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

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).

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 the Judiciary subcommittee...
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.”

Now it’s time to consider the effects of new House leadership. 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.”

Jim Davidson said.