

July 24, 1958

Confidential

Mr. H. K. Ball
Ethyl Corporation
100 Park Avenue
New York 17, New York

Dear Hank:

This is to confirm the substance of our conference in the matter of Sohio's wish, and their intention, unless deterred, to make no additions of dyes to their gasolines, beyond the quantities which occur in the antiknock compound which they introduce into their gasoline.

It is true that there is no State law or Federal regulation which requires adherence to an established standard of coloration, and it is also apparent that the lack of opportunity, on the part of their normal customers, to see the product, would appear to do away with the functional role of the color in informing the customer. On the other hand, the use of the color in a general provision to which exception cannot be made, without inviting general disregard of this provision. In view of Ethyl's agreement to maintain this provision in full effect, or, on failure to find means of so doing, to inform the Public Health Service to that effect, Ethyl cannot consent to Sohio's proposal, nor can it ignore the situation, if Sohio refuses to adhere to its contractual obligation to follow Ethyl's instructions in this matter. Connivance in the breach of this provision would be an act of bad faith, and a policy of "looking the other way," as it would relate to my responsibilities would, in effect, be connivance. Ethyl Corporation, then, as I see it, is fully committed to strict adherence to this provision, and to informing the Public Health Service of its violation, if it (Ethyl Corporation) cannot prevent such violation.

Therefore, Ethyl Corporation should undertake to influence the attitude of Sohio management in this matter, and should point out that, although there is no law in Ohio or in the other states in which Sohio does business, that sets the standard for color, there will be such law, and perhaps, other more troublesome legal requirements, if the present control by agreement fails to work. The Public Health Service would not take this matter lying down. Of this I am quite sure. It would make representations to the States, and this would soon be followed by legislative action. It is precisely this chain of events which was headed off by the agreement on the part of Ethyl to implement the desired measures of control.

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In accordance with my statement to you, I have looked into the position of the responsible people in du Pont on this specific issue, as I felt compelled to do because of my recent conference with representatives of the Surgeon General of the Public Health Service. They view their responsibilities in this matter very much as I do, and have assured me that they will neither deviate from them nor consult the Service on this matter at this time.

There is one other aspect of this matter that should be mentioned. It is my understanding that Sohio would like to take its case directly to the Public Health Service. Such action on their part, followed, as it would be, in all probability, by that of other companies, would result in embarrassment both to the industries concerned and to the Public Health Service. It would create a difficult situation at this time, in particular, when this entire matter is under examination, and would serve notice on the Service that the TEL industry is on the point of losing control of the situation. I do wish that we could instill a little understanding and prudence into the management of Sohio and some others as well. All too many industrialists complain bitterly about government controls, and then by their own shortsighted and arbitrary acts bring more of it upon themselves, by demonstrating that such control is necessary.

I hope that suitable representation of the facts and the issues of this matter can be made to Sohio, and so bring them to understand that this is not a local issue nor a useless and arbitrary regulation; that if it is to be altered, the alteration must be based on wise public policy and on its general application to the industry.

Sincerely yours,

Robert A. Kehoe, M.D.

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