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Don Early, OSCA, Technical Liaison Division

Michael A. Brown, General Counsel Original signed by Michael A. Brown

Proposed Reply to FTC Inquiry - What is Extent of CPSC's Jurisdiction

The Consumer Product Safety Commission (CPSC) has jurisdiction to regulate all consumer products that present an unreasonable risk of injury to the public. "Consumer product" is defined in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052) as:

> "...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 and around a permanent or temporary household or residence, ~~does not include~~ ..."

The Commission's jurisdiction extends to any article which is produced or distributed for sale to or for the use, consumption or enjoyment of a consumer in or around a household or residence, a school, in recreation or otherwise. In order for a product to be classified as a consumer product, it is not necessary that it actually be sold to a consumer, but only that it be produced or distributed for his use. Further, products 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 by consumers. (H.R. Rep. No. 92-1153, 92d Cong. 2d Sess. 27 (1972)).

The Commission intends to adhere to the intent of Congress and afford the term "consumer product" as broad an interpretation as possible so as not to preclude any areas of regulation. Thus, the term will include such products as cement-asbestos wallboard which although perhaps not customarily sold to consumers, is produced for their use and enjoyment. Further, it is likely that some products will fall within the jurisdiction of other agencies such as NHSTA or OSHA. However, if the item in question may be used as a consumer product, even though that may not be its predominant use, it falls within the jurisdiction of the Consumer Product Safety Commission.

In response to your other questions, it is quite possible that a product of graat utility will nevertheless pose an "unreasonable risk of injury." However, the Commission has not attempted, at this time, to provide specific parameters for the term, unreasonable risk of injury. Rather, it will proceed on a case-by-case basis in making this determination.

MABrown:mli:12/18/73

cc: A. Schoem
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