


Chron

THE WHITE HOUSE

WASHINGTON

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ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: JOHN DEAN
FROM: KEN KHACHIGIAN 

We have a potential problem that we may be faced with in the fall and need to get an opinion before the fur starts flying.

There is a great deal of valuable videotape footage on the networks which would be useful for us to use in ads. E. g., the California debates where HHH beat McGovern over the head on the issues and some of the interview shows where Wilbur Mills, Scoop Jackson and others have been pounding away at McG. Obviously, it would help us to be able to use these to prove that McGovern is not liked even by his own party.

However, as you know, these materials (though we have them on tape) are the property of the networks, and it is my understanding that copyright laws stand in the way of their use. Moreover, it is also my understanding that the networks will not give permission for use of these tapes to one candidate to use against another candidate.

Let me pose some questions and fact situations along these lines:

Suppose we ran an ad in October which used footage from "Meet the Press" -- showing Scoop Jackson attacking McGovern. Suppose, also, that we did not credit the tape to the network. What would be the possible consequences? Keep in mind that we are going to have 1701 make these tapes and not drag Signal Corps into the process.

What happens if we run the ad and at the bottom say: "NBC film -- Meet the Press?" Is the network likely to be less apt to take legal action against the Re-Elect committee?

Assume the ad runs with the credit line at the bottom and NBC seeks legal action. Would an injunction be their first act? If they seek an injunction, and we comply, and let's say the ad ran only two or three times nationally, would the network be in a position to seek damages, and if so what would the amounts possibly be?

Generally, do you see the problems as being so insurmountable as to militate against any use of network tapes in the fashion I suggest? Consider these points. Let's say they seek an injunction, and we say: "O.K., we will pull it off the air, and regret using your tape. But we don't see how anyone can be angry about using someone's public statements. We felt that Meet the Press was an excellent source of information and we used it." Of course, if there is a public outburst on this, it only draws more attention to the ad itself -- to our benefit I believe.

I am least concerned about the injunction. It wouldn't be so bad -- moreover, I am not sure the networks would be all that upset over the free advertisement of their interview shows. But I would be concerned about monetary damages, and it is in this area where I would think we might want to focus.

Obviously no action will be or would be taken until we have some idea about how to proceed.

cc: Fred Fielding
Pat Buchanan