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FEB 27 4 25 PM '75
CONSUMER PRODUCT
SAFETY COMMISSION

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

FEB 27 1975

6(b) CLEARED: 3/15/84

X No Mfrs Identified
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Mfrs Notified
Comments Processed

Mr. Dan Burch
Dan Burch Advertising
130 Fairfax Avenue
Louisville, Kentucky 40207

Dear Mr. Burch:

Chairman Simpson requested that I respond to your letter of January 30, 1975 regarding the responsibilities and obligations of an advertising agency under the Consumer Product Safety Act (CPSA).

Advertising agencies have no legal responsibilities or obligations either under the CPSA or under the four other acts which the Commission administers: the Federal Hazardous Substances Act, the Poison Prevention Packaging Act, the Flammable Fabrics Act, and the Refrigerator Safety Act, copies of which are enclosed. The responsibility rests on the manufacturer, private labeler, distributor, importer, and the retailer for ensuring that products subject to Commission regulations bear the requisite labeling and packaging.

These warning label requirements, however, are not related to the Fair Packaging and Labeling Act (FPLA), which is concerned with marketing practices rather than product safety. Our labeling requirements, therefore, are in addition to the information prescribed by the FPLA.

Although advertising agencies do not answer directly to the Commission, their clients are subject to civil and criminal sanctions for noncompliance with Commission regulations. Therefore, advertising agencies are well advised to assist their clients by becoming familiar with the

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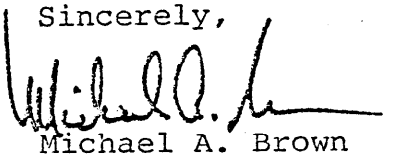
specific labeling and packaging requirements promulgated under our Acts. Copies of these regulations are enclosed. The CPSC Bureau of Compliance, Washington, D. C. 20207 will comment informally on the sufficiency of any labeling or packaging which is submitted to it, provided that the Bureau also receives a quantitative formula of the product and any other relevant technical information relating to the hazardous nature of the product.

Generally speaking, the Federal Trade Commission has regulatory authority over the content of advertising. However, the Consumer Product Safety Commission urges voluntary action on the part of all persons associated with advertising consumer products to become safety conscious in order to eliminate the inadvertent depiction of an unsafe use of a consumer product. The National Advertising Review Board, 850 Third Avenue, New York, N.Y., has published a report regarding safety in advertising, which we understand is available to the public.

I hope that the enclosed copies of the laws which the Commission administers and the pertinent regulations promulgated thereunder will be of assistance to you in designing consumer product labeling or advertising. I have requested that your name be placed on the CPSC mailing list to keep you informed of our activities. Please let me know if we may be of further service to you.

Thank you for your continued interest in product safety.

Sincerely,



Michael A. Brown
General Counsel

Enclosures

RECEIVED
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FEB 5 2 30 PM '75
CONSUMER PRODUCT
SAFETY COMMISSION

DAN BURCH ADVERTISI
130 Fairfax Avenue
Louisville, Kentucky 40207
Telephone: 502-895-4881

January 30, 1975

Mr. Richard O. Simpson, Chairman
Consumer Product Safety Commission
Washington, D.C. 20207

Dear Mr. Simpson:

What are the responsibilities and obligations of an advertising agency under the Consumer Product Safety Act?

Specifically, our company designs and produces packaging and advertising for consumer products. We are familiar with the Fair Packaging and Labeling Act and all packaging is designed in accordance with its regulations. Is there an overlap in the two acts in regard to packaging?

In the case of advertising, a wide range of media is used; Newspaper, television, radio, catalogs, in-store displays, mailers, etc. In every instance the content of the advertising is approved by our client before it is published. Are we still liable under the Consumer Product Safety Act? If so, how do we protect ourselves?

I would greatly appreciate all information on the subject that you can send me. Also, I would like to be placed on your mailing list to receive pertinent information.

Thank you.

Cordially,

Dan Burch

Dan Burch

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