

**Should Prescription Drug Direct-to-Consumer Advertising be legal?**

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### **Should Prescription Drug Direct-to-Consumer Advertising be legal?**

While on a business trip in Washington D.C. for his position as a prominent pharmaceutical company executive, John decided to set up a meeting with David, the current United States Speaker of the House. John felt he needed to have a meeting to discuss the new legislation David is planning to introduce, making direct-to-consumer advertising of prescription medication illegal. Both agree that it is important that consumers are informed about medication that could help people improve or resolve their medical issues. However, they disagree with the way consumers should receive that information.

John has been in the pharmaceutical industry for over 40 years and has been at the executive level for the last 15 years. He started his career in healthcare sales and marketing, working up the corporate ladder to various executive positions. He also holds a master's degree in business administration from Harvard University. John claims direct-to-consumer advertising of prescription medication should remain legal because it is the best way to inform millions of consumers about important medicines that they may not know about, which could save lives. John also claims the higher cost of medications comes from supply chain issues and inflation due to international events, not from the advertisement of prescription medication. John is also a firm believer that the first amendment protects commercial speech and gives pharmaceutical companies the right to run direct-to-consumer advertisement campaigns for their medication.

David has been in politics for over 40 years and has been a politician at the national level for the last 25 years leading him to become the current Speaker of the House. He is an active member of the House Oversight and Reform Committee and the House Rules Committee. David is also a graduate of Harvard University, which is where he initially met John many years ago. David started his career at the local level, working his way up to becoming a state elected official

and then finally a congressman at the national level. David claims direct-to-consumer advertising of prescription medication should be illegal because the American Medical Association (AMA) has called for a ban on direct-to-consumer advertising for prescription drugs, direct-to-consumer advertising of prescription drugs is leading to higher costs for medications, the direct-to-consumer advertisements can influence consumers to ask for drugs they cannot afford even though lower-priced alternatives may be available, and because research shows that medications featured in direct-to-consumer advertisements are prescribed nine times more than those that are not featured.

**John:** Direct-to-consumer advertising of prescription medication should remain legal because commercial advertisements educate consumers about various diseases and the different prescription drugs available for specific needs. The United States Food and Drug Administration requires direct-to-consumer advertisements to provide at least one approved use for the drug, the generic name of the drug, all the risks of using the drug, who should not take the drug, when the drug should not be taken, possible serious side effects of the drug, and if known, what can be done to lower the chance of having side effects (Center for Drug Evaluation and Research, 2015).

**David:** Yes, the commercials do inform people about the prescription medication, but it does not inform them of prices or costs, and it does not show transparency with the generic medications. Direct-to-consumer advertising is leading to higher costs for medications. The American Medical Association (AMA) has called for a ban on direct-to-consumer advertising for prescription drugs because "physicians cited concerns that a growing proliferation of ads is driving demand for expensive treatments despite the clinical effectiveness of less costly alternatives" (American Medical Association, 2015). In a press release, the American Medical

Association (2015) stated, "'Today's vote in support of an advertising ban reflects concerns among physicians about the negative impact of commercially-driven promotions, and the role that marketing costs play in fueling escalating drug prices,' said AMA Board Chair-elect Patrice A. Harris, M.D., M.A. 'Direct-to-consumer advertising also inflates demand for new and more expensive drugs, even when these drugs may not be appropriate.'" In 2020, pharmaceutical companies spent over \$6 billion on advertisements, meaning that 75% of all advertisements were direct-to-consumer ads for pharmaceutical drugs (Guttmann, 2021).

**John:** The pharmaceutical industry does spend a lot of money on advertising, but it is to make sure that consumers are well informed of the medications that exist to treat their medical issues. The Food and Drug Administration highly regulates the commercials and requires that they include all known side effects. According to the Center for Drug Evaluation and Research (2022), an "FDA study found that simple quantitative information could be conveyed in DTC television ads in ways that increased consumer's knowledge about the drug." The executives in the pharmaceutical industry understand the impact medication has on the population and want to ensure people are well informed and can ask their doctors better questions.

**David:** A problem with direct-to-consumer advertisements is that the commercials air before the FDA reviews them, and they can contain misinformation or be misleading to consumers. Direct-to-consumer advertisement of prescription medication significantly influences the prescription drug market and allows for pharmaceutical companies to take advantage of people. The United States and New Zealand are the only two countries in the world that allow direct-to-consumer advertising of prescription drugs (American Medical Association, 2015). According to Sawayda (2016), "research shows that medications featured in direct-to-consumer advertisements are prescribed nine times more than those that are not featured in these ads."

Specific consumers are targeted in the advertisements and, according to Silverman (2015), "can sway patients to ask for unnecessary, and potentially harmful, prescription drugs."

**John:** The Food and Drug Administration reviews the advertisements, although it may not be before they release to the public. The direct-to-consumer advertising informs patients of medication that may be suitable for them, and it allows them to bring requests or questions to their medical professionals. The first amendment protects commercial speech and gives pharmaceutical companies the right to run advertisement campaigns. According to Dunn (2018), "The First Amendment plays an important role in protecting the exchange of truthful and non-misleading information, which is crucial to scientific innovation and informed decision-making." The government can regulate the advertisements, but cannot infringe on the first amendment rights of people or businesses.

**David:** We can agree that the first amendment rights are essential to protect. However, television advertising of cigarettes and other tobacco products is banned, and the same should be done for direct-to-consumer advertising of prescription drugs. The advertisements can influence consumers to ask for drugs they cannot afford, even though lower-priced generic alternatives may be available. The commercials tend to be emotionally engaging and make the consumer believe that the drug is the perfect fit for that medical condition despite the long list of known side effects, including death. There could be cheaper alternatives for the same medical condition, but because they saw that advertisement, that is the only drug they could know about and are set on using. Silverman (2015) states, "The accelerating cost of medicines has galvanized Americans. About three-quarters of the public believes that prices for brand-name drugs are too high." The lack of direct-to-consumer advertising for prescription medication would cause prescription drug prices to decrease to reasonable levels.

**John:** The commercials can be emotional because medical conditions that can cause death are an emotional topic for most people. The dramatized commercials can also show how the medication can help improve a person's illness to increase their chance of having a better quality of life.

John and David agree on certain areas of their discussion, but they also still have their differences. Direct-to-consumer advertising of prescription medication and vaccinations is controversial because of current events such as COVID-19 and the amount of money pharmaceutical companies spend on advertising and lobbying. The knowledge provided to people through the advertisements can be very informative, so people know what they should ask their doctor and be aware of the side effects of the medication. David is still concerned about pharmaceutical commercials not being prescreened by the Food and Drug Administration and the American Medical Association calling for a ban on direct-to-consumer advertisements. John is still concerned about the possibility of the government infringing on the First Amendment rights of businesses. John and David decide to continue their conversation by letting other individuals they know in their industry join the conversation at a roundtable discussion at a later date.

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