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PRESS RELEASE

THE VICE PRESIDENT
OFFICE OF THE PRESS SECRETARY

FOR IMMEDIATE RELEASE
Wednesday, November 4, 1987

CONTACT: 202/456-6772

EXCERPTS FROM REMARKS FOR
VICE PRESIDENT GEORGE BUSH
THE AMERICAN SPECTATOR
20TH ANNIVERSARY CELEBRATION
WASHINGTON, D.C.
WEDNESDAY, NOVEMBER 4, 1987

I'd like to talk to you tonight about a matter that is affecting our ability to protect and advance our national interests -- the struggle between the executive and legislative branches over the conduct of the foreign policy of the United States.

The Iran-Contra affair, the events in the Persian Gulf, and the debate over the interpretation of the ABM treaty all remind us that this struggle continues, as it has for much of our 200 years. But is this competition healthy, and has it remained within the bounds envisioned by our Founding Fathers?

My own view is that foreign policy is a shared power -- that the founders intended the legislative branch to participate with the executive in the broad formulation of foreign policy, but not in the execution of that policy.

Time does not permit a thorough review of this subject. It will be explored in depth this weekend at a conference of the Federalist Society -- a group of outstanding young lawyers with a talent for staging balanced debates on great legal issues of the day.

But let me say that the signals were quite clear. Hamilton spoke in the Federalist Papers of the need to focus foreign policy in one man so that the nation could act quickly, decisively, and, if necessary, secretly to achieve our goals abroad.

John Marshall spoke of the President as "the sole organ of the nation in its external relations, and its sole representative with foreign nations." And some of the founders who later became President took an expansive view of the executive's powers when they were in office, often acting without consulting Congress.

Pam Young
Am Spec - VA
(Arlington)

financial supporters
Bush - 1987
Nov.

~~1988~~
1992

Tom Wolfe - 1988

Nevertheless, Congress has in recent years enacted scores of statutes that regulate our foreign policy in the minutest detail. The most egregious example of such intrusion on the President's powers as Commander in Chief is the War Powers Resolution.

In the past 200 years we have sent U.S. troops overseas more than 200 times without a declaration of war -- each time to protect our national interests and national security. Should the need arise, any President should do so again -- without hesitation. I would.

Vermont Royster, editor emeritus of The Wall Street Journal, reviewed some of those executive actions and concluded, "In nearly every case, had the President gone to Congress for authority to do what he did, the result would have been a long, drawn-out political battle. Think Libya. Think Grenada. In some cases, even if the President had finally won congressional approval, it would have come too late to make the action effective, or even possible."

In my view, the War Powers Resolution is not only unwise but unconstitutional, by limiting the President's ability as Commander in Chief to respond flexibly when force is required, and by restricting his actions without allowing for a presidential veto.

In the War Powers Resolution Congress claims the power to act by concurrent resolution -- that is, without presidential approval. This the Supreme Court rejected as unconstitutional in its Chadha decision.

These conflicts lead inevitably to efforts to drag the judiciary into foreign policy matters, where it least belongs. The recent lawsuit filed by 100 members of Congress, charging that the President's actions in the Persian Gulf violate the War Powers Resolution, is just one example. I do not believe the founders envisioned any role for the judiciary beyond the adjudication of certain disputes that might arise under treaties.

The War Powers Resolution is not the only example of congressional interference in foreign policy; there are many others -- from the Tunney and Clark amendments on Angola in the '70s, to restrictions on arms exports, to a requirement that our military bases overseas use coal shipped from the United States, no matter what the cost.

A bill passed by the Senate last month went so far as to prohibit any reduction in our consulates and missions abroad, and it earmarked funds for consulates in Salzburg, Strasbourg, Goteborg, Lyon, Dusseldorf, Tangier, Genoa, Nice, Porto Alegre, and Maracaibo.

As Senator Danforth asked during debate on the bill, "Does the role of the U.S. Senate in foreign policy extend to constantly tinkering with everything, fine-tuning everything?" And he added, "I would submit that no reasonable person anywhere in the world can predict how the United States stands on any foreign policy issue."

I don't think it is an exaggeration to say that it is getting as difficult to follow congressional directives on foreign policy as it is to comply with the tax code. The two branches spend almost as much time and effort trying to outfox each other as they do to advance our national interests. This can only embolden our adversaries to exploit our division.

The potential for harm is obvious. In the midst of sensitive arms control negotiations, Congress has considered amendments to legislate provisions of the SALT II treaty -- a treaty that was proposed by a Democratic President and rejected by a Democratic Senate. Some in Congress have tried and are still trying to impose their own interpretation of the ABM treaty. Some have sought to cripple our flexibility in the intelligence field.

In Central America, the on-again, off-again effect of the Boland amendment and other legislative actions has so tied up our support of the freedom fighters that our national resolve has remained in constant doubt.

Writing about this problem in the July Spectator, Jeremy Rabkin observed that the President is left to "interpret temporary legislative enactments when Congress itself is uncertain and ambivalent about larger policy directions."

In effect, we have been operating with a wobbly wheel in Nicaragua -- conveying a sense of instability to all who observe us.

I strongly support the freedom fighters, and I am concerned about what will happen after the Guatemala Peace Accord takes effect on Saturday. Daniel Ortega is returning from Moscow for the event. He will boast of movement toward civil liberties in Nicaragua, and many in Congress will accept his claim.

But what we must resist in Nicaragua is a sham -- an illusion of progress that takes the pressure off the Sandinistas, cripples the Contras, and strengthens the Communists' grip on power.

We are engaged in the support of courageous, patriotic people fighting for freedom against an openly Marxist-Leninist regime. We should not -- and in the years ahead, we must not -- simply cut and run.

You know, the 1964 edition of the congressional publication called Legislation on Foreign Relations was a single 650-page volume. By the middle of the '80s, that had grown to three volumes of more than 1,000 pages each.

This is not policy making or oversight. Often, it is simply meddlesome makework, intended to justify the growing staffs and budgets of proliferating subcommittees.

In my view, turf warfare and competition for the camera contribute as much to the conflicts between the branches as politics and policy do. Some 23 committees and 84 subcommittees claim some jurisdiction over international affairs, each of them jockeying for a piece of the action and the spotlight. This fragmentation strengthens the power of special-interest groups, who in turn reinforce the divisions that already exist.

The challenge we face is to find a cooperative middle ground -- one that respects the important constitutional role of the legislative branch and leaves the executive free to respond quickly and decisively to unforeseen circumstances and events.

Toward that end, I have called for creation of a Joint Intelligence Committee -- a step recommended by the Administration's Task Force on Combatting Terrorism, which I chaired in 1985, and by the Tower Commission earlier this year. Such a committee would build mutual confidence, streamline the consultation process, reduce partisan tensions, and reduce leaks.

I am encouraged by the strong bipartisan support shown for such a committee by members of the House, led by my good friend Henry Hyde, and joined by Dante Fascell, Bill Broomfield, and 126 other cosponsors.

Congressional reform should go further than a joint intelligence committee, however -- it should also lead to greater consolidation of committee work touching on foreign policy.

The initiative for such reforms ultimately must come from Congress itself, but I hope by my campaign for President to bring this issue to the fore and speed the process along.

As a nation, we can deal most effectively with our adversaries if we are united. I hope to encourage a new spirit of bipartisanship on Capitol Hill -- not just on matters of intelligence, but in foreign policy generally. The President and Congress need to work together, and Congress needs to enact its own reforms. We can do better, and we must do better -- our national interest demands no less.

Thank you very much.

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staying for dinner
15 min.

PHILIP MORRIS WORLD HEADQUARTERS

120 PARK AVENUE
NEW YORK, NY 10017
14TH FLOOR

FAX NUMBER - (212) 986-6596

TO: Ms. Peggy Dooley

FROM: Donna Wood - Libertad

COMPANY:

LOCATION: OLD EXEC. OFFICE BUILDING
WASH. D.C. 20500

CC:

FAX: 202 456 6218

10 **PAGES TO FOLLOW**

"I seriously doubt whether suppression of information concerning the availa- bility and price of a legally offered product is ever a permissible way for the State to 'dampen' demand for or use of a product."

Harry Blackmun

Associate Justice, U.S. Supreme Court

"I have in my office a copy of a newspaper published without ads, in a society we wouldn't like here, where the govern- ment decides what people may know and not know. The paper is called Pravda"

Jerry W. Friedheim

Executive Director, American Newspaper Publishers Association

"In the last analysis, censorship of any kind by a government evidences a lack of confidence in the judgement of its citizens."

Alan Dershowitz

Professor, Harvard Law School

9.9

■ ■ ■ ■ ■

HOW CAN YOU AND LIBERTAD WORK TOGETHER TO PRESERVE AND PROTECT COMMERCIAL FREE SPEECH?

By choosing one of the three classes of LIBERTAD membership:

- *Associate membership.* Associate members may join LIBERTAD by contributing $250. Associate members will receive notification of major LIBERTAD activities and will be invited to participate in selected LIBERTAD events.
- *Contributing membership.* Organizations may become contributing members by donating $5,000 per year ($1,000 for individuals) to LIBERTAD. Contributing members will have access to specialized LIBERTAD services at a reduced charge and will receive free copies of all LIBERTAD publications and studies.
- *Sponsoring membership.* Organizations may become sponsoring members of LIBERTAD with a one-time donation of $25,000 ($5,000 for individuals). Sponsoring members will have access to all LIBERTAD services without charge and receive free copies of LIBERTAD publications and studies.

In Conclusion . . .

LIBERTAD is an idea that transcends languages, borders and cultures. Its premise is as simple as it is powerful: the viability of our economic system rests on the right of business to advertise its legitimate products and services without restriction or censorship; and that absolute vigilance is necessary in all sectors of private enterprise to prevent the erosion or usurpation of this right.

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LIBERTAD ADVISORY BOARD: VARIED BACKGROUND, UNIFIED PURPOSE

LIBERTAD brings together community leaders drawn from a wide political spectrum. They share a common belief in freedom of choice and free commercial speech. ■ ■ ■ The following are the members of the LIBERTAD Advisory Board:

■ **David A. Morse Esq.**
Chairman

Senior Partner
Jones, Day, Reavis & Pogue
New York, NY, USA

■ **Juan Carlos Blanco**
Attorney
Former Minister of Foreign Affairs & Ambassador to the United Nations
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Universidad Complutense de Madrid
Madrid, Spain

■ **Hanns Joachim Friedrichs**
Chief Editor ZDF, Tagesthemen
Hamburg
Federal Republic of West Germany

■ **Marvin Kalb**
Professor
John Kennedy School of Government
Harvard University
Cambridge, MA, USA

■ **George Koch**
President
Grocery Manufacturers Association of America
Washington D.C., USA

■ **Nan McEvoy**
Chairman & CEO
The San Francisco Chronicle Group
San Francisco, CA, USA

■ **Jacques Seguela**
Chief Executive Officer
Rouc, Seguela, Cayzac & Goudard
Paris, France

■ **Alexander Buel Trowbridge, Jr.**
President
National Association of Manufacturers
Washington D.C., USA

Charlie Smith
Libertad – Am Spec ? Libertad
how old – 2 yrs?
kind of programs? austral, NK, UK, Fr, Ger
hard Plumb? – active member of Libertad

M

non-profit – 1st Amendment

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■ ■ ■ ■ ■

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CHAIRMAN OF LIBERTAD, INC.

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61

LIBERTAD, INC.

LIBERTAD is a diverse coalition committed to preserve and advance the dual freedoms of expression and choice. The basic belief governing LIBERTAD is that these freedoms are indispensable to economic and social progress and opportunity, and that they are too precious to abdicate to those who would encroach on them.

We believe that the history made during the year just ended supports LIBERTAD's position beyond dispute. To the delight of the Western World, the long-suppressed desire for freedom of expression and freedom of choice burst forth to topple dictators and set millions free.

Our question is this. While we in the West cheered, did we also learn? While we cheered, did we look over our shoulder to see if the same encroachments and restrictions that ultimately enslaved millions in the East threaten the democratic West? Did we ask ourselves if government is increasing its attempts to stifle our expression and restrict our choices? Or if the zealots invoked by Justice Brandeis are trying in subtle ways to force free citizens to relinquish their constitutional guaranteed right of freedom of choice?

The demise of flagrant tyrannies abroad distracts from the emergence of more insidious encroachments on our individual freedoms at home, giving LIBERTAD's mission of preserving and advancing freedom of expression and choice a new urgency.

To achieve this mission, LIBERTAD has established three basic goals: Educating government, business and the general public to the importance of unrestricted commercial free speech; stimulating public debate about the dangers of government controls on free speech; and ensuring that governments understand the consequences of restricting free speech.

We ask you to join us in pursuit of those goals — and of freedom of choice and expression the world over.

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■ ■ ■ ■ ■

WHY LIBERTAD?

Some governments are seeking to deprive consumers of the information they need to make their buying decisions. They're doing this by attempting to restrict commercial free speech with selective bans on advertising. ■ ■ ■ Such restrictions inflict a sharp hurt on buyer and seller alike. They diminish economic activity and cripple the entrepreneurial spirit. And they diminish the amount of information consumers receive about legitimate products. ■ ■ ■ Efforts to restrict commercial free speech are as repugnant and insulting as the restrictions themselves. Those who would limit what a consumer has a right to know are, in effect, forcing free citizens to relinquish their constitutionally guaranteed freedoms to those who say they know better. ■ ■ ■ This is censorship, and the appetite of the censor is insatiable. Today it's cigarettes. Tomorrow, wine and beer. Next, it could be sports cars, steaks or skis. ■ ■ ■ We formed LIBERTAD to preserve and protect the commercial free speech that gives our society and economic system their voice.

G.4

WHAT IS LIBERTAD?

LIBERTAD is a diverse, international coalition of business, academic and media leaders and organizations dedicated to the protection and advancement of commercial free speech. ■■■ LIBERTAD, which was formed in 1986, is the first organization of its kind in the free world. ■■■ LIBERTAD exists to promote the belief that the world's economic and social interests are best served by unrestricted access to information about legally manufactured and marketed products.

WHAT ARE LIBERTAD'S OBJECTIVES?

LIBERTAD has three basic goals:

- To educate and persuade business, government and the general public to the importance of unrestricted commercial free speech.
- To stimulate public debate about the effects of government controls on advertising and other forms of commercial speech.
- To ensure that governments contemplating advertising restrictions fully understand the implications of the measures under consideration.

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■ ■ ■ ■ ■

WHAT IS LIBERTAD DOING TO REACH ITS OBJECTIVES?

LIBERTAD is moving toward these goals with the development and implementation of programs revolving around advocacy, education, counseling and coalition building.

Advocacy

- *Sponsor advertising* prepared for print and broadcast media in international markets, focusing on the value of commercial free speech as well as specific legislative and political matters relating to these issues.
- *Commission articles* defending commercial free speech aimed at high level audiences and distributed to influential publications in worldwide media markets.
- *Conduct seminars and conferences* throughout the free world, featuring prominent business and political figures and recognized authorities on commercial free speech.

Education

- *Sponsor lectures and films* on commercial free speech for distribution to educational, civic, business and political organizations.
- *Maintain a speakers bureau* consisting of practitioners of advertising and other forms of business communication who speak with eloquence and conviction about the significance of — and threats to — commercial free speech.
- *Commission surveys and studies* by prestigious public opinion and policy research organizations that examine the legal, political, economic and scientific ramifications of the commercial free speech issue.

S. 4

Counseling

- *Retain communication consultants* to help develop issues strategies, assist in preparation of advertisements, articles and speeches and train and brief spokespersons in behalf of commercial free speech.
- *Commission political consultants* to advise on developing and presenting legislative arguments in support of commercial free speech in varying political environments and to help commercial free speech advocates establish contact with influential political figures.
- *Engage legal counsel* specializing in commercial free speech to assist with court cases and other relevant litigation and to help interpret court rulings that affect advertising.

Coalition Building

- *Form alliances* with all businesses, industries, trade associations and other parties directly or indirectly involved or interested in the promotion and preservation of commercial free speech.
- *Establish media relations*, utilizing press conferences and editorial board meetings to acquaint media representatives with the commercial free speech issue.
- *Cultivate civic and political leaders* through frequent communication and personal contact in connection with commercial free speech matters.

G. 7

HOW REAL IS THE THREAT TO COMMERCIAL FREE SPEECH?

Listen to these impartial commentators. The danger inherent in the threat to commercial free speech is recognized across the economic, social and political spectrum. The following are excerpts of comments by people closely concerned with the issue of commercial free speech:

"If you can't trust a citizen to make a decision for himself — if you can't trust the consumer after he's been fully educated to make the right decision — then you don't have democracy."

Craig R. Smith

President, Freedom of Expression Foundation

"Censorship in any form is contrary to the basic freedom of individuals to think. If you start having one

LIBERTAD
FOR FREEDOM OF CHOICE

January 18, 1990

Advisory Board

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Chairman
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Roux, Seguela, Cayzac & Goudard
Paris, France

Alexander Buel Trowbridge, Jr.
President
National Association of
Manufacturers
Washington D.C., USA

Attention: Peggy Dooley

Enclosed you'll find our two(2) brochures on LIBERTAD and the description from the program. Although you have received most of this information by FAX on Thursday, I wanted you to see our pamphlets and perhaps you can get some useful information from them.

If you have any questions or need more information, please call Andrew Whist, President of LIBERTAD at 212/880-4009.

Thanks for everything.

Sincerely,

Donna Wood

Donna Wood

DW:gvb
enc.

LIBERTAD Inc. 599 Lexington Avenue New York, NY 10022 Telephone: (212) 888-9522

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LIBERTAD, Inc.

Libertad, Inc. was formed in 1986 by an international, non-partisan coalition of civic and business leaders, academics, media leaders, and organizations interested in promoting and preserving freedom, our most precious commodity, worldwide. The philosophy of Libertad is simple: Freedom of speech, communication, and expression, which together form the basis of freedom of choice, are fundamental to the survival of our political and economic structures, indeed to the survival of all truly democratic systems. Those who would place restrictions and conditions on these freedoms threaten the viability of our system. Libertad's mission is to oppose the imposition of restrictions that inhibit free political and economic activity.

Through services and programs designed to educate government officials, businessmen, and the general public on the importance of free speech, Libertad underlines the effects that limitations on free speech can have on a society that too often takes its freedoms for granted. At both the national and international level, Libertad sponsors advertising promoting the value of free speech, commissions articles defending freedom of expression and distributes them to influential publications, and conducts seminars and conferences featuring noted authorities on freedom of communication. The organization also commissions studies by prestigious research organizations to examine the legal, political, economic, and scientific aspects of free speech, and distributes lectures and films to educational and political groups. Communication specialists, political consultants, and legal counsel employed by Libertad all work to develop strategies for overcoming impediments to free speech.

American members of Libertad's distinguished advisory board include Dr. Kenneth Clark, professor emeritus of the City College of the City University of New York; Marvin Kalb of the John F. Kennedy School of Government, Harvard University; Nan McEvoy, chairman and CEO of the San Francisco Chronicle Group; and Alexander Buel Trowbridge, Jr., president of the National Association of Manufacturers. They, like other Libertad members, understand that without freedom of speech, without access to the information that enables citizens to make choices, democracy cannot flourish. Libertad has taken on the task of protecting freedom at home and advancing it abroad because if this nation allows its freedoms to erode, it cannot serve as an example. Libertad is ensuring that we not only guard our own interests, but also serve as a model to those nations now struggling for democracy.

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FOR FREEDOM OF CHOICE

THOUGHTS ON FREEDOM OF SPEECH

By

David A. Morse, Esq.

And

Barry Lynn

LIBERTAD

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■ ■ ■ ■ ■

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COMMERCIAL SPEECH AS A BASIC FREEDOM

In all free societies, we have come to expect, indeed we nearly take for granted, such basic rights as freedom of association and assembly, free speech and a free press. In the United States and Great Britain, as in many other western nations, these freedoms are constitutionally guaranteed, and fall under the watchful eye of the judiciary. In other countries, however, these freedoms are at the core of a very different political process between government and citizen, as the remarkable recent events in Beijing, Moscow and Eastern Europe will attest. ■ ■ ■ I see these freedoms as all emanating from the core democratic principles that form the tree of life. These freedoms, or branches if you will, need pruning from time to time. Indeed, each freedom is constantly being reshaped and defined through public debate, as well as through administrative and judicial interpretation. But the tree must be allowed to grow and flourish; it must be strong enough to withstand the daily attempts of outside forces to stunt its growth or to sever one of its limbs, and thus deprive it of the light and air that are essential to its life. ■ ■ ■ In considering the branch of the tree called free speech, we are used to defending this right in the spheres of politics, religion and the arts. There appears to be general agreement that a substantial public interest must be at stake before a government should be permitted to muzzle speech in one of these spheres. But as we look more closely at this branch, we find that another type of speech has received less attention and, unfortunately, less protection, but which is very much a part of our daily lives. That speech is commonly called commercial speech. ■ ■ ■ The U.S. Supreme Court has considered the question of commercial speech on several occasions in recent years, starting with a 1976 decision invalidating a statewide ban on pharmaceutical advertisements. Said the Court, "people will perceive their own best interest if only they are

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nouncements extolling the virtues of a free flow of commercial information. ■ ■ ■ I mention these American cases as a backdrop to the issue at hand, which is the extent to which *any* government should have the right to restrict commercial speech because of the content of the commercial message. Should a government be permitted to attempt to protect its citizenry by somehow screening or restricting the flow of otherwise truthful advertising about products and services legally offered for sale? It would be presumptuous of LIBERTAD, as a relatively young organization, to take a stand on the regulation of particular forms of commercial speech without a great deal more study and analysis. However, as a lifelong civil libertarian, I do not think it presumptuous for me to endorse — or for me to urge that LIBERTAD endorse — the basic principle that the presumption must always be in favor of a free flow of ideas, be they commercial or otherwise, and only for the most compelling reasons should that presumption be overcome. Just as we need a free flow of political ideas to ensure a smoothly functioning democracy, so we need a free flow of commercial information — on prices, quality, and consumer practices — to ensure a smoothly functioning economy where consumers make intelligent choices before spending their money on food, clothing, household products, or even luxuries. While we all have our individual prejudices as to the extent to which we would like advertising to touch our lives, it cannot be denied that commercial information serves a very necessary role in educating the public about new products and about competing claims of competitors. ■ ■ ■ In most instances, restrictions on the flow of commercial information are justified on the basis of paternalism — that a government has the right, if not the obligation, to protect its citizenry from information harmful to its well-being. For example, many governments have established

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advertising regulations in order to protect children. But should adults be treated similarly to children with regard to advertising — are we truly worried that exposure to all available commercial information requires similar controls? I think the answer must be no. Widespread regulation of commercial speech shows that government takes a rather low if not demeaning view of its citizenry — a citizenry unable to make informed choices on its own. As Justice Blackmun of the U.S. Supreme Court has noted in criticizing such a view, restrictions on commercial speech often involve (and I quote) "a covert attempt by the state to manipulate the choices of its citizens, not by persuasion or direct regulation, but by depriving the public of the information needed to make a free choice. . . . [T]he State's policy choices are insulated from visibility and scrutiny . . . and the conduct of citizens is molded by the information that government chooses to give them."[8] ■ ■ ■ Whenever possible, therefore, an individual should be permitted to make as informed a commercial decision as he or she chooses, with access to as much non-misleading commercial information as he or she wishes to receive. Governmental efforts to prevent such information from reaching the populace, either through restrictions on the content of advertising, or through attempts to set standards or norms by which advertising will be permitted, ordinarily should be resisted. Restrictions of these types merely serve to substitute the values of government officials for the values of consumers themselves. Moreover, such restrictions leave consumers with a false impression of decision-making control, when in fact that process is effectively controlled by others.

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The Need For LIBERTAD In Europe

Although most people broadly endorse the principle of free commercial speech, few have looked closely at the way in which commercial speech is being regulated in our ever-changing environment. Indeed, both in America and in Europe, we found no organization dedicated to the study and analysis of issues relevant to the regulation of commercial speech. LIBERTAD, a diverse, international coalition of business, academic, legal, civil rights and media leaders, was formed in 1986 in order to fill this void. It is the first organization of its kind in the free world dedicated to the protection and advancement of commercial speech. It asks one basic question: when goods and services at issue are legally available for sale, under what circumstances, if any, should government be permitted to limit an advertiser's access to the media or to regulate the content of an advertiser's message? ■ ■ ■ Nowhere today is this question being debated more urgently than in Europe, where we are not dealing with a single Supreme Court interpreting a single body of federal constitutional law, but where there is both national and supranational law interacting in an environment of intense political pressures that is part and parcel of the drive toward the European Economic Community of 1992. Advertising norms will be no exception to the ongoing process of rationalizing and harmonizing conflicting national laws, and a serious question exists whether that process will lead to the free movement and expression of ideas. That concept, as we all know, did not emanate from Lord Cockfield's proclamation of the Europe of 1992. Rather, it was codified in the early post-war years in Article 10(1) of the European Convention on Human Rights, which categorically proclaims that "[e]veryone has the right to freedom of expression." It goes on to say that "[t]his right shall include freedom to hold opinions

cerns, both at the national and the European level. At the national level, advertising is often a sensitive issue because of state support, or even ownership, of broadcast and other media. At the supranational level, members and staff of the European Commission and the European Parliament are frequently lobbied by business, environmental, health and consumer groups, and thus operate in an environment of constant pressure regarding the appropriate level of regulation. In this regard, a broadcasting directive has just been adopted by the EC ministers after considerable debate. While programming content is its primary focus, the directive is also noteworthy for its statements regarding European advertising. The directive notes in its preamble the basic principle of freedom of expression enshrined in Article 10 of the Convention on Human Rights, and cautions that television advertising should be subject only to a minimum of rules and standards. However, the directive does place an absolute ban on television advertising and sponsorship of television programming by producers of tobacco products, and creates a more qualified set of restrictions on advertising of alcoholic beverages. It remains to be seen how these advertising norms will be interpreted in the first instance at the national level and then at the European level. ■ ■ ■ For the near future, we can expect increasing discussion of the regulation of print media and labeling for products such as food, pharmaceuticals, candy, fertilizers, sanitary products and toys, as well as for services of many kinds. At the same time, there will likely be increased European movement toward codes of conduct and other forms of self-regulation, as evidenced by the recent agreement between the French Government and the syndicate of French automobile manufacturers prohibiting advertising campaigns which might encourage irresponsible driving. As Community rules are now

subject to more detailed national implementation by each of the Community members, and as the pan-European markets at stake are enormous, a great need exists for clarity and precision on this subject. In order to serve as a focal point on these issues, LIBERTAD has formed a separate entity entitled LIBERTAD (Europe). Together, LIBERTAD and LIBERTAD (Europe) will sponsor meetings where the views of business leaders, journalists, attorneys, government officials, labor leaders and parliamentarians will be welcome. We will continue to do what we can to help define the debate so as to ensure a continuing commitment to one of our fundamental freedoms — the free flow of ideas and information.

[1]Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc., 425 U.S. 748, 770, 96 S. Ct. 1817, 1829 (1976).

[2]Central Hudson Gas & Electric Corp. v. Public Service Commission of New York, 447 U.S. 557, 100 S. Ct. 2343 (1980).

[3]Bolger v. Youngs Drug Products Corp., 463 U.S. 60, 103 S. Ct. 2875 (1983).

[4]Posadas de Puerto Rico Associates v. Tourism Co. of Puerto Rico, 478 U.S. 328, 106 S. Ct. 2968 (1986).

[5]478 U.S. at 358, 106 S. Ct. at 2986.

[6]Board of Trustees of the State University of New York v. Fox, _____ U.S. _____, 109 S. Ct. 3028 (1989).

[7]_____ U.S. at _____, 109 S. Ct. at 3035.

[8]Central Hudson Gas & Electric Corp., 447 U.S. at 574-575, 100 S. Ct. at 2356 (dissenting opinion).

[9]The Sunday Times Case, judgment of 26 April 1979 of the European Court of Human Rights, at paragraph 62; Handyside Case, judgment of 7 December 1976 of the European Court of Human Rights, at paragraphs 48-50.

[10]Liljenberg v. Sweden, decision of 1 March 1983 of the European Commission of Human Rights, at page 15; X and Church of Scientology v. Sweden, 16 D&R 68, 73 (1979), decision of the European Commission of Human Rights.

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BARRY W. LYNN
LEGISLATIVE COUNSEL, AMERICAN CIVIL LIBERTIES UNION

Barry W. Lynn is Legislative Counsel for the American Civil Liberties Union in Washington, DC. He lobbies Congress on behalf of the A.C.L.U.'s unswerving support for First Amendment principles. He has also become what one magazine called "the most recognized advocate of free speech in America," as a guest on countless radio and television programs including Today, Good Morning America, Nightwatch, Meet The Press, Nightline, The McNeil-Lehrer Report, *and* Crossfire. *His national effort to discredit the Attorney General's Commission on Pornography earned him the 1987 First Amendment Award. In recent years, his articles and interviews have appeared in publications as diverse as* Harvard Civil Rights-Civil Liberties Law Review *and the* Penthouse Forum *magazine.* ■ ■ ■ *Lynn is an ordained minister in the United Church of Christ. He was also the first national chairperson of the Committee Against Registration and the Draft. Lynn is a frequent lecturer and debater on such topics as pornography, separation of church and state, compulsory national service, AIDS and constitutional history.* ■ ■ ■ *Mr. Lynn is also the co-host, with Pat Korten, of* Battleline, *a daily two-hour debate program developed by WNTR-AM (Silver Spring/Washington).*

■ ■ ■ ■ ■

FREE SPEECH: THE BASIS OF A FREE SOCIETY

Basic to every free society is the guarantee of freedom of speech. Uncensored communication is a prerequisite to the achievement of progress, democracy, peaceful social change and human dignity. It is through the free play of ideas that material, artistic and scientific progress are possible. ■ ■ ■ A government that censors the free flow of ideas and information loses the moral legitimacy that allows democratic governments to rule over a free people. As young children we were taught that it was impolite to interrupt someone who was speaking. At home it was taught to us in terms of "good manners," when we got out into the world we realized that the good manners our elders ingrained in us are not some quaint custom, but rather, the basis of freedom. ". . . [T]he suppression of speech is an assault on the human dignity of the speaker and listener alike."[1] ■ ■ ■ Peaceful social change can only be achieved through free speech. The civil rights and anti-war movements in the United States were not only exercises in free speech but the means by which those who were dissatisfied with the existing social structure aired their grievances. Free speech is also the means by which society as a whole can be made aware of its shortcomings and remedy them without resort to violence. ■ ■ ■ The First Amendment to the U.S. Constitution, and similar guarantees of free speech in the constitutions of other democratic nations, are necessary to protect those whose views are unpopular. Someone whose views are in the mainstream of accepted popular views needs no protection; since most people agree with him, no one is likely to attempt to shut him up. ■ ■ ■ When we think of freedom of speech, we generally tend to think of speech about religion, politics, science or art. There is, however, another form of speech which is as vitally important: com-

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consumer why they should purchase a particular product, but also provide a social service. For instance, advertisements for toothpaste remind consumers to practice good oral hygiene: to brush and floss daily and see a dentist regularly. Similarly, ads for health spas and gyms emphasize the importance of regular exercise; ads for some food products stress the importance of a well-balanced diet; and ads for suntan products caution against overexposure to the sun's ultraviolet rays. ■ ■ ■ Were it not for the information that advertisements make available to the general public, consumer choice and competition would be severely restricted. Ultimately, without this advertising-driven competition the most successful manufacturers would be those who already enjoyed a large share of the market, or whose brand reputation is maintained regardless of whether the consumer is knowledgeable about the product. ■ ■ ■ Despite its importance, commercial speech is not generally free from censorship. Governments in many countries have banned advertisement of particular products for many reasons. The government does have a role to play in protecting the public from advertisements which may be untruthful or misleading. Rationing information may be acceptable in the case of children, whose trusting nature makes them needy for protection from things they cannot yet understand or interpret. ■ ■ ■ However, the adult population has the capability and the responsibility to make personal decisions based on all available information. By censoring advertising governments reduce adult consumers to hearing only what is suitable for children, and deny them the information that can help them make informed choices. ■ ■ ■ Censoring of commercial speech shifts the power of economic decision making from the individual consumer to the elite that controls the flow of informa-

HOW REAL IS THE THREAT TO COMMERCIAL FREE SPEECH?

Listen to these impartial commentators. The danger inherent in the threat to commercial free speech is recognized across the economic, social and political spectrum. The following are excerpts of comments by people closely concerned with the issue of commercial free speech:

"If you can't trust a citizen to make a decision for himself — if you can't trust the consumer after he's been fully educated to make the right decision — then you don't have democracy."

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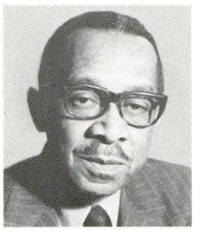
President, Freedom of Expression Foundation

"Censorship in any form is contrary to the basic freedom of individuals to think. If you start having one kind of censorship, where do you stop?"



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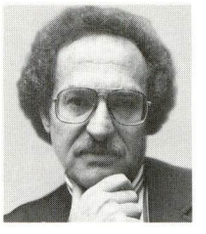

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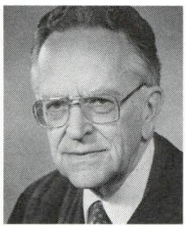

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"Once you start down the road of regulation of speech, you may think you're giving the government power just to censor your favorite evil . . . but in fact you are giving government the power to censor whatever it wants to . . . And that power, once unleashed, is very difficult and perhaps impossible to limit."

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- Marvin Kalb
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  John Kennedy School of Government
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- George Koch
  President
  Grocery Manufacturers Association
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  Washington, D.C., USA

- Nan McEvoy
  Chairman & CEO
  The San Francisco Chronicle Group
  San Francisco, CA, USA

- Jacques Seguela
  Chief Executive Officer
  Roux, Seguela, Cayzac & Goudard
  Paris, France

- Alexander Buel Trowbridge, Jr.
  President
  National Association of Manufacturers
  Washington D.C., USA

If you think freedom of expression is important, please contact:

LIBERTAD, Inc. 599 Lexington Avenue New York, NY 10022 Telephone: (212) 888-9522

LIBERTAD
FOR FREEDOM OF CHOICE

LIBERTAD, Inc. 599 Lexington Avenue New York, NY 10022 Telephone: (212) 888-9522

FOR FREEDOM OF CHOICE

LIBERTAD

"Informed choice is the essence of our economic system as well as our political system, and advertising is a fundamental part of the process by which consumers become informed."

Daniel Oliver

Former Chairman U.S. Federal Trade Commission

LIBERTAD
FOR FREEDOM OF CHOICE

Liberty to Advertise

WHY LIBERTAD?

Some governments are seeking to deprive consumers of the information they need to make their buying decisions. They're doing this by attempting to restrict commercial free speech with selective bans on advertising. ■ ■ ■ Such restrictions inflict a sharp hurt on buyer and seller alike. They diminish economic activity and cripple the entrepreneurial spirit. And they diminish the amount of information consumers receive about legitimate products. ■ ■ ■ Efforts to restrict commercial free speech are as repugnant and insulting as the restrictions themselves. Those who would limit what a consumer has a right to know are, in effect, forcing free citizens to relinquish their constitutionally guaranteed freedoms to those who say they know better. ■ ■ ■ This is censorship, and the appetite of the censor is insatiable. Today it's cigarettes. Tomorrow, wine and beer. Next, it could be sports cars, steaks or skis. ■ ■ ■ We formed LIBERTAD to preserve and protect the commercial free speech that gives our society and economic system their voice.

WHAT IS LIBERTAD?

LIBERTAD is a diverse, international coalition of business, academic and media leaders and organizations dedicated to the protection and advancement of commercial free speech. ■ ■ ■ LIBERTAD, which was formed in 1986, is the first organization of its kind in the free world. ■ ■ ■ LIBERTAD exists to promote the belief that the world's economic and social interests are best served by unrestricted access to information about legally manufactured and marketed products.

WHAT ARE LIBERTAD'S OBJECTIVES?

LIBERTAD has three basic goals:

- To educate and persuade business, government and the general public to the importance of unrestricted commercial free speech.
- To stimulate public debate about the effects of government controls on advertising and other forms of commercial speech.
- To ensure that governments contemplating advertising restrictions fully understand the implications of the measures under consideration.

WHAT IS LIBERTAD DOING TO REACH ITS OBJECTIVES?

LIBERTAD is moving toward these goals with the development and implementation of programs revolving around advocacy, education, counseling and coalition building.

Advocacy

- *Sponsor advertising* prepared for print and broadcast media in international markets, focusing on the value of commercial free speech as well as specific legislative and political matters relating to these issues.
- *Commission articles* defending commercial free speech aimed at high level audiences and distributed to influential publications in worldwide media markets.
- *Conduct seminars and conferences* throughout the free world, featuring prominent business and political figures and recognized authorities on commercial free speech.

Education

- *Sponsor lectures and films* on commercial free speech for distribution to educational, civic, business and political organizations.
- *Maintain a speakers bureau* consisting of practitioners of advertising and other forms of business communication who speak with eloquence and conviction about the significance of — and threats to — commercial free speech.
- *Commission surveys and studies* by prestigious public opinion and policy research organizations that examine the legal, political, economic and scientific ramifications of the commercial free speech issue.

Counseling

- *Retain communication consultants* to help develop issues strategies, assist in preparation of advertisements, articles and speeches and train and brief spokespersons in behalf of commercial free speech.
- *Commission political consultants* to advise on developing and presenting legislative arguments in support of commercial free speech in varying political environments and to help commercial free speech advocates establish contact with influential political figures.
- *Engage legal counsel* specializing in commercial free speech to assist with court cases and other relevant litigation and to help interpret court rulings that affect advertising.

Coalition Building

- *Form alliances* with all businesses, industries, trade associations and other parties directly or indirectly involved or interested in the promotion and preservation of commercial free speech.
- *Establish media relations,* utilizing press conferences and editorial board meetings to acquaint media representatives with the commercial free speech issue.
- *Cultivate civic and political leaders* through frequent communication and personal contact in connection with commercial free speech matters.

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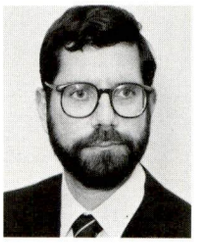

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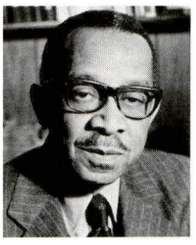

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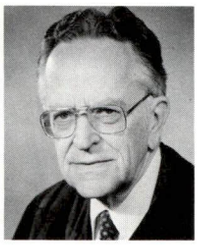

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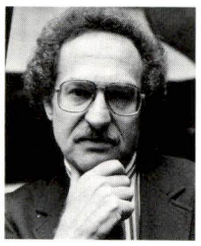

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HOW CAN YOU AND LIBERTAD WORK TOGETHER TO PRESERVE AND PROTECT COMMERCIAL FREE SPEECH?

By choosing one of the three classes of LIBERTAD membership:

- *Associate membership.* Associate members may join LIBERTAD by contributing $250. Associate members will receive notification of major LIBERTAD activities and will be invited to participate in selected LIBERTAD events.
- *Contributing membership.* Organizations may become contributing members by donating $5,000 per year ($1,000 for individuals) to LIBERTAD. Contributing members will have access to specialized LIBERTAD services at a reduced charge and will receive free copies of all LIBERTAD publications and studies.
- *Sponsoring membership.* Organizations may become sponsoring members of LIBERTAD with a one-time donation of $25,000 ($5,000 for individuals). Sponsoring members will have access to all LIBERTAD services without charge and receive free copies of LIBERTAD publications and studies.

In Conclusion . . .

LIBERTAD is an idea that transcends languages, borders and cultures. Its premise is as simple as it is powerful: the viability of our economic system rests on the right of business to advertise its legitimate products and services without restriction or censorship; and that absolute vigilance is necessary in all sectors of private enterprise to prevent the erosion or usurpation of this right.

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  Washington D.C., USA

When she lays the egg, she deserves to cackle

When manufacturers produce a legitimate product, they deserve to advertise.

But that's not the way it is.

Certain products are now totally or partially banned from media outlets.

Why? Censorship.

Censorship attacks two of our most cherished freedoms: The right of the producer to speak. And the right of the consumer to receive sufficient information to make sound choices.

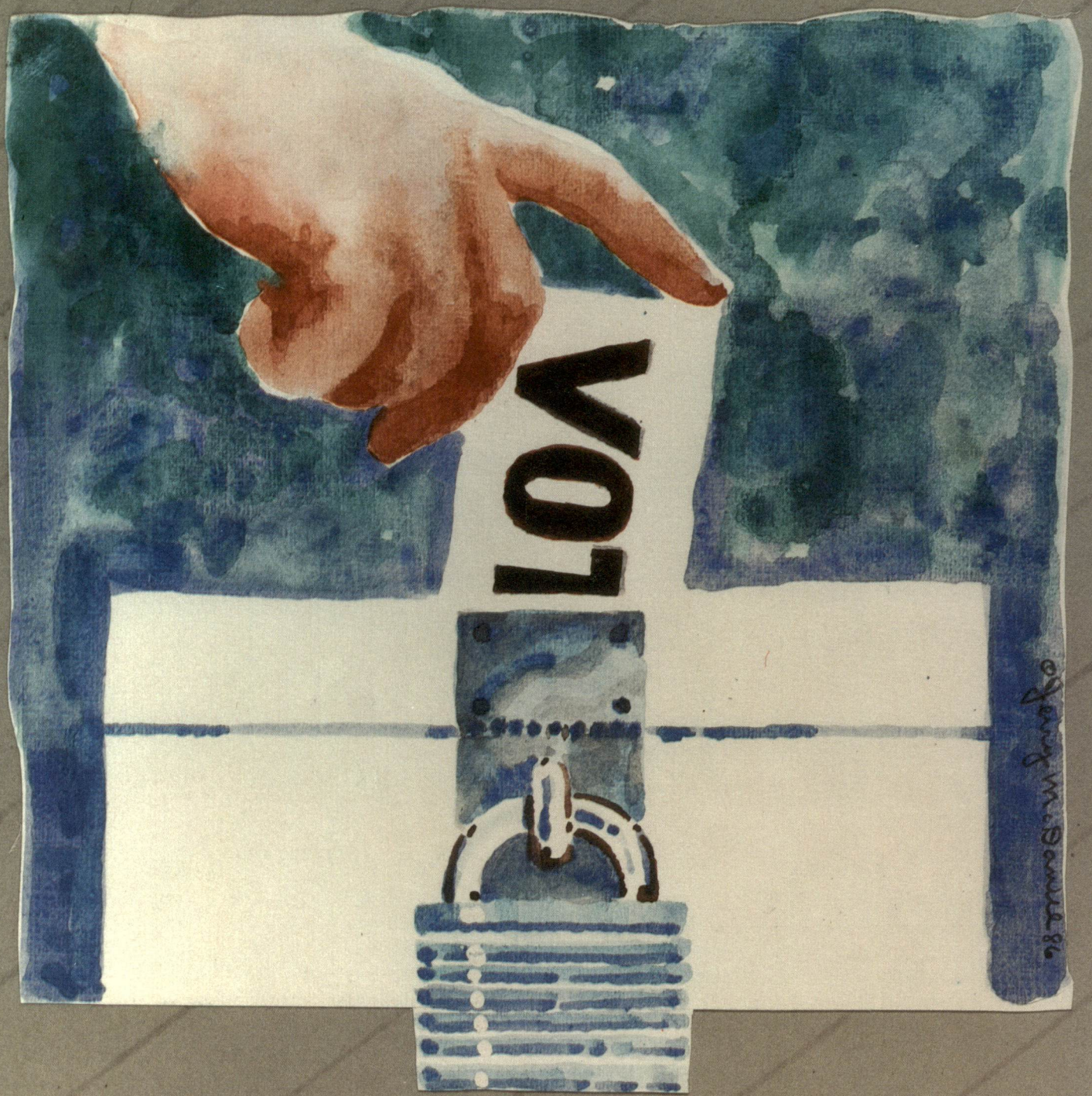
Libertad was formed to expose censorship.

We're here to defend the right to choose. The freedom to advertise our legally produced and lawfully distributed products without restrictions or barriers.

Because in business, as in everything else, we believe in freedom of expression. You deserve it.

LIBERTAD
FOR FREEDOM OF CHOICE

Does reading an ad take more wisdom than voting for the president?



This voter is 30 years old.
He has voted three times for the President.
He was in the army. He graduated from college.
He's married with two kids.
He has a job. He's a taxpayer.
He has a bank account and some credit cards.
Everybody think he's a sensible man, able to make his own decisions.

Well, not everybody. Certain people have determined what kind of advertising he should see. And what he shouldn't see.

Even though all the products involved are legally manufactured and sold.

Certain people decided to protect him.
Certain people don't trust his wisdom.
Certain people are still afraid of freedom.

LIBERTAD
FOR FREEDOM OF CHOICE

Lock step and locked lips

In some countries there is no such thing as freedom of speech.

Where freedom is scarce, there is no free competition. Market laws are dictated by ruling bureaucracy. Every form of expression is severely controlled.

In our country, freedom is our right. It's part of our lifestyle. Naturally, we are concerned about restricting the freedom to advertise.

Some people think that freedom of advertising is not an essential freedom. But there are no "big" and "small" freedoms. All freedom is essential.

Sound, sensible companies who pay taxes and provide jobs for thousands of people must be allowed to advertise their legally manufactured products.

Freedom of advertising is our right, an important freedom.

LIBERTAD

FOR FREEDOM OF CHOICE

Censorship extinguishes the flame of freedom

Freedom is our most precious commodity.

Freedom of speech. Freedom of communication. Freedom of expression. The essential ingredients for freedom of choice.

But censorship denies our freedoms. It limits our freedom of choice.

Today we are at risk of losing our freedom of choice because freedom of communication through advertising is threatened.

Sadly, there are people who think they must control our freedom. They are imposing restrictions. Certain products that are lawfully produced and legally distributed cannot be advertised in all media.

Are you willing to compromise your freedom of communication? Or would you rather be fully informed on subjects that interest you?

Join with Libertad. Our purpose is to brighten freedom of choice in advertising.

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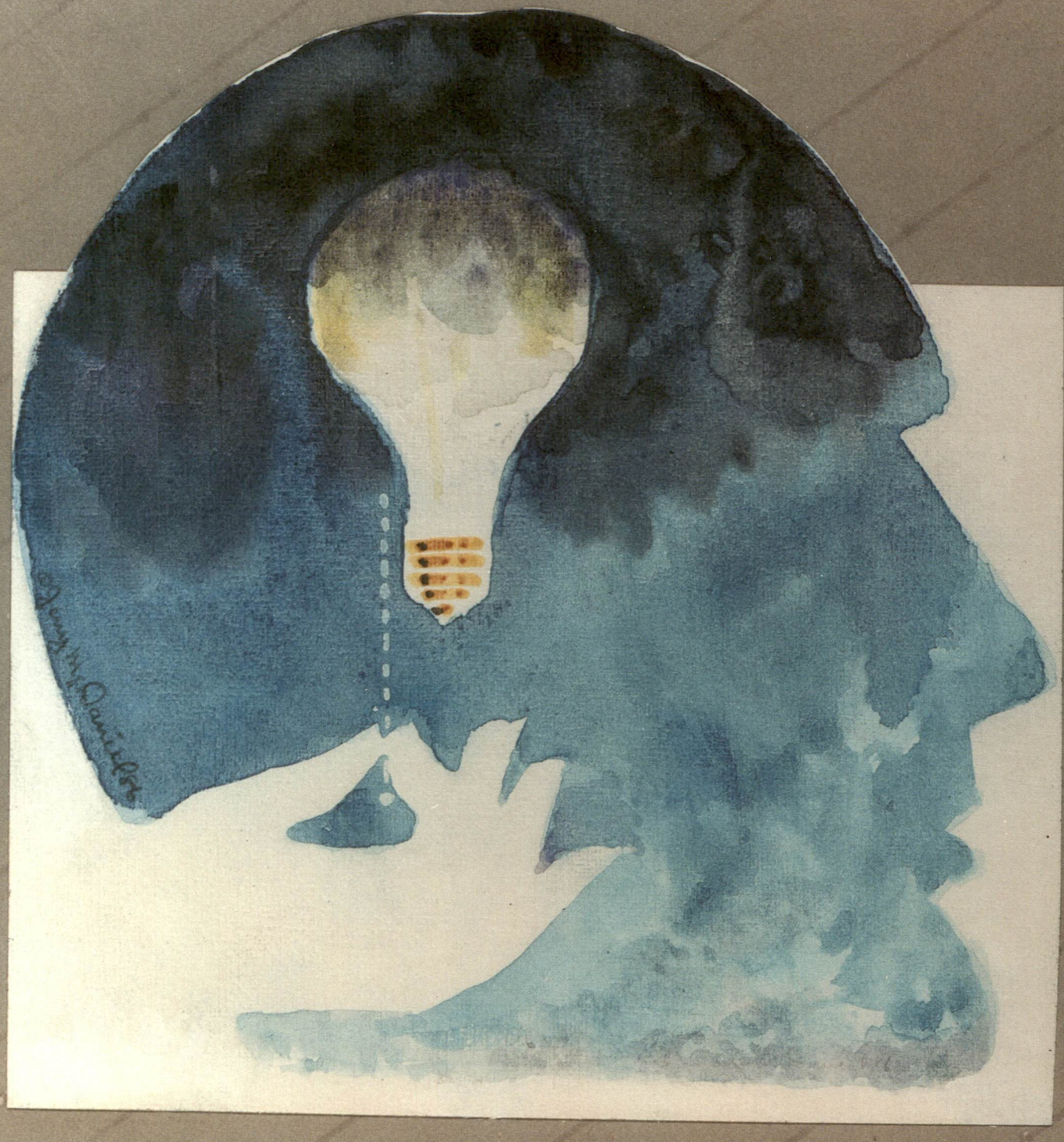
Censorship dims the mind



The strength of a democracy lies in its informed citizens.

Censorship — of any kind — weakens the fabric of a nation. Decisions are made for the people rather than by the people.

Businesses reduce productivity.

Innovators remain silent.

Even artists hesitate to create.

Censorship is insidious. It can begin with restrictions on advertising.

Be aware. It is happening now. Some products cannot freely advertise through all media although they are legally produced and lawfully sold across the nation.

Join with Libertad to brighten the light for freedom of choice!

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Censorship hides under many names

Call it Restrictions.
Call it Conditions
It means Censorship.
Restricting law abiding manufacturers and legitimate products from advertising is censorship.

Placing conditions on the type of media that can accept legally produced and distributed products is also censorship.

Do not hide behind silence. Join with Libertad to remove censorship in advertising.

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