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Polsinelli congratulates **Jim Davidson** for receiving one of the first annual DTC Hall of Fame Awards. As a shareholder, Jim's unwavering dedication, rich

talent, deep knowledge and wise insights bring a clear focus to the practice of public policy making. This accomplishment is a testament to his outstanding leadership and guidance – both qualities of the brightest in our field.

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Staying on Top of DTC Issues in Washington

There are plenty of new faces in Washington as President-elect Obama prepares to take office in January, but the battle lines for the pharmaceutical industry are still centered on the protection of DTC advertising. DTC Hall of Fame inductee Jim Davidson is preparing for a challenging year ahead.

By DTC Perspectives staff

Jim Davidson, a longtime advocate in Washington for advertisers and media companies, is facing what looks to be a difficult year in 2009 for the pharmaceutical industry. With a change of the guard in the White House, and also among the leadership of some key committees in the House, it will be a new field of play in Washington come January. (For more details on how recent appointments by President-elect Barack Obama may impact pharmaceutical companies, turn to Davidson's "Eye on the Hill" report, which begins on page 58 of this issue).

So there may be some new faces in town, but the battle lines are not changing. And Davidson has proven to be an excellent advocate for the industry over the past decade. Indeed, he played a key role in warding off restrictions on direct-to-consumer advertising of prescription drugs that were favored by some powerful legislators in 2007. At that time, there seemed to be a consensus building on Capitol Hill for a moratorium on advertising of newly approved drugs, but this was turned back thanks to the efforts of advertising advocates and media companies who proposed compromises on advertising review and civil penalties as alternatives to the proposed moratorium.

The legislators lining up on the side of the moratorium in 2007 included Sen. Edward Kennedy (D-Mass.), Sen. Mike Enzi (R-Wyo.) and, in the House, Rep. Henry Waxman (D-Calif.). Advertising advocates were able to pull together a diverse group of First Amendment supporters in the House and Senate that enabled the industry to hold off the onerous restrictions proposed for DTC – at least for 2007-2008. (In addition to the moratorium, some of the proposed restrictions back in 2007 included FDA pre-approval of consumer advertising for Rx drugs, as well as warning labels or symbols added to the labeling of all new products).



JIM DAVIDSON

For leading these efforts to protect the rights of DTC marketers, and for his work on industry issues since the late 1980s, Davidson was selected by industry leaders and DTC Perspectives as an inaugural member of the DTC Hall of Fame. He was presented this award in October at the DTC Perspectives' fall conference, "DTC in the Era of Consumer Choice."

Friends in high places

While the battle to protect DTC advertising looks to be difficult in 2009, Davidson has an important advantage in that he knows many of the key players from his years on The Hill. In fact, he has a number of former colleagues in the top ranks of the new administration of President-elect Obama. He hired John Podesta (who is now a co-chairman of the Obama transition team) as a deputy counsel back in the early 1980s while working for Sen. John Culver (D-Iowa). Podesta later went on to become chief of staff for President Clinton. Davidson also worked closely with Supreme Court Justice Stephen Breyer, who was Sen. Kennedy's chief of staff at that time.

These are relationships that he had developed over a long career in Washington. A University of Missouri journalism and law graduate, Davidson has spent more than 30 years working in Washington, after getting a start in government work in Missouri. His first job on Capitol Hill was as press secretary to Sen. Stuart Symington, a Democrat from Missouri. He later became the staff director and chief counsel for a Governmental Affairs subcommittee chaired by former Senator Edmund S. Muskie (D-ME), and finally chief counsel and staff director for the Judiciary subcommittee on



Administrative Practice and Procedure in the Senate. He helped draft the federal Privacy Act, the Sunshine Act and various amendments to the Freedom of Information Act. He also worked on the rule that led to the creation of the Senate Select Committee on Intelligence.

In 1979, the office of Sen. John Culver of Iowa sought out Davidson to become head of the senator's subcommittee (under the Judiciary Committee) on administrative practice and procedure. (Working for Culver proved to be a smart decision, as noted above, in that it helped Davidson become closer with Sen. Kennedy and his staffers. Culver and Kennedy were roommates and teammates while students at Harvard).



Paul Silverman of Novartis presents Jim Davidson of Polsinelli with his award for the DTC Hall of Fame.

It was almost 10 years later in 1986 that Davidson departed the Senate to establish his own Washington firm, Davidson & Company which became closely associated over the next few years with advertising issues. Davidson used his work with

advertisers as a springboard to creating The Advertising Coalition, a consortium of media companies, advertising groups and publishers that set out to fight any efforts to tax advertising spend in major media channels. This battle against an ad-tax continues to this day, and was recently reignited with Rep. Rahm Emanuel (D-Ill.) suggested that pharmaceutical companies would have to choose between either taking advertising spending or research and development investment as a business expense, but not both. (Emanuel, after making this pronouncement in a meeting with an advertising group in September, was called upon by President-elect Barack Obama to become his new chief of staff).

Change in House committee leadership

One of the first challenges Davidson will confront in 2009 will be the change in leadership of the House's Committee on Energy and Commerce. In November, Rep. Waxman challenged and defeated the longtime chairman of this committee, Rep. John Dingell (D-Mich.). Rep. Waxman has been actively opposed to consumer marketing of prescription drugs, and is

likely to continue his efforts in this area in the next session of Congress.

Asked about the change in leadership on the Energy and Commerce Committee (which has oversight of the FDA), Davidson said he told a group of clients, "You have to understand that Rep. Dingell was criticizing prescription drug advertising long before Rep. Waxman started doing it...The one big difference (between the two representatives) is that we could not get Rep. Waxman to accept the proposal for an administrative process to review advertising backed up with civil monetary penalties to sanction false or misleading advertising. Rep. Dingell saw quickly how [the penalties] could be used by FDA to penalize bad advertising.

Perhaps a more critical issue for Davidson in the coming year will be the attempt to limit DTC by way of an advertising tax, or a change in government reimbursement policy for the drugs it purchases under various programs, including Medicare Part D.

"You have to understand that Rep. Dingell was criticizing prescription drug advertising long before Rep. Waxman started doing it," Jim Davidson said.

In 2009, legislation could be introduced that would change the way pharmaceutical manufacturers who advertise drugs are reimbursed by the government. Davidson noted that former Rep. Bill Thomas (now retired) proposed something along these lines a few years ago when he was chairman of the House's Ways and Means Committee. The Thomas proposal had three different options: No. 1, change the rate of reimbursement for drugs that are popularly advertised; No. 2, change the co-pay so that patients are discouraged from choosing drugs that are popularly advertised; and No. 3, the government could change the tax treatment for the business expense related to advertising drugs that are purchased under Medicare Part D coverage. "All of those were options that Rep. Thomas looked at, and he was a Republican," Davidson noted. "There's no reason to think that any of those options will be left on the table." ■

Build a Career in DTC, Medical Advertising

A "little bit of luck and circumstance" helped Matt Giegerich get his start in the world of medical advertising. He subsequently built on that good fortune and teamed with the marketers at Schering-Plough to put together a campaign for Claritin that set the early standard for DTC advertising.

By Jennifer Haug



MATT GIEGERICH

Matt Giegerich, currently the president and chief executive of the healthcare marketing and advertising group CommonHealth, has a career spanning nearly two decades, and a record that's filled with numerous contributions to direct-to-consumer advertising, among other notable accomplishments.

For his long record of achievement in the consumer marketing of pharmaceutical products, DTC Perspectives in August named Giegerich and three other DTC pioneers to its new DTC Hall of Fame. The magazine's editors subsequently sat down with the Hall of Fame inductee to discuss his career and how he got started in the advertising and healthcare sectors.

Giegerich's career began as a "form of destiny, with a little bit of luck and circumstance," he recalled in the interview. As a young boy, he knew he wanted to be in the advertising business. He grew up admiring Darrin Stephens of the popular television show "Bewitched," about an advertising executive working in Manhattan. Loosely following in the footsteps of his TV idol, he began to pursue a career in advertising by securing an internship during his sophomore year of college at Dugan/Farley Communications, a healthcare advertising agency founded by a friend's father, Pat Dugan. That internship quickly presented Giegerich with the opportunity of a full-time position, and introduced him to his first professional mentor, Pat Dugan. Dugan's mentoring helped "lay the foundation" for Giegerich's career in pharmaceutical marketing.

After working at Dugan's firm for a few years, in 1991 Giegerich left to take a senior account executive role within Ferguson, part of Ferguson Communications Group [which, once merged with medical education group Health Learning Systems (HLS), would soon become the CommonHealth organization]. It was there where he found two additional

mentors, John Zweig, the company's president, and Tom Ferguson, the company's founder and chief executive. Giegerich said Zweig was important for helping to expand his horizons, which in turn helped him develop as a marketer, an agency person and a creative thinker. Ferguson, he said, gave him a "different perspective, one focused on the importance of establishing and cultivating relationships within the industry. Both were very important in helping me learn about the business of our business, especially during those early years."

A few years into his tenure at CommonHealth, he was tapped as an integral part of the team that would launch the allergy treatment Claritin, a campaign that included the first major broadcast television campaign targeted to consumers. Giegerich described it as a time "where the blockbuster drug era was just about to burst wide open. [With] big product introductions, targeting, mass markets – usually primary-care oriented markets – billion-dollar drugs were suddenly not only possible, but talked about and even expected from many manufacturers. Schering-Plough was of course one of them with the launch of the Claritin brand."

A new level of consumer engagement

Schering-Plough and Claritin were in a good position in the marketplace. Some competitors had received black-box warnings on their products and consumers were looking for non-sedating antihistamines. Claritin was an approved, non-sedating antihistamine with a clean side-effect profile. And, perhaps most importantly, the Schering-Plough marketing mindset was "very aggressive, experimental and willing to try new things," Giegerich said. Other external factors in the marketplace helped Claritin grow, such as people being more proactive about managing their health and the rise of consumerization. This

