The indictment returned here said the company and three of its research scientists "concealed and covered up, by trick and scheme, material facts important to the Food and Drug Administration." The scientists named are Harold W. Werner, Evert F. Van Maanen and William M. King.

Mr. GROSSMAN. Could I ask you a question here?

On Page 4, you talked about the proliferation of products that confuses rather than proves drug selection or drugs inadequately tested or whose side effects are minimized in the race to market for the consumer's dollar.

Are you criticizing the FDA here, as well?

Dr. SCHIFRIN. I am not criticizing——

Mr. GROSSMAN. In other words, in order for these drugs to get to the market, they have to somehow get past the FDA, do they not?

Dr. SCHIFRIN. Let me read that part of my statement that covers that point you raised there. That discusses the point.

Mr. GROSSMAN. Surely.

Senator NELSON. We are not above criticizing a Federal agency, you know.

Dr. SCHIFRIN. I consider many of these criticisms valid. I offer them as important qualifications of the industry's product performance. But many aspects of this product performance warrants praise, and this must be recognized, criticisms and qualification notwithstanding.

The other half of the picture is what I refer to as "market performance," and deals with the efficiency with which the industry uses society's scarce resources; that is, the extent to which economic resources are used to enhance consumer well being and other economic goals. In this regard, the important questions that must be answered are these: Is there enough competition to place a premium on efficiency and penalize waste? Is there enough competition to compel firms to pursue only those activities that benefit consumers? Can firms incur costs for activities that do not benefit consumers yet charge consumers, in the prices they pay, for such activities? Is there enough competition to keep prices in realistic relation to costs, providing profits adequate for maintaining or expanding desirable activities but not profits derived from the exercise of monopoly power?

To generalize from the vast quantities of evidence available, I believe that the characteristics of the drug-product marketing and distribution systems are such that effective competition does not prevail. As a result, firms are free to engage in many practices—most notably in promotion and advertising but in research and development also—that serve their own profit goals but provide no benefit to society. A largely wasteful promotional effort costing in the hundreds of millions of dollars per year; misdirected research; rivalry in novelty, in capturing the attention of physicians; all this represents costs of large magnitude passed on in full to the consumer, but without any corresponding benefit—and perhaps some harm, such as a proliferation of products that confuses rather than improves drug selection or drugs inadequately tested, or whose side effects are minimized, in the race to market for the consumer's dollar. Yet these practices and the factors contributing to them have become part of the industry—woven deep into the design of its fabric.