WAR FOOD ADMINISTRATION
Food Distribution Administration
Washington 25, D. C.

November 25, 1943

INDUSTRY OPERATIONS BRANCH MEMORANDUM NO. 2

To: Branch and Division Chiefs, Regional Directors and Government Chairmen of Food Industry Advisory Committees

From: E. A. Meyer, Chief, Industry Operations Branch

Subject: Use of the "Task Letter" To Obtain Information From Industry

When further study is needed on a problem raised in an Industry Advisory Committee meeting, or the assistance of the industry is needed in gathering information, a "task letter," may be used. The task letter is provided for in our clearance with the Attorney General. It is usually addressed to three industry men, known as the "task group," requesting them to carry out a specific assignment. The letter should always be sent, even if it merely confirms verbal instructions and should predate any general activities on the part of the group. The letter is for the protection of the industry men against violation of Antitrust Laws and the protection of the Government in case the group should overextend its activities.

A specimen of a task letter, approved by the Office of the Solicitor, is attached. Your attention is called to these points.

1. The letter must clearly state the relation of the requested information to the War Food Program of the Government. The letter must not be used to give clearance to groups desiring to present programs designed for relief from alleged hardships. Programs of this latter type are handled informally, with the activities of the responsible parties subject to the normal operation of the Antitrust Laws.

2. The letter, after approval by the commodity branch chief, should be routed to the Industry Operations Branch for clearance of over-all policy and with the Solicitor.

3. The task should be clearly defined, so the task group knows exactly what is expected of them.

4. A time limit should be set to prevent the task group from working together indefinitely.

5. Three copies of each task letter should be sent to the Industry Operations Branch.

Members of task groups are not necessarily committee members, nor must they be representative of the industry. For this reason they should be referred to as "groups," rather than committees. While it is customary not to appoint a chairman, and to give each member identical responsibility, there is no objection to their agreeing informally for one of them to take the lead. All of them should sign the report.

Where a task group recommends action which would affect the industry generally, the report should be reviewed by the Industry Advisory Committee concerned to get the comments of the representative group. To expedite this procedure, the task group is often requested to send a copy of its report directly to each committee member by a specified date, and a meeting is scheduled to fall within a week or ten days. This gives the committee members time to study the report and assemble facts and opinions for presentation at the meeting. Unless the committee members have the report in advance of the meeting, much time is consumed in reading it to them, and at best you only get their "snap" judgment.

If care is taken to explain to the members the importance of the task and a goal is set for them to reach, they will work hard and unselfishly to help the Food Distribution Administration and the war effort.

Copies of an exchange of letters between the War Food Administration and the Attorney General are attached.

Attachments

E. A. Meyer

B-109

(Date)

Name
Company

Gentlemen:

This letter will confirm the request made to you at the _____ meeting of the _____ Industry Food Advisory Committee. At that time you were asked to prepare an estimate of the amount of fats and oils which might be saved by the elimination of (a) bleaching by means of an agent such as Fuller's earth, and (b) refining when that process is carried to a degree which is for lightening color only.

If possible, we should like for you to have copies of the above report mailed to other members of the Advisory Committee by_____, for their consideration before the next meeting.

To carry out the above task you may feel free to carry on discussion or correspondence with suppliers and customers of your industry and with other members of your task group named above. However, for your own protection from possible action under the antitrust laws, we suggest that you observe the following precautions:

1. Be sure that your actions do not go beyond the specific request outlined above;

2. Do not call meetings of your industry (other than members of your task group), circulate questionnaires, or make any agreements or understandings with members of your industry;

3. If it is necessary to consult other individuals in the industry, be sure to make it clear that you are seeking their voluntary assistance and that they are under no compulsion to divulge any information which they regard as confidential.

The Attorney General has advised us that if you observe the above limitations, no violation of the Federal antitrust laws will be involved.

On behalf of the Department of Agriculture, I should like to express our appreciation of your willingness to devote your time and energy to this task in the interest of the war effort.

Very truly yours,

/s/
Title

UNITED STATES DEPARTMENT OF AGRICULTURE
WAR FOOD ADMINISTRATION
WASHINGTON 25, D. C.

May 8, 1943

The Honorable
The Attorney General

Dear Mr. Attorney General:

In connection with the performance by the War Food Administration of the functions delegated by Executive Orders Nos. 9280 and 9322, as amended by Executive Order No. 9334, it is the policy of the Administration to consult with Food Advisory Committees. The use of such committees makes it possible for the Administration to lay its problems before representative groups of business executives, and for industry, in turn, to present its problems to the Administration.

The industry advisory committee system used by the Administration is similar in organization, purpose and function to that employed by the War Production Board. The functions of the committees are to collect and furnish information, and, upon request, to render advice and make recommendations. No powers of decisision or enforcement are delegated to them. Each committee is representative of an entire industry or, if a particular segment is involved, of that segment. Meetings are held only in the presence of a representative of the Administration who is chairman of the committee. Minutes of each meeting are kept and are reviewed by the Office of the Solicitor of the Department of Agriculture.

In some instances, task groups composed of one or more members of a committee are formed for the purpose of securing specific information at the request of the Government Chairman. In such cases, members of the task groups are instructed not to go beyond the specific request made by the Government Chairman, and are warned against calling meetings of industry, circulating questionaires or making any agreement or understanding with other members of the industry.

It is believed that the procedure indicated above is identical in principle with that approved by you in your letter of August 16, 1941, addressed to the Under Secretary of Agriculture and the letter of April 29, 1941, written by the then Attorney General and addressed to John Lord O'Brian, General Counsel of the Office of Production Management, as supplemented by your letter to Mr. O'Brian, dated December 24, 1941.

If it becomes necessary for a committee or an industry group to engage in any activities other than those of the type mentioned above, it is intended that consultation with the Department of Justice shall take place with respect to the certification which is required under the terms of section 12 of Public Law 603, 77th. Congress. However, if this is not the case, no further clearance with the Department of Justice than is now requested is contemplated.

In view of the desire of members of industry for assurance that their participation in the activities of industry advisory committees will not be considered in violation of the Anti-Trust Laws, it will be helpful to have some expression on your part that such participation in accordance with specific requests made by me or at my direction and approved by the Solicitor of the Department of Agriculture in accordance with the procedure described in this letter, will not be viewed by the Department of Justice as constituting violations of the Federal Anti-Trust Laws, and that no prosecution will be instituted for such acts performed in good faith.

Sincerely yours,

/s/ Chester C. Davis

War Food Administrator

F-751

OFFICE OF THE ATTORNEY GENERAL

WASHINGTON, D. C.

May 12, 1943

Honorable Chester C. Davis
Administrator
War Food Administration
Washington, D. C.

My dear Mr. Davis:

Reference is made to your letter of May 8, 1943, concerning the Food Industry Advisory Committee formed by the War Food Administration in connection with the performance of functions delegated by Executive Orders Nos. 9280 and 9322, as amended by Executive Order No. 9334.

As you have indicated, the views of this Department as to the activities of such committees in relation to the Federal antitrust laws have been expressed in letters to the Under Secretary of Agriculture dated August 16, 1941, and to Mr. John Lord O'Brian, dated April 29, 1941, and December 24, 1941.

I understand that the Food Industry Advisory Committees utilized by your Administration are similar to those discussed in the above letters. This being the case, the opinions set forth in those letters are equally applicable to these committees and the functions of the Committees described in your letter will not be viewed by the Department of Justice as constituting violations of the Federal antitrust laws.

With respect to the activities growing out of the above prodecure, however, this Department reserves complete freedom to institute civil actions to enjoin the continuing of acts or practices not found to be in the public interest and persisted in after notice to desist.

I understand that if it becomes necessary for a committee or an industry group to engage in any activities other than those of the type mentioned above, it is intended that consultation with the Department of Justice shall take place with respect to the certification which is required under the terms of Section 12 of Public Law 603, 77th Congress.

Sincerely yours,

/s/ Francis Biddle

Attorney General

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