UNITED STATES GOVERNMENT

Memorandum

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

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CONSUMER PRODUCT SAFETY COMMISSION
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TO : Atlanta Area Office, Sonny Sturdivant

THRU : Margaret A. Freeston, Assistant General Counsel

FROM : Jeanette Michael, OGC

SUBJECT : Jurisdiction over Bubble Gum Decals

This is in response to a recent inquiry regarding the Consumer Product Safety Commission's jurisdiction over bubble gum decals.

If a bubble gum decal is a "consumer product" under the Consumer Product Safety Act (CPSA) or a "hazardous substance" under the Federal Hazardous Substances Act (FHSA) the Commission would have jurisdiction to investigate and take appropriate action on the problem. If a bubble gum decal is properly considered a "cosmetic" as defined in the Federal Food, Drug and Cosmetic Act (21 U.S.C. 321(i)), then it would fall within the Food and Drug Administration (FDA) jurisdiction and would be excluded from the Commission's jurisdiction over "consumer products" under the CPSA (15 U.S.C. 2052(a)(1)(H)), or "hazardous substances" under the FHSA (15 U.S.C. 1261(f)(2)).

This office was informed by an official at the FDA that the question of whether a bubble gum decal is a cosmetic had not yet been raised. However it was determined that such an item could reasonably be included in the term cosmetic. The term cosmetic as defined in the FFDCA section 201(i) means "articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or to otherwise applied to the human body or any part thereof for, cleansing, beautifying, promoting attractiveness, or altering the appearance...." (Emphasis added)

It is the opinion of this office that a bubble gum decal is neither a "consumer product" nor "hazardous substance" and therefore does not fall within the purview of the CPSA or the FHSA.

While the views expressed in this opinion are based on the most current interpretation of the law by this office, they could subsequently be changed or superseded.

Any further complaints concerning bubble gum decals should be addressed to Mr. Terry Coleman, Food and Drug Administration, Office of the General Counsel, Washington, D.C.

ADVISORY OPINION