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**Organization:** Drs. Foster and Smith
**State:** Wisconsin
**Agency:** Federal Trade Commission
**Initiative:** Pet Medications Workshop, Project No. 12-1201
**Attachments:**

**Submission Text**

My name is John Powers. I am the Executive Vice-President of Drs. Foster and Smith pet supplies and will be on the FTC Pet Medications Workshop panel addressing restricted distribution of veterinary medications. I oversee Merchandising and Inventory Control at Drs. Foster and Smith.

I thought it might be helpful in advance of the workshop for people to understand the two main kinds of pet medication diversion that exist in the marketplace. One is created and controlled by drug manufacturer employees—a ” paper” diversion—and the other is created and controlled by veterinarians—aggregators—better known as aggregation diversion.

***It is important to note that neither of these that I will describe are created or controlled by pharmacies or retailers. Certain manufacturers and certain veterinarians are the authors!***

Diversion, in my opinion, is a manufacturer-employee created process that injures consumers and pharmacies. In other words, through product diversion consumers, pharmacies and retailers become victims of elevated prices, inconsistent supply and restricted consumer choice.

***As you learn about product diversion you should understand that it exists as a direct result of drug manufacturers' restricted distribution of prescription and OTC pet medications, a distribution practice which, in its present form, we believe violates anti-trust laws.***

**Paper Diversion**

Paper diversion can be explained this way: An employee of a drug manufacturer, for example a regional sales manager, and ***one*** veterinarian, privately approach a retailer asking them to purchase a large volume of a prescription or over-the-counter pet medication. The approach is private because the drug manufacturer's public policy is to sell only through veterinarians.

With ***one*** veterinarian involved the manufacturer can still claim it sells only through veterinarians. That ***one*** veterinarian is generally paid through rebates offered regarding quantity discounts and sales. The retailer typically pays 15% to 20% more than a veterinarian in an animal hospital pays for the identical product. This inflated price is then passed on to the consumer.

***The reason this is a paper diversion is that, it is a manufacturer-employee created paper-trail diversion and the manufacturer's representative is in on it. Contrary to the questions of product safety raised by some regarding sourcing, there is no doubt as to where the product is coming from. It is coming through the manufacturer's own manager.***

The product itself is then shipped from the manufacturer to the ***one*** veterinarian, then on to the retailer. Billing by the drug manufacturer is to the ***one*** veterinarian. Note that the regional manager of the drug manufacturer benefits too, in that the sales volume is credited to his or her region.

What are the advantages of paper diversion to the drug companies?

- Paper diversion allows them to expand sales into the retail market without danger of margin erosion. In other words, it keeps the price elevated to the consumer.

- Paper diversion allows the drug manufacturers to say to veterinarians that they sell only to veterinarians. By keeping the ***one*** veterinarian in the loop, the statement remains technically true.

- It is a form of price support.

**Aggregation Diversion**

A cousin of paper diversion is diversion by aggregation. It is a cousin, so to speak, in that this type of diversion also involves veterinarians. Aggregation diversion is oftentimes the forced choice of supply for retailers, pet stores, tack shops and so on. Though used by some large retailers as well, aggregation diversion is often used by those not buying the volumes required in paper diversion.

In aggregation diversion, a single entity, often a veterinarian, becomes an unauthorized distributor and creates a network of other veterinarians who purchase an oversupply of product from manufacturers. The oversupply from this network of veterinarians is then aggregated into a central supply source that is sold—i.e. diverted—directly to retailers. For example, we have heard of one veterinarian aggregator who has a network comprised of over sixty veterinarians. There are many aggregators and we guess there are hundreds, or perhaps thousands, of veterinarians involved.

Consumers suffer because the multiple steps involved in diversion artificially inflate prices and create an inconsistent supply for retailers and pet owners.

Why do some manufacturers support this type of diversion?

- It allows veterinarians to profit.

- It allows drug companies to profit by increasing market-share, while maintaining their facade that they sell only through veterinarians.

**Summary**

To summarize, the problem of diversion is oftentimes created by drug manufacturers. I think the best method of drug distribution by manufacturers is to supply all qualified pharmacies, retailers and veterinary clinics. This can be accomplished by selling directly or through distributors, thus eliminating diversion.

Many manufacturers and distributors' practices are already complementary to the guidelines of the AVMA which promote consumer choice. These drug manufacturers include:

- Novartis
- Virbac
- Farnam
- Bayer
- FidoPharm
- Boehringer-Ingelheim
- Cardinal Health
- Anda

All of these companies supply their products openly and fairly to qualified veterinary hospitals, pharmacies, retailers and so on. This helps accomplish the AVMA's goal of consumer choice.

Certain manufacturers and certain veterinarians, who work together in the practice of restricted distribution of prescription and OTC medications, contribute to public pressure for bills like H.R. 1406.

***For those in the veterinary profession who support the AVMA's guidelines on prescription portability as I do, it does no good to encourage prescription portability without ensuring product supply. You cannot have portability and at the same time have restricted distribution.***

***It is important to note again that neither of the types of product diversion that I have described are created or controlled by pharmacies or retailers! Certain manufacturers and certain veterinarians are the authors!***

John Powers
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