WASHINGTON Newsletter

The drug industry has withdrawn objections to proposed Food & Drug Administration regulations concerning prescription drug advertising. But it expects to have to take FDA to court to settle one point. This concerns advertising of drugs placed on the market prior to the '62 drug act amendments. They are generally covered by a "grandfather clause" exempting them from proof-of-efficacy requirements.

FDA says it has the power to regulate advertising even of these. The industry insists the ads too are exempt under the grandfather clause.

The industry wants "unrestricted advertising" rights on these older drugs, says an FDA spokesman. But the Pharmaceutical Manufacturers Assn. says it simply wants FDA regulations restricted to powers granted under the law.

The rest of the advertising regulations go into effect in early January. FDA and PMA will file briefs on the grandfather-clause application in the next 60 days; an adverse decision by hearing examiners, says PMA, may make appeal to the courts necessary.

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The new patent policy statement by the White House establishes a middle ground for divergent agency policies. In effect, last week's statement tells agencies to do what they have been doing.

Defense has been tightening its traditionally liberal policy of contractor-retention of patents; NASA has been loosening its requirements that the government hold on to patents that NASA finances.

Main elements of the new statement: government retention of principal rights, where the government's investment has been the principal one in the technological field; contractor retention where the contractor has established a commercial position in the field prior to the patentable development, and where contractor retention of patent rights will serve as a stimulus to broader application of the new technology to nongovernmental developments. The directive also shortens to three years the time within which a licensee of a government-held patent must either exploit the license and the technology or lose exclusive right to the development.

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Prospects for more chemical trade with the Soviet Union brightened this week. It's acceptable now to argue for increased sales to Communist countries (*CW, Oct. 12, p. 29*), and the Justice Dept. has removed the ban on credit to finance sales to Eastern Europe.

The Administration would like to sell the Russians industrial items that they now buy from our allies. Included: plants to produce fertilizer, chemicals and synthetic fibers. Kennedy will move, however, only as fast as he thinks public opinion will allow. Officials figure that the U.S. might sell $70 million of nonfarm products during the first year of an East-West trade expansion, assuming that the U.S. loosens its export controls.

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Federal Trade Commission snooping into U.S. business relationships will likely be curtailed; internal dissension on the commission may well be intensified. The unrelated probabilities stem from (1) action by the House Appropriations Committee, (2) a couple of Presidential appointments to the commission.

FTC had planned to look into operations of the country's 1,000 largest corporations to work out a "more effective antitrust program" (*CW, Feb. 23, p. 39*). The House committee blocked the program by denying FTC the $100,000 it wanted for that purpose and cutting $928,000 from the appropriation the commission had asked for. Along with the cuts went an admonition to "produce more results" with its 1,178-man payroll.

President Kennedy came through with a reappointment of Philip Elman to a new seven-year FTC term; the appointment comes more than two weeks after Elman's previous term had expired. Elman's future had been uncertain because of Congressional opposition to him. FTC Chairman Paul Rand Dixon and Commissioner Everette MacIntyre were also known to disagree more often than not with Elman's approach to commission business.

At the same time, Kennedy named John R. Reilly, a Justice Dept. lawyer, to take a seat on the commission vacated when former Commissioner A. Leon Higginbotham received a federal judgeship. How Reilly's appointment will affect FTC is unknown. But his views are said to align more with Elman's (also an ex-Justice attorney) than with those of Dixon and MacIntyre.

Elman has been especially critical of the accent the latter two have placed on strict enforcement of the Robinson-Patman price discrimination law.

Meanwhile, still grinding slowly in the FTC mill is the investigation of 31 polyolefin resin and film makers (*CW, Dec. 22, '62, p. 19*). Latest word: a staff report may go to the full commission in two months.

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The Pentagon plans a closer look at the bills it is getting from its contractors for independent research work. In a few weeks contractors will get the details of a uniform system for determining how research costs are to be fixed.

The Pentagon agrees that it should be paying a proportion of the cost of a company staying in business. But the new system will be designed to assure that it pays no more than a fair proportion. The government will want to see total company costs to justify independent research charges.

The government doesn't intend to pay for large staffs of scientists and engineers that are employed by some companies, whose costs of retaining these staffs are disproportionately lumped under defense costs.