6(b) CLEARED:

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ADVISORY OPINION
#212

25 JUN 1975

Mr. M.S. Hansson
Chairman
Gerico Inc.
Box 998
Boulder, Colorado 80302

Dear Mr. Hansson:

This is in response to your letter to Mr. Dale C. Miller, dated May 27, 1975, requesting an opinion as to whether the products pictured in the "Gerry Baby Products 1975" brochure are "wearing apparel," and therefore subject to the provisions of the Flammable Fabrics Act, as amended (FFA).

Section 2(d) of the FFA defines "article of wearing apparel" as "any costume or article of clothing worn or intended to be worn by individuals." It appears from the brochure that the products illustrated are designed to carry an infant or child and are not intended to be worn as clothing by either the child or the parent. Therefore, this Office concludes that the products shown in the brochure enclosed with your letter are not "articles of wearing apparel," and thus, are not subject to the flammability requirements of the FFA.

You correctly stated that these products are subject to the provisions of the Federal Hazardous Substances Act, in that they are "toys or other articles intended for use by children."

Please note that although the views expressed in this letter could be changed or superseded by the Commission, they represent the latest interpretation of the law by the Office of the General Counsel.

Sincerely,

Original signed by
Michael A. Brown

Michael A. Brown
General Counsel

gerico Inc.

Box 998 Boulder, Colorado 80302 U.S.A.
Area Code 303 444 0124

27 May 1975

Mr. Dale C. Miller, Director
Division of Inspection and Enforcement
Bureau of Compliance
Consumer Product Safety Commission
Washington, D. C. 20207

Dear Mr. Miller:

At the suggestion of Mr. Harry Garber, we are writing to you to request a letter telling us that our products, as shown in the enclosed brochures, are not defined as wearing apparel under the Flammable Fabrics Act, as amended.

As I discussed with Mr. Garber, we are included with the juvenile products industry, of course, under the Hazardous Substances Act, and have worked for some years with Mr. Donald McKay, first under the FDA and now the CPSC, to help to formulate tough standards for these products. Flammability is and will be addressed under these proposed standards, and we do in fact conform currently.

However, we would like the above letter from you to keep the definition as juvenile products rather than wearing apparel clear to our customers.

Thank you for your attention in this matter. We look forward to hearing from you at your earliest convenience.

Very truly yours,

M.S. Hansson

M.S. Hansson
Chairman

MSH/dw

Enclosures

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#74