

February 26, 1971

3-2-71

Mr. Harrington:

Re: Tobacco Institute - Executive Committee Meeting - February 25, 1971

I attended the above meeting yesterday at which the following matters were discussed:

1. Lorillard Participation in Senator Clements Remuneration and in T.I.T.L. As you know, Lorillard rejoined the Institute as of January 1. It also has agreed to share in payment of Senator Clements' compensation (current and deferred) as of February 1. Furthermore, it has agreed to share in the expenses of the Tobacco Institute Testing Laboratory. These undertakings will result in some savings to Liggett & Myers Cigarette and Tobacco Division.
2. Lacey, Ackerman Project - Cancer Immunology. I signed an Agreement which binds us to our market share of the aggregate of this \$2,000,000 project over a five year period. Tobacco Associates, Inc. (John Palmer) is expected to subscribe \$25,000 a year (not as a total), but must act on it annually. Also, Larus and U. S. Tobacco indicated they may participate as well. American declined to participate. Rather than run the risk that our individual commitments would be available to the press, the plan is to remit through the Institute. Bill Kloepfer is sanguine about press coverage when Washington University approves our underwriting the project.
3. Depiction of Warning Notice in Advertising. This suggestion, first advanced late last Fall, was again discussed. Senator Clements, Horace Kornegay and Jack Mills all feel that to do so would be a bulwark on the Hill against F.T.C.'s announced support of the "death notice" in all advertising and the possibility (noted in Item 4, below) that the Food & Drug Administration may be given jurisdiction over tobacco (a circumstance which must be resisted to the utmost). Senator Moss has already signified his intention to introduce a bill which would require the Congressional Warning in all advertising, as well as "tar" and nicotine test results on all packaging. The thought was that he might "pull in his horns" if the depiction was made voluntarily, and there is reason to believe that such action might forestall the F.T.C. from going forward as it has indicated it would.

I made our position clear, and all the points raised on behalf of Liggett & Myers previously were voiced by me and others in the course of discussion: the argument that we could be said to be making an admission against interest, the effect on consumer, the nature of any explanation on our part for

taking such action, etc.

Reynolds, Philip Morris, American and United States are prepared to do so. Brown & Williamson will not consider it at all until Moss' Bill is introduced. I stated our position. Lorillard and Larus lean the same way we do.

It was agreed that we would hang fire, but that Horace Kornegay will keep his hand on the pulse and canvas each Company periodically as to its attitude. No further meeting of the Executive Committee is scheduled until May 13 at the Homestead and if this matter is not resolved before then, it may be expected to be on the Agenda of the Executive Committee meeting then.

4. Poage - Packwood Bill (H.R. 4152, S. 745). Hearings before the House Agriculture Committee on this pesticide control bill started February 22. The announced purpose of the Bill is to provide effective procedure for the control of pesticides and pet control devices under the new Environmental Protection Agency.

The Bill is troublesome in two respects. First, it would (by Sec. 21) amend the Federal Food, Drug and Cosmetic Act to define a "raw agricultural commodity" to include tobacco. Although the intent of the framers may well have been only to set pesticide tolerance levels for raw agricultural commodities, including tobacco, it is ambiguous and could be claimed to place tobacco products under the Food, Drug and Cosmetic Act.

Representative Poage is aware that the Bill needs substantial revision, and it seems to me that we must do everything in our power to keep tobacco out of the F. D. A. We must also decide if we wish to oppose the setting of pesticide tolerances for tobacco.

This brings us to the second area of concern. The Bill would affect a change in the present regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act in requiring consideration of environmental effects in making decisions as to registration and making it easier for those opposing the use of a given pesticide to block its registration or to cancel or suspend an existing registration. Three use categories would be set up under the Bill if passed. First, a pesticide could be registered for unrestricted general use, second, pesticides could be designated for "restricted use", requiring application under the supervision of a licensed applicator and thirdly, a pesticide can be registered "for permit use only" requiring specific written authorization for each application.

The cancelation provisions of the present act have been modified so as to eliminate the request for an Advisory Committee on a given problem. Specific hearings are still required.

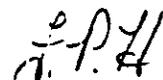
The Administrator could suspend registrations if he finds an "imminent hazard to health or to the environment."; namely, one which he determines should not be permitted to continue while the hearing is being held.

The Administrator would also be empowered to stop the sale of a pesticide up to ninety days if he determines there is still question as to the existence of an "imminent hazard."

I am sending relevant information to Dr. Bates for his perusal and comment.

5. Punitive Legislation. There are punitive bills with respect to tobacco pending in six states. One bill in California would shift the burden of proof in a lung cancer case to the defendant. These are being opposed vigorously.

6. Study with respect to the Industry's position in resisting punitive legislation. Some years ago consideration was given to whether the Industry's position would not be strengthened if the work of the Tobacco Tax Council and the Tobacco Institute were combined in some fashion. As matters stand each helps out the other, but the Council operates mostly in the tax area and the Institute in the punitive area. We now have Mr. Beatty commencing operations as well and after some discussion, Mr. Kornegay was authorized to consider this matter and make such recommendation as he and his staff think feasible for streamlining or perhaps combining all of these operations so that they work in harmony and to our best advantage.

  
F. P. H.

cc: Mr. McAllister  
Mr. Greer ✓  
Mr. Gross