

Senator NELSON. We will recess until tomorrow morning at 10 a.m. (Upon the direction of the chairman, the letter by Mr. T. O. Cron, Assistant Commissioner for Education and Information, FDA, subsequently dated, follows:) ¹

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
FOOD AND DRUG ADMINISTRATION,
Washington, D.C., May 3, 1968.

HON. GAYLORD NELSON,
*Chairman, Subcommittee on Monopoly, Select Committee on Small Business,
U.S. Senate, Washington, D.C.*

DEAR SENATOR NELSON: You will recall that Dr. Robert McCleery of our Bureau of Medicine testified before your Subcommittee yesterday and noted that an article in *Pageant* magazine misrepresented the safety and effectiveness of Indocin (indomethacin). While Dr. McCleery was testifying, Merck & Co., manufacturers of the drug, distributed a statement of rebuttal.

Three major points were made in the company's release: (1) that the FDA had never discussed this matter with the company; (2) that the company neither encouraged publication of the article nor supplied testimonial letters on unapproved claims; and (3) that the company did not see the text before it appeared in print.

For the record, the *Pageant* article was indeed discussed with the Merck management, including its President, on November 11, 1966. I was present at that meeting. Prior to that, our Agency received letters from the company's Vice-President for Public Relations and its Administrative Vice-President about the article and its creation.

In addition, both Vice-Presidents had acknowledged to us in writing that Merck had supplied "case histories" (another term for testimonials) to the authors of the magazine article. Finally, the letter from Merck's Vice-President for Public Relations enclosed an internal memorandum written to the Administrative Vice-President, dated June 17, 1966, which demonstrated that the company's public relations staff had seen the *Pageant* article and had not registered disapproval. This was, of course, before the July publication date of the magazine.

I hope this letter is helpful to the work of the Subcommittee.

Sincerely yours,

THEODORE O. CRON,
Assistant Commissioner for Education and Information.

(Whereupon, at 2:35 p.m., the subcommittee recessed, to reconvene at 10 a.m., Friday, May 3, 1968.)

¹ See p. 3370, *infra*.