

For p.m. release
February 7, 1967



HOW TO COMMUNICATE WITH
FEDERAL AGENCIES

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Washington, D. C.,
Before the
American Advertising Federation,
Washington, D. C.,
February 7, 1967

Communication is the sine qua non of our American way of life. Economic democracy, no less than political democracy depends upon individual choices and decisions. And, just as political decisions are made at the ballot box by individual choices from among candidates espousing different political philosophies, so are economic decisions made at the market place by individual choices from among competing goods and services.

But for democracy to work, decision-making should be informed and knowledgeable. Such, of course, is the function of communication; and in the economic arena, that function is performed by the advertising industry.

A service so vital can, of course, be quite lucrative. Just as in other industries, the profit motive attracts the jackals and unscrupulous as well as the dedicated and honest. The early nineteenth century is replete with instances of quackery and extravagant claims. To cite just one example, there was the advertisement for one Dr. Scott's Electric Corset, wherein the "Doctor" made extravagant claims for the benefits to be derived from his corset. The corset would "cure" extreme fatness or leanness "in most cases." The product should be tried by women suffering from "any bodily ailment" and by those who wished to "ward off and cure disease." The corset would "bring the magnetic power into constant contact with all the vital organs."

It is easy to see that if "a little information is dangerous," misinformation can be disastrous. For example, when goods are praised to the point of untruth, or a competitor's goods are falsely disparaged and the competitor replies in kind, the result is not informed, intelligent choice, but rather its perversion. There can be no "choice" when selection is a function of competing untruths, deceits and misleading comparisons.

The point is that if the free enterprise system is to survive, competition must be fair as well as free. Honest competitors must be protected from predators and shielded from the temptation to adopt the

tactics of tricksters in the battle for business survival. And, consumers must be protected against commercial chicanery, because fairness requires that they receive an honest product honestly represented, and because consumers are citizens and will ultimately determine the degree of control that government will exercise over business. Thus, government has a function to perform in communication, as well -- that is, to establish and enforce basic ground rules to insure that competition will be conducted in a fair manner. This, in my view, is conservative government in the truest sense of that much abused term. Government is a referee, rather than a participant. Its purpose is preservation of business freedom, by avoiding both the Scylla of private monopoly and the Charybdis of statism.

Viewed in this light, it becomes readily apparent that government's goals and those of business are not incompatible, but complementary. Self-regulation is necessary, and the advertising industry is particularly to be commended in such areas as your Creative Code. Self-regulation, however, is not enough. American enterprise is free precisely because freedom is checked and channeled by a variety of factors, not the least of which is federal regulation.

The partnership of government and the advertising industry in insuring informed consumer choice by honest communication, itself,

of course, depends upon effective communication between the parties to that partnership. It is my purpose here this morning to suggest certain guidelines or rules to make your communications with government agencies more effective. What I have just been discussing suggests the first of such rules -- that is, an understanding and appreciation of the duties and responsibilities of the regulatory agency. Only where communication is based upon mutual respect or understanding can it be effective. Where characterized by disrespect and suspicion, it must degenerate, if not break down altogether. In such event nobody gains, not you, not the government, and certainly not the consumer.

My specific topic is, of course, communication with regulatory agencies. Though much maligned in terms of "a headless fourth branch of our government," "the new despotism," and "government by petty bureaucrats," the administrative process has filled and continues to fill a basic need in our democratic society. The Supreme Court has aptly described this development as "a response to a felt need" for a new instrument of government to overcome the inadequacy of some of the traditional modes. Administrative regulation has sprung not from a sterile theory of government but from the pragmatic demands of a dynamic society. It has been directed toward fractional parts of our society rather than the whole -- to particular industries or particular

segments of an industry. Its common thread is specialized attention to specialized problems. Courts and legislatures are simply not equipped to deal with these problems. The expertise, specialization and flexibility of procedure, which characterize administrative agencies, thus supply a real need and make of administrative agencies what Justice Frankfurter termed, "co-ordinate instrumentalities of justice."

As necessary as they are, however, to one who is outside looking in, they appear, in the words of Dean Acheson, to be "an amorphous mass." Agency decisions are institutional, as distinguished from individual. And, how do you communicate with an institution?

Man either worships or criticizes what he doesn't understand. Which alternative applies to the federal government, you know as well as I.

The point is, and this is my second rule or guideline, where communication is with an institution, as distinguished from an individual with decision-making responsibility, some basic knowledge of its structure and organization is imperative. There is at least a grain of truth in the often-gusted statement that in dealing with government, its not what you know, but who you know. Knowing to whom to address an inquiry, whether there is a division or section of the agency with responsibility for the type of matter with which you are concerned and

who within that division has decision-making responsibility, cannot only save a good deal of time but insures that your communication does not get lost in the channels of agency routing procedures. While not always available, by virtue of federal legislation in 1935 and 1946 and the "public information" legislation which emanated from Senator Long's Committee last year, agency organization and procedure is no longer sheltered behind the amorphous mass of which Dean Acheson spoke. The institution, to this extent at least, has become "personalized."

What I have said about institutionalized decision-making does not, of course, suggest that agencies are not composed of people. In communicating with an agency you are communicating with the people in the agency. Now, most of these people have a high sense of dedication. They take their jobs and their responsibilities as seriously as you do yours. As you feel harassed by "bureaucrats," they sometimes feel harassed by you. They, too, are busy, and have many matters -- other than what concerns you specifically -- demanding their attention.

The point is, and this is my rule number three, in communicating with the people in an institution, be courteous, concise and cooperative. This, of course, is just common sense. Don't talk down or try to put things over on them. It can only come back to haunt you. I cannot stress enough the importance of a good reputation with the agency. It

is often said, that from an agency's point of view, there are only two classes of people with whom they deal -- the "good guys and the bad guys." To borrow from one of your creations, be sure you're the ones "wearing the white hats."

Of course, when I caution cooperation, I do not mean to infer that you should ask them anything you want to know or tell them everything they want to know. Questions, as well as answers, may be pregnant with implications of which you are unaware and elicit results which you do not desire. Often there are questions with respect to contemplated business conduct which if asked an agency must be answered "No;" but which, if the conduct is pursued, the agency will never take action.

This brings me to my fourth rule, before communicating with an agency, consult your attorney. It is his job to know the implications of such questions and answers. Whether he should accompany you, or himself make the communication, depends on the circumstances. Once again, he is the best judge of this. If he does not accompany you, be certain to consult him after the communication. In this event, it is a good idea to write down the substance of your communication as soon thereafter as possible.

As a fifth rule, I would advise that before communicating, be well-prepared. Know specifically the questions you want to ask. As

I said before, agency personnel are busy too. They appreciate conciseness and precision, and your reputation with the agency will be greatly enhanced.

The other side of the coin, is to know, as well as you are able, the answers you are going to give to their questions. Your attorney can, of course, help you here. The main thing is to be wholly accurate in everything you say or write. Untrue or badly slanted statements can certainly do much to undermine the good reputation or image, so vital in effective communication with the government.

In conclusion, let me say that I very much appreciate the opportunity to be with you this morning and to speak to you on a subject so vital to our American way of life. I share with you your obvious view of the necessity of effective communication between government and industry, and earnestly hope that the ideas which I have expressed, though far from exhaustive, will be of some use to you in accomplishing your objective.