United States
CONSUMER PRODUCT SAFETY COMMISSION
Washington, D.C. 20207

CPSC/OFC OF THE SECRETARY
FREEDOM OF INFORMATION

1999 JAN 21 P 6:54

JAN 21 1999

Memorandum and Vote Sheet

TO : The Commission
Sadye E. Dunn, Secretary

FROM : Jeffrey S. Bromme, General Counsel
Stephen Lemberg, Assistant General Counsel
Melissa V. Hampshire, Attorney, OGC

SUBJECT : Draft Federal Register Notice Announcing Commission Staff Forum on Issues Related to Purchaser Identification

BALLOT VOTE DUE JAN 29 1999

Attached is a draft Federal Register notice announcing that the Commission staff will convene a forum on March 23, 1999, soliciting information concerning purchaser identification. The forum will explore improvement in recalls if manufacturers are better able to identify the purchasers and users of their products.

In the past, effective recall notification has been hampered by manufacturers' inability to identify and notify all purchasers/users of a product. Recall notification based on identified purchasers could lead to a higher proportion of products returned for repair or replacement. Some companies have been successful in notifying purchasers through warranty cards; other firms have had less success because consumers may be reluctant to return a warranty card seeking specific socioeconomic or demographic data.

The staff has explored ways to improve purchaser identification for recall effectiveness and has looked at what other federal agencies with similar missions are doing. For example:

The National Highway Traffic Safety Administration requires manufacturers of car seats to provide all purchasers with a postage-paid card to be returned to the manufacturer. The manufacturer is then able to specifically notify such purchasers directly in the event of a recall of the car seat.

The Food and Drug administration requires manufacturers of critical medical devices to track such devices from manufacture to the ultimate patient. Patients can then be

NOTE: This document has not been reviewed or accepted by the Commission.
Initial _____ Date 1/21/99

CPSA 6 (b)(1) Cleared
No Mfrs/PrvtLblrs or Products Identified
Excepted by _____

easily notified in the event of a recall of the device.

In an effort to further explore this topic, the staff would like the Commission to host a one-day roundtable on purchaser identification. Participants would be contacted to offer their perspective on these issues. Participants would include Commission staff, representatives of other federal agencies that have dealt with these issues, members of the industry, and perhaps members of consumer groups and academics.

Staff chose the March 23, 1999 date because it is one week before recall roundup. The date is tentative and subject to approval at agenda planning; if the date changes the Federal Register notice will be changed to conform.

Please indicate your vote on the following options.

I. Approve the Federal Register notice as drafted.

_____ _____
(Signature) (Date)

II. Approve the draft Federal Register notice with the following changes (please specify).

_____
_____
_____

_____ _____
(Signature) (Date)

III. Do not approve the draft Federal Register notice.

_____ _____
(Signature) (Date)

CONSUMER PRODUCT SAFETY COMMISSION

Identification of Purchasers of Certain Products;

Public Hearing

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Public Hearing.

SUMMARY: On March 23, 1999, the Consumer Product Safety Commission ("CPSC") staff will convene a public forum to consider whether the Commission should by federal regulation require manufacturers to ascertain and maintain the identities of purchasers of certain consumer products. The staff seeks written comments and oral presentations from individuals, associations, firms, and government agencies with information relevant to this topic.

DATE: The forum will commence at 9:30 a.m. on March 23, 1999. Requests to make oral presentations, and the text of the presentations, must be received by the Office of the Secretary no later than February 26, 1999. Persons planning to testify at the hearing should submit 10 copies of the text of their prepared remarks to the Office of the Secretary no later than February 26 1999, and provide an additional 50 copies for dissemination on the date of the hearing. Written comments that are in place of, or in addition to, oral presentations must be received by the Office of the Secretary no later than March 5, 1999. Written comments must include the author's affiliation with, or employment or sponsorship by, any professional organization, government agency, or business firm. The staff reserves the right to limit the number of persons who testify and the duration

of their testimony.

ADDRESSES: The forum will be in Room 420, CPSC's Hearing Room of the East-West Towers Building, 4330 East-West Highway, Bethesda, MD. Written comments, requests to make oral presentations, and texts of oral presentations should be captioned "Purchaser Identification" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, or delivered to that office, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814. Comments, requests, and texts of oral presentations may also be filed by telefacsimile to (301) 504-0127 or by e-mail to cpsc-os@cpsc.gov.

FOR FURTHER INFORMATION CONTACT: Lawrence Hershman, Compliance Officer, Recalls and Compliance Division, U.S. Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-504-0608, extension 1356; fax (301) 504-0359; or Melissa Hampshire, Attorney, Office of the General Counsel, U.S. Consumer Product Safety Commission, Washington, D.C.; telephone (301) 504-0980, extension 2208; fax (301) 504-0403. For information about the schedule for submission of written comments, requests to make oral presentations, and submission of texts of oral presentations, call or write Rockelle Hammond, Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; telephone (301) 504-0800, extension 1232; fax (301) 504-0127.

SUPPLEMENTARY INFORMATION: The staff believes that recall notification could be facilitated if manufacturers were better able to identify the purchasers of their products. More

effective recall notification could lead to a higher proportion of products returned for refund, repair or replacement. This, in turn, would enhance the safety of American consumers.

The staff has identified a number of issues:

* What is the scope and extent of the Commission's legal authority to require manufacturers to ascertain and maintain the identities of the purchasers of their products?

* What products might be best-suited for such a proposal? Should lines be drawn, and, if so, would they be based on product cost; durability; historic injury experience; intended users, such as children; or other factors?

* How could purchaser identification information be assembled in a cost-effective and comprehensive manner?

The staff expects to explore these and other related issues during the forum.

Some companies have been highly successful in assembling purchaser information through use of warranty cards or other means. These companies have been able to use this information to achieve commendable return rates in the event of a recall. The staff particularly solicits participation from such companies.

The staff also is aware that in certain instances, companies are required by law to collect purchaser information. For example, by regulation the Department of Transportation has facilitated the collection of such information pertaining to car seats. 49 CFR Part 588. The staff solicits participation of car seat manufacturers, who could provide pertinent information. Similarly, by law, certain manufacturers of medical devices must

track their purchasers. 21 U.S.C. § 360i(e). We solicit input from such manufacturers, as well as from any manufacturer required by federal, state or local law to identify product purchasers and maintain that information for some period of time. The Commission is conducting this inquiry under Section 27(a) of the CPSA, 15 U.S.C. § 2076(a).

The staff has reached no conclusions regarding whether to recommend that the Commission adopt any regulation on this issue.

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Sadye E. Dunn,
Secretary, Consumer Product Safety Commission