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William W. Knowles, Esq.
Baker, Orbison, Bales and Knowles
129 East Market Street, Suite 1100
Indianapolis, Indiana 46204

Dear Mr. Knowles:

This is in response to your letter of November 30, 1976 requesting the opinion of this office as to whether a coin-operated washing machine located in a commercial laundering facility and used by members of the public is a consumer product under the Consumer Product Safety Act (CPSA).

Section 3(a)(1) of the CPSA states, in relevant part,

> The term 'consumer product' means any article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise; but such term does not include...any article which is not customarily produced or distributed for sale to, or use or consumption by, or enjoyment of, a consumer....

The legislative history of this section clarifies Congress' intent not to exclude products that are used by consumers:

ADVISORY OPINION

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844-2604

November 30, 1976

Consumer Product Safety Commission
Office of General Counsel
Washington, D.C. 20207

Dear Sir:

On November 16, 1976 I contacted your Commission with respect to gaining information concerning whether or not a coin operated washing machine in service in a public laundromat falls within the statutory definition of a "consumer product". I received a prompt and cordial response to my communication from a Mr. Vece who informed me that your Commission has issued no consumer product safety standards. He did inform me that your office would issue a formal opinion upon receipt of a written request.

Thus, the purpose of this communication is to request a formal opinion from your office as to whether or not a coin operated washing machine in service in a public laundromat is included in the statutory definition of the term "consumer product".

As we represent a client who has been seriously injured by such a machine and as we are in the process of preparing our client's case for trial, it is important that we receive your opinion at your first earliest opportunity.

Cordially,

William W. Knowles

WILLIAM W. KNOWLES

WWK:skm

cc: Mrs. Geraldine Thomas

> It is not necessary that a product be actually sold to a consumer, but only that it be produced or distributed for his use.... [P]roducts which are primarily or exclusively sold to industrial or institutional buyers would be included within the definition of consumer product so long as they were produced or distributed for use of consumers. [House Interstate and Foreign Commerce Committee Report, House Report No. 92-1153, p. 27]

Coin-operated washing machines, since they are products produced or distributed for the use and enjoyment of consumers, would come within the statutory definition of consumer product. Therefore, the Commission could promulgate a consumer product safety standard to cover this product if the Commission determined that coin-operated washing machines present an unreasonable risk of injury to the public. At present the Commission has issued no standard that covers coin-operated washing machines nor, to our knowledge, is such regulation being contemplated.

Notwithstanding the absence of a consumer product safety standard, section 15 of the CPSA (copy enclosed for your information), requires that manufacturers, distributors and retailers who obtain information which reasonably supports the conclusion that their consumer products contain a defect which could create a substantial product hazard (as that term is defined in section 15(a)(2) of the CPSA) must report such product defect to the Commission (see also 16 CFR 1115).

The views expressed here represent the current interpretation of the law by the Office of the General Counsel; they could be subsequently changed or superseded.

We hope this information will be of assistance to you.

Sincerely,

/S/

David Schmeltzer
Acting General Counsel

Enclosure

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