Pushes Progress but States Shirk Solutions," *Health Policy Prescriptions*, Vol. 4, No. 8 (August 2006); and John R. Graham, "Republican HillaryCare: The Prescription Drug Benefit's Prescription for Perverse Incentives," *Health Policy Prescriptions*, Vol. 4, No. 2 (February 2006).
- <sup>2</sup> Robert Jarvik, *Public Statement by Dr. Jarvik Regarding his Role as Lipitor Spokesman*, Jarvik Heart, New York, NY, January 12, 2008.
- <sup>3</sup> ABC News, *Medical Pitchman Under Fire*, Diane Sawyer interviews Dr. Robert Jarvik, ABC News, New York, NY, January 16, 2008; available online at <http://abcnews.go.com/Video/playerIndex?id=4142216>.
- <sup>4</sup> GAO, *Prescription Drugs: Improvements Needed in FDA's Oversight of Direct-to-Consumer Advertising*, GAO-07-54, Government Accounting Office, Washington, DC, November 2006, p. 5.
- <sup>5</sup> Robert Goldberg, et al., *Insta-Americans: The Empowered (and Imperiled) Health Care Consumer in the Age of Internet Medicine*, Center for Medicine in the Public Interest, New York, NY, January 2008, p. 12.
- <sup>6</sup> GAO, *Prescription Drugs: Improvements Needed in FDA's Oversight of Direct-to-Consumer Advertising*, GAO-07-54, Government Accounting Office, Washington, DC, November 2006, p. 5.
- <sup>7</sup> GAO, *Prescription Drugs: Improvements Needed in FDA's Oversight of Direct-to-Consumer Advertising*, GAO-07-54, Government Accounting Office, Washington, DC, November 2006, p. 5.
- <sup>8</sup> Barbara Mintzes, et al., pp. "Influence of direct to consumer pharmaceutical advertising and patients' requests on prescribing decisions: two site cross sectional survey," *British Medical Journal*, Vol. 324, No. 7332 (February 2, 2002), pp. 278-279. For a more complete criticism of Mintzes, et al., see John R. Graham, "Pharmaceutical Advertising is the Right Prescription," *Fraser Forum* (March 2002), pp. 34-35.
- <sup>9</sup> Barbara Mintzes, et al., pp. "Influence of direct to consumer pharmaceutical advertising and patients' requests on prescribing decisions: two site cross sectional survey," *British Medical Journal*, Vol. 324, No. 7332 (February 2, 2002), pp. 278-279.
- <sup>10</sup> Actually, between two and seven percent of patients who observe DTC advertising both ask for and receive the advertised medicine. See: GAO, *Prescription Drugs: Improvements Needed in FDA's Oversight of Direct-to-Consumer Advertising*, GAO-07-54, Government Accounting Office, Washington, DC, November 2006, p. 5.
- <sup>11</sup> The key assumption here is that the absolute value of the marginal utility of a prescription for each patient is the same.
- <sup>12</sup> Families USA, *Profiting from Pain: Where Prescription Drug Dollars Go*, Publication No. 02-105, Families USA Foundation, Washington, DC, 2002.
- <sup>13</sup> "Total promotion" includes DTC consumer advertising and marketing to physicians, but not samples or meetings that physicians attend, including continuing medical education. Gagnon and Lexchin argue that the real figures for promotion are much higher than the figures reported by the GAO and another recent paper by Donohue, et al. However, they simply take "worst case" scenarios from a number of different sources, rather than reconciling them by estimating median or average figures. See: Marc-André Gagnon and Joel Lexchin, "The Cost of Pushing Pills: A New Estimate of Pharmaceutical Promotion Expenditures in the United States," *PLoS Medicine*, Vol. 5, Issue 1, e1 (January 2008), pp. 1-5; GAO, *Prescription Drugs: Improvements Needed in FDA's Oversight of Direct-to-Consumer Advertising*, GAO-07-54, Government Accounting Office, Washington, DC, November 2006, p. 5; and Julie M. Donohue, et al., "A Decade of Direct-to-Consumer Advertising of Prescription Drugs," *New England Journal of Medicine*, Vol. 357, No. 7 (August 16, 2007), pp. 673-681.