propriately done under grant by academic people; now we have finally completed the circle by saying that, in the opinion of at least one witness, there is question as to whether someone who is a Government employee will assume this degree of responsibility. I am frankly lost with this kind of, if I may, sophistry.

In our opinion, the procedures which have been described by my scientific colleagues have, in fact, yielded very good results. This is what I referred to in my statement. We are in the happy position—in regard to these products which Dr. Tishler has described, starting with the vitamins and bringing it up to date—that there have been very rare occasions when the initial positioning of a Merck product had to be seriously modified based upon experience in the marketplace.

Mr. GROSSMAN. Thank you.

Senator NELSON. Thank you very much, Mr. Gadsden. If you have any additional pertinent material which you have neglected to give us for the record today, the record will be open for another week. If at any time in the course of these hearings, you wish to make any contribution concerning any issues raised before the committee we shall be pleased to have your material.

Mr. GADSDEN. Thank you for that opportunity, Senator. Even before these hearings, in the telephone conversations which I had with Mr. Gordon—I think that Mr. Cutler has had subsequent ones—we asked for the opportunity, if it seemed appropriate, to file supplementary statements based upon testimony that was given between the time we prepared our statements and our presentation here, because we had to do this on very short notice and we compressed it within a limited period of time.

(Subsequent correspondence and supplemental statements were submitted by Merck & Co., Inc., and follow:)

MERCK & CO., INC.,
Rahway, N.J., May 14, 1968.

Hon. GAYLORD NELSON,
Chairman, Subcommittee on Monopoly, Select Committee on Small Business, U.S. Senate, Washington, D.C.

Dear SENATOR NELSON: I am enclosing several supplementary statements for inclusion in the record of the hearings of your Subcommittee relating to 'Indocin'. We appreciate your willingness to permit us to file these supplementary statements and your recognition that we could not deal in our prepared statements with the testimony of witnesses who immediately preceded us.

We believe that the testimony we presented on May 3 and the statements of Dr. Hodges, Dr. Rothermich, Dr. Calabro, and Dr. Smyth constitute a sufficient response to most of the testimony of the academic witnesses who testified on April 23 and 24.

We have prepared, however, and submit herewith supplementary material bearing on two aspects of Dr. O'Brien's testimony: an internal memorandum by Dr. Hurwitz of the FDA, apparently overlooked by Dr. O'Brien, which revises the views Dr. Hurwitz expressed in an earlier memorandum that was critical of the clinical studies with 'Indocin' and that was quoted from at length by Dr. O'Brien; and a statement of Merck's policies and procedures in the support of clinical investigation.

In connection with the May 1–2 hearings, we are also submitting supplementary material related to the testimony of Dr. Jennings and Dr. McCleery of the Food and Drug Administration, who dealt primarily with the content of our labeling and advertising and with our performance in promoting 'Indocin'.

Implicit in Dr. Jennings' and Dr. McCleery's testimony were suggestions that the Company and its executives acted on the basis of motivation to overstate claims, minimize adverse effects, expand use of the drug beyond allowed claims, and resist efforts of the Food and Drug Administration to enforce proper standards of communication to doctors.