

MEMORANDUM

To: Mr. Horan ^{FHT}
Mr. Provost

September 28, 1964

Press Release

I regret not having commented sooner on a third draft of a proposed press release with respect to the article in Science. I cannot give my approval of this release for the following reasons.

I have stated in the past that the definition of advertising in Article I, Section 1 of the Code does not include press releases specifically. In fact I can recollect that press releases were deleted from a prior draft. However, Section 1 (b) of Article I of the Code states that advertising "includes any written material or article or excerpt therefrom, not otherwise advertising, when used for promotional purposes."

On Friday afternoon the Committee of 6 had a conference with Governor Meyner and he has planned a further meeting with us this Wednesday afternoon to discuss the "gray" areas of the Code and where he thinks the principal problems arise. From the initial discussions we had it is apparent that he will expect press releases used for promotional purposes to fall within the Code and we may expect that his regulations will so provide.

I have found it difficult to separate publicity from promotional efforts, particularly in the present instance where the obvious purpose of the press release is to keep the LARK brand in the public eye, i.e., a promotional effort.

Secondly, Governor Clements has been advised by Congressman Oren Harris, the Chairman of the House Committee which has held hearings on a labelling bill, that he expects the industry to show definite evidence of compliance with the Code. Obviously the Congressional action is important to us and we need his support. A press release such as proposed could not help but bring adverse comment, not only from our antagonists on the subject of health, but from our competitors as well. We do not want Governor Meyner to react adversely to Liggett & Myers at this time. (He already mentioned that he was somewhat surprised that Philip Morris has publicized the employment of two former tennis champions.)

Thirdly, the press release emanating from the Company would undoubtedly hurt us in litigation. No matter how cleverly phrased, any layman would assume that we were getting too close to extrapolation to humans, particularly when the experiment was conducted with human cells.

I think it would be unwise at this time to approve the proposed press release. When the Code is in operation

under the health provisions (Article IV) the Governor would not permit such promotional efforts unless he found them immaterial, which is unlikely, or he shall have determined that it is based on valid data, or there is a disclaimer. I find no such disclaimer in the press release and we should await an opportunity to prove our case before using such material.

F. P. Haas