firms in the drug industry are economic enterprises. The economist George Stigler has defined business as a collection of devices for surmounting barriers to profits, and the splendid profitability records of the drug firms indicate that their business-oriented managements have very efficiently achieved this goal. Secondly, the anomalous price structures and price-cost relationships in the drug industry are so striking as to be obvious to the layman,[3] while other evidences of delinquent performance in the discharge of the drug industry's responsibilities are not exactly so subtle or equivocable as to be apparent only to those with highly specialized backgrounds in professional disciplines.[4]

It is noteworthy that drug spokesmen produce arguments in their defense which either stress or ignore similarities or differences between drugs and other industries to suit their convenience. Thus, in the PMA studies presented last month, one study treated the drug industry just like any other industry in relating the variance of the earnings of member firms in an industry (rather arbitrarily called "riskiness") to the average rate of earnings in that industry, while the other analyzed product competition in drugs in a vacuum as it were, without introducing comparative data from any other industry. But both the similarities and the differences of the drug industry should be analyzed and allowed for before making any comparative study of drug prices, costs, and profits in relation to those of other industries.

The major similarity between drugs and other industries is that the firms are privately owned and are managed in the interests of maximizing profits and the value of the shareholder's investment. Provided that there is effective competition among firms, the profit-maximization goal is an excellent coordinating mechanism since it motivates managements to produce a given output at minimum total cost and hence stimulates efficiency. At the same time, price competition among firms will keep price levels from exceeding for any great period of time the equilibrium levels necessary to elicit from producers that level of production which consumers demand at that price. This is basic to the classical economic doctrine of Adam Smith (who was mentioned more than once with approval by PMA witnesses last month) that the force of price competition taking effect through the market, acts as the famous "invisible hand" which by allocating resources efficiently makes each economic agent serve the general welfare even though he is only interested in furthering his own private fortunes. But unless effective competition prevails, private and public welfare in the market are not consonant. In the drug industry, the invisible hand is invisible chiefly because it is so deeply buried in the consumer's pocket. And it is the extreme vulnerability of the drug buyer to economic exploitation which makes the drug industry (both in economic and public policy terms) a unique market which cannot be compared directly with any other. This peculiar vulnerability of the drug buyer to exploitation is related to several major characteristics of the drug market which prevent price competition from acting as a safeguard and which also tends to make an economically unregulated drug industry productive of much misallocation of resources in its attempt to maximize the profits of individual firms. I do not intend to advocate punitive regulation of the drug industry. But the industry at present enjoys the benefits of what amounts to public regulation in its favor, through the availability of the patent privilege, trademark and copyright protection, and the laws supporting prescribing by brand name, to name only the major advantages. This stacks the cards heavily in favor of the industry and against the drug buyer. I am in favor of corrective legislation to redress the balance and increase the chances of the patient's getting fair value for his prescription dollar.

At the same time, it must be stressed that to be critical of the drug industry is by no means to be critical of private enterprise as such. Most industries are routinely accorded exemption from special economic regulation because they naturally tend to function tolerably competitively in a free market environment.

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[3] As Senator Nelson observed, in inquiring of Professor Cootner how a price differential of $32.62 versus $2.60 might be justified between the United States and Canada, "I didn't think I was asking a question that required expertise." (Transcript of these hearings, volume 23, p. 2706.)

[4] Drug industry spokesmen have patronized Morton Mintz, author of *The Therapeutic Nightmare,* referring slightingly to his having become an expert on the drug industry during the Kefauver hearings. He did not become an expert on the industry, but upon the abuses practiced by the industry—as did anyone else who read the entirety of the Kefauver Hearings carefully.