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B-89294, Nov. 8, 1963

Number: B-89294

Date: 1963-11-08

B-89294, NOV. 8, 1963

TO DIRECTOR, UNITED STATES INFORMATION AGENCY:

REFERENCE IS MADE TO LETTER DATED OCTOBER 15, 1963, FROM YOUR GENERAL COUNSEL, CONCERNING THE VALIDITY OF A CONTRACT BETWEEN THE UNITED STATES INFORMATION AGENCY AND UNITED ARTISTS FOR THE PRODUCTION AND DISTRIBUTION OF A FILM ENTITLED "JACQUELINE KENNEDY'S ASIAN JOURNEY.'

THE VALIDITY OF SUCH CONTRACT WAS NOT QUESTIONED IN OUR DECISION OF AUGUST 6, 1963, B-89294, TO YOU, BECAUSE WE HAD CONCLUDED FROM DISCUSSIONS WITH REPRESENTATIVES OF YOUR AGENCY, PRIOR TO OUR DECISION, THAT THE NEW (ADDITIONAL) FILM WHICH WAS RECEIVED UNDER THE CONTRACTUAL ARRANGEMENT WITH UNITED ARTISTS WOULD BE OF PRIMARY IMPORTANCE TO YOUR AGENCY IN ITS OVERSEAS INFORMATION PROGRAM. YOUR REPRESENTATIVES POINTED OUT THAT THIS NEW (ADDITIONAL) FILM COULD BE SHOWN EFFECTIVELY IN AREAS IN WHICH NEITHER OF THE TWO ORIGINAL FILMS, FROM WHICH IT WAS PRODUCED, APPROPRIATELY COULD BE SHOWN, AND IT WAS OUR UNDERSTANDING THAT THE DISTRIBUTION OF THE FILM WAS EXPECTED TO HAVE A SUBSTANTIALLY GREATER VALUE THAN DISTRIBUTION OF EITHER OR BOTH OF THE ORIGINAL FILMS FROM WHICH IT WAS PRODUCED. ON THE BASIS OF THIS UNDERSTANDING WE CONCLUDED THAT THE NEW (ADDITIONAL) FILM WOULD CONSTITUTE A REAL AND SUBSTANTIAL BENEFIT TO YOUR OVERSEAS INFORMATION PROGRAM. OUR VIEW WAS AT THAT TIME, AND IT IS TODAY, THAT THERE IS NO STATUTORY AUTHORITY FOR THE PRODUCTION OF FILMS BY USIA EXCLUSIVELY OR PRIMARILY FOR DOMESTIC DISTRIBUTION.

SINCE THE DATE OF THAT DECISION, WE AGAIN HAVE MET WITH REPRESENTATIVES OF YOUR AGENCY WHO INDICATED THAT WE HAD OVEREMPHASIZED THE VALUE OF THE NEW (ADDITIONAL) FILM TO YOUR OVERSEAS INFORMATION PROGRAM. IN FACT, WE WERE ADVISED THAT THE FILM HAD NOT BEEN SHOWN IN ANY OVERSEAS AREA. YOUR REPRESENTATIVES POINTED OUT, HOWEVER, AND YOUR GENERAL COUNSEL'S LETTER OF OCTOBER 15, 1963, REITERATES, THAT YOUR AGENCY CONSIDERS THAT THE UNITED ARTISTS' CONTRACT WAS DESIGNED TO ACCOMPLISH CERTAIN OBJECTIVES IN FURTHERANCE OF YOUR AGENCY'S OVERSEAS INFORMATION PROGRAM IN ADDITION TO THE NEW (ADDITIONAL) FILM.

CAREFUL CONSIDERATION HAS BEEN GIVEN TO THE REPRESENTATIONS MADE BY USIA OFFICIALS AND THE INFORMATION CONTAINED IN YOUR GENERAL COUNSEL'S LETTER OF OCTOBER 15, 1963, AND WE ARE OF THE OPINION THAT BENEFITS DERIVED--- OR WHICH ARE EXPECTED TO BE DERIVED--- FROM THE CONTRACT, INSOFAR AS THEY RELATE TO THE FOREIGN INFORMATION PROGRAM, ARE REMOTE AND CONJECTURAL AND, THEREFORE, DO NOT SUPPORT THE VIEW THAT THE PRIMARY PURPOSE OF THE UNITED ARTISTS' CONTRACT WAS IN FURTHERANCE OF THE OVERSEAS INFORMATION PROGRAM. ACCORDINGLY, WE ARE OF THE OPINION THAT THE CONTRACT ENTERED INTO WITH UNITED ARTISTS IS OUTSIDE OF THE STATUTORY AUTHORITY OF THE UNITED STATES INFORMATION AGENCY. WHILE IN THIS

PARTICULAR CASE IT DOES NOT APPEAR TO BE IN THE GOVERNMENT'S INTEREST TO QUESTION FURTHER THE UNITED ARTISTS' CONTRACT (NO APPROPRIATED FUNDS BEING INVOLVED), ANY FUTURE CONTRACTS EXCLUSIVELY OR PRIMARILY FOR DOMESTIC DISTRIBUTION OF USIA INFORMATION WILL NOT BE REGARDED AS VALID BY THIS OFFICE UNLESS YOUR AGENCY FIRST SHALL HAVE OBTAINED EXPRESS STATUTORY AUTHORITY FOR ENTERING INTO SUCH CONTRACTS.