for superiority in discovery and manufacturing; it would leave price competition as the only remaining form of competition, and this would be a tragic result in an area so vital to the public health." [33] This is precisely the view of the subcommittee majority, although expressed from the point of view of an antipodal set of values. The Subcommittee was at great pains to prove that the "intensive competition for superiority" (*i.e.*, in profits) stimulated by patent availability is wasteful, duplicative, and supports high prices, but that the replacement of product differentiation by price competition would be tragic only to excessive profit levels, and would improve resource allocation in the drug market and eliminate the inequity of burdening the sick with high prices.

The drug industry tried to rebut these presumptions of noncompetitiveness by presenting a great deal of economic evidence regarding (1) price index data purporting to show a decrease in drug prices from 1949 to 1960, and (2) firm concentration and turnover in firm rank order of sales volume in various drug submarkets. Professor Markham of Princeton, retained by counsel for the PMA, presented a price index of prescription drugs, showing a decline of 7.6 percent for the period 1949–1960, or about one-half of one percent per year, compounded annually. This evidence, if valid, would argue for a remarkable degree of price stability in the industry, and might sustain the Subcommittee's loose usage of the loose term, "administered prices", one agreed-upon characteristic of which is that they do not typically increase during inflations to the extent that one would expect on the basis of short-run profit-maximizing theory. But what is the cause of this slight decline? Dr. Blair of the subcommittee staff pointed out that patented drugs almost never change in price, while non-patented drugs typically experience a substantial price decline over time, and suggested that the chain index might reflect the presence of a number of patented drugs with fixed prices, and a number of unpatented drugs which declined in price. He asked further information be submitted with regard to the relative price changes of patented and unpatented drugs separately, and also for other information, including a tabulation of the drugs and prices employed in the index. Apparently the computations on patented versus unpatented drug price trends were never submitted, although the other material requested was supplied. Anyone who takes the trouble to look through the basic price data used in computing the index will find that of the 329 drugs included, no fewer than 193, or 59 percent of the total, had experienced no price change during the period since their introduction in the index (not all drugs in the index were sold during 1949; many appear only in subsequent years); 95 drugs (28 percent of the total) had experienced price increases (*i.e.*, price in 1960 higher than price in initial year of appearance), and only 41 drugs (13 percent of the total) experienced price decreases.[34] This tends to confirm the hypothesis of price stability. It is of further interest to note that the BLS index of the prices of drug and pharmaceutical materials declined by 32.7 percent during this time, while its index for the cost of retail prescriptions increased by 27.8 percent.[35] It is perhaps evidence of lack of competition that prices of drugs dropped only 7.6 percent while prices of inputs dropped 32.7 percent; it is also curious that prescription costs increased 27.8 percent during this period if prescription drug costs actually fell by 7.6 percent, in view of the facts that (1) most prescription drugs are priced by druggists by adding a fixed markup (66⅔ percent) over wholesale price, and that (2) if anything, the labor and other compounding costs of prescriptions should have declined since 1949 as a result of the marked decrease in the percentage of prescriptions which requird compounding by the pharmacist, rather than the transfer of capsules to different bottles.

The concentration and turnover ratio data presented by Markham do indicate very considerable turnover among drug firms in relative sales rank. The conclusions reached as regards concentration as a whole must be interpreted in the light not only of the usual imperfections of concentration ratio data (especially the implicit assumption of independence of action among firms) but also the fact that the data refer to sales of the finished product rather than to production of the bulk powder, and there are great differences between concentration of these two in drugs. In 1958, for example, of the 51 most important prescription drugs, 27 were made by only one firm, 18 by two or three firms, and six by four to

[33] Ibid., pt. 4, p. 2003.
[34] *Ibid.*, pt. 4, pp. 2576–d through 2576–k.
[35] *Ibid.*, pt. 4, pp. 2469–2470.