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December 9, 1988

Mr. John L. Bagrosky
Executive Secretary
Interagency Committee on Smoking
and Health
Park Building, Room 1-10
5600 Fishers Lane
Rockville, MD 20857

Dear Mr. Bagrosky:

We are writing to express our concern about possible efforts by the Interagency Committee on Smoking and Health to regulate tobacco company sponsorship of sporting events. Some of the testimony received at your October 27, 1988 hearing suggested federal initiatives which have serious First Amendment implications.

In the ACLU's view, it would be unconstitutional for the federal government to prohibit tobacco companies from sponsoring any kind of athletic or cultural event, or to curtail the right of sponsoring companies to publicize their actions. Nothing in Supreme Court jurisprudence would permit prohibition of association through funding or other sponsorship between tobacco companies and other institutions or events. Similarly, noting the fact of such sponsorship cannot be prohibited, even if there is some collateral or incidental "advertising" value from such notation. Moreover, when a television camera picks up the image of a sign bearing a corporate name or logo and that image is transmitted to a television set, it is clearly no violation of existing law prohibiting the broadcasting of tobacco advertising.

On the other hand, there are significant collateral First Amendment implications to barring tobacco promotion of events. Indeed, presentations which would likely not have existed but for corporate cooperation might cease to exist, thus limiting access to other constitutionally protected activities.

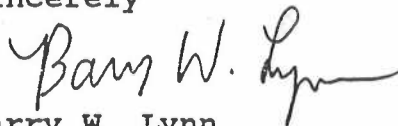
Mr. John L. Bargrosky
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We urge the Interagency Committee to reject all proposals which would inhibit corporate sponsorship of any athletic or cultural events. Education about smoking and health can be approached through many legitimate channels, but censorship of promotional activities is not one of them.



Morton H. Halperin
Director

Sincerely



Barry W. Lynn
Legislative Counsel