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Russell I. Jenkins, Esq.
78 East Main Street
Uniontown, Pennsylvania 15401

Dear Mr. Jenkins:

This letter is in response to your comment of December 10, 1973, addressed to Chairman Richard O. Simpson with regard to the Consumer Product Safety Commission's authority over ammunition.

Mr. Simpson stated during his talk before the 4th Annual Product Liability Prevention Conference that while firearms are exempted from the Commission's jurisdiction under the Consumer Product Safety Act, we could probably ban bullets under the Federal Hazardous Substances Act. The statement was intended to serve as an example in advising conference participants that persons should not overlook the Commission's authority based on the authorities the Commission possesses besides the Consumer Product Safety Act. Mr. Simpson further stated that the Commission recognizes both its direct and indirect authority and will use both with a great deal of discretion.

Firearms and ammunition are both exempted from the Commission's authority under the Consumer Product Safety Act (15 U.S.C. 2051) by provisions of section 3(a)(1)(E) thereof.

However, section 30(a) of that Act vested the Commission with authority to administer the Federal Hazardous Substances Act (15 U.S.C. 1261) which does have application to ammunition.

Varieties of ammunition are subject to classification as banned hazardous substances in accordance with sections 2(f)(1)(A)(vi) and 2(q)(1)(B) of the Federal Hazardous Substances Act. Section 2(f)(1)(A)(vi) defines as a hazardous substance any substance or mixture of substances which generates pressure through decomposition, heat or other means (the definition is supplemented by 16 CFR 1500.3(c)(7)(i)(formerly 21 CFR 191.1(m)). Section 2(q)(1)(B) provides for the banning of hazardous substances when it has been determined that the degree or nature of the hazard involved is such that, notwithstanding cautionary labeling, the best interests of the public can be adequately served only by keeping the substance out of the channels of interstate commerce. To date, no ordinary ammunition has been determined to be a banned hazardous substance.

For your information, the only current regulation under the Federal Hazardous Substances Act pertaining to ammunition is 16 CFR 1500.83(a)(6) (formerly 21 CFR 191.65(a)(6) which exempts small arms ammunition from the general labeling requirements applicable to hazardous substances and requires that retail containers bear: (1) the common or usual name of the ammunition in the container; (2) the statement, "WARNING - Keep out of the reach of children," or its practical equivalent; and (3) the name and place of business of the manufacturer, packer, seller, or distributor.

I trust that the above information is responsive to your comment. Should you wish any further information, please let me know.

Sincerely,

Michael A. Brown
General Counsel

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