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JAN 22 1975

Ms. Gladys M. Kiernan
Vice President
Association of General Merchandise Chains, Inc.
1625 Eye Street, N.W.
Washington, D. C. 20006

Dear Ms. Kiernan:

This letter is in response to your correspondence of November 7, 1974, in which you inquired whether an agreement between a domestic supplier of goods and a retail seller of goods could relieve the retail seller of the responsibility of reporting to the Commission under section 15(b) of the Consumer Product Safety Act in two situations.

In our view, an agreement between a retail seller and a supplier does not relieve the retail seller of the responsibility of complying with the reporting provisions of section 15(b) of the Consumer Product Safety Act (15 U.S.C. 2064) and the regulations issued thereunder (16 CFR 1115). This is true regardless of whether the agreement is entered into after a defect (or a failure of a product to comply with an applicable consumer product safety rule) is discovered, but before it is determined that such a defect is a defect required to be reported, or prior to knowledge by the retail seller that a defect (or a failure to comply with an applicable product safety rule) exists.

The purpose of section 15 of the Act is to ensure that the public will be adequately protected from products that present a substantial product hazard.

While private parties may enter into enforceable contracts concerning reporting to the Commission under section 15, the Commission is not restricted by such agreements in its enforcement activities and will not

ADVISORY COUNCIL

hesitate to take appropriate action against all involved parties if it is not notified in accordance with section 15 of the Act and the regulations promulgated thereunder. There is, however, no obligation to report to the Commission under section 15 if the manufacturer, distributor, or retailer has actual knowledge that the Commission has been adequately informed of the defect or failure to comply with a consumer product safety rule.

Sincerely,

Original signed by
Michael A. Brown

Michael A. Brown
General Counsel

AHSchoem:pm:1/21/75

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