



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

606906
 3/6/01

MEMORANDUM

DATE: March 6, 2001

TO : CRC

Through: Sadye E. Dunn, Secretary *SD* OS

FROM : Martha A. Kosh, OS

SUBJECT: Proposed Policy Statement on Potentially Hazardous
 Products Distributed Outside the United States

ATTACHED ARE COMMENTS ON THE CA 01-3

<u>COMMENT</u>	<u>DATE</u>	<u>SIGNED BY</u>	<u>AFFILIATION</u>
CA 01-3-1	2/08/01	Ronald Somers, Ph.D, Head, Injury Surveillance & Control Unit	South Australian Department of Human Services
CA 01-3-2	2/19/01	Jennifer Kane	1405 Rock Springs Circle, #3 Atlanta, GA 30306
CA 01-3-3	3/05/01	Charles Samuels	Association of Home Appliance Manufacturers (AHAM) 1111 19 th St., NW Suite 402 Washington, DC 20036
CA 01-3-4	3/05/01	Brigid Klein Sr. Counsel	Consumer Specialty Products Association (CSPA) 1913 Eye St , NW Washington, DC 20006
CA 01-3-5	3/05/01	Stephen Lamar Director, Government Relations	American Apparel & Footwear Association (AAFA) 1601 North Kent St. Suite 1200 Arlington, VA 22209

Proposed Policy Statement on Potentially Hazardous Products
Distributed Outside the United States

CA 01-3-6	3/05/01	Stephen Gold Exec. Director Associations Council for the NAM CPSC Coalition	National Association of Manufacturers (NAM) 1331 Pennsylvania Ave NW, Suite 600 Washington, DC 20004
CA 01-3-7	3/05/01	Sarah Whitaker Sr. Director Government Relations	National Retail Federation Liberty Place 325 7 th St, NW Suite 1100 Washington, DC 20004

Stevenson, Todd A

*sect 15
comment
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From: Schoem, Marc J
Sent: Thursday, February 08, 2001 10:06 AM
To: 'Somers, Ron (DHS)', Schoem, Marc J, Hammond, Rocky X, Dunn, Sadye E, Stevenson, Todd A
Cc: Church, Colin B, Alan Schoem, Carlos Perez, Eric Stone, Mary Toro, Michael Gidding, Patricia Fairall, Theresa Rogers
Subject: RE: Comment on Policy Statement Products distributed outside the US

Ron Somers

Thank you for your comments on the proposed Policy Statement concerning products distributed outside the United States. I have forwarded your comments to our Office of the Secretary.

Marc J Schoem
Director
Recalls and Compliance Division
Office of Compliance
301-504-0608, ext 1365

-----Original Message-----

From: Somers, Ron (DHS) [mailto:Ron.Somers@dhs.sa.gov.au]
Sent: Thursday, February 08, 2001 1:53 AM
To: 'mschoem@cpsc.gov'
Subject: Comment on Policy Statement Products distributed outside the US

Mr Schoem

Would you kindly pass this brief comment from an Australian state on to the Office of the Secretary?

We are convinced that the US CPSC presents a model of international best practice in hazard identification. We believe that Section 15(b) of the Consumer Product Safety Act (CPSC) is a fundamental plank in the CPSC's operational methodology. It is clear to us that timely identification of product hazards depends on the amalgamation of relevant information from all available sources. We therefore concur with the notion that product failures or product-related injury occurring outside the US should be included in the reporting requirements.

Submitted by

Ronald L Somers, PhD
Head, Injury Surveillance and Control Unit
Epidemiology Branch
South Australian Department of Human Services
Tel 08 82266361
Fax 08 82266291
email Ron.Somers@dhs.sa.gov.au

Section 15(b) Commission
2

SECRETARY
Jennifer Carpenter Kane
1405 ROCK SPRINGS CIRCLE
APARTMENT #3
ATLANTA, GA 30306
404-249-7023

Monday, February 19, 2001

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207-0001

To Whom It May Concern

This purpose of this letter is to comment on the Commission's policy statement that its current reporting requirements under Section 15(b) of the CPSA apply to defective or hazardous products sold or distributed outside of the U S as well as to those products distributed or sold within U S borders. While I realize that the Commission is making merely a straightforward reading of this provision, and that a number of companies already interpret the provision this way as well, I would like to offer my thoughts as to the policy itself.

Additionally, I would be interested in obtaining a copy of Commissioner Gall's statement in voting against the publication of this policy statement.

Neither the statute nor the regulation specifically addresses the following scenario:

- 1 A domestic manufacturer makes a fully compliant, safe raw material for purposes of shipping overseas for assembly into a finished product,
- 2 The overseas company then uses that raw material as a component of a finished product that is either hazardous or defective,
- 3 The overseas company fully assembles the hazardous or defective product and ships it out all over the world,
- 4 Neither company has reported anything to the Consumer Product Safety Commission.

Case law indicates that “product” as stated in the statute can mean a finished good or a raw material, which presumably, is why the statute applies to manufacturers, distributors and retailers Zepik v Ceeco Pool & Supply, Inc., 118 F R D 455 (N D Ind 1987) Further, the Federal Register notice alludes to the Commission’s recognition of the scenario I just described as not only capable of happening, but as the actual impetus for this policy statement

“[A] number of companies already view the statutory language as the Commission does” However, the Commission notes, because of the expanding global market, many firms may be unfamiliar with their reporting duties Policy Statement on Reporting Information Under 15 U S C 2064(b) About Potentially Hazardous Products Distributed Outside the United States, Request for Comments, 66 Fed Reg 351 (proposed Dec 28, 2000) What companies “already view” as their duties should not guide the Commission The “expanding global market” should be the force behind the Commission’s amending of the regulation to be unequivocal Instead of issuing a statement that the commission interprets the regulation this way, why not amend the regulation to be more specific and give that interpretation the force of law?

Additionally, 16 C F R 1115 12(f) lists seven examples of information firms should use in determining its reporting obligations, including information about engineering, quality control, or production data and complaints from a consumer or a consumer group The potential for inconsistencies among these factors in global companies’ operations seems much more onerous than what a purely domestic company might have to consider For instance, should a company that distributes to an overseas subsidiary consider and weigh the same factors that a company distributing to another unrelated foreign company considers? What concerns me is that, without more specificity in the regulation, a company could construct its own loophole, where it essentially does the following

- 1 The company employs a foreign entity to use the safe, domestic-made components in a finished product to be assembled overseas at a cheaper rate than the American company would be able to pay here in the U S,
- 2 In an effort to “comply” the U S company examines its own operations for the factors described in Section (f), paragraphs 1-6,
- 3 Finding no “triggers” in its own operations, the American company reports nothing to the Commission,
- 4 The foreign company, not subject to the same safety standards, manufactures and distributes a dangerous finished product

The court in Zepik held that manufacturers of non-defective component parts have no duty to report to the Commission. However, surely the Commission could envision a scenario like the above where a company uses that release of obligation to avoid taking costly or cumbersome safety precautions. Zepik holds that the company that essentially creates the safety hazard has the duty to report. Even though Section (f) paragraph 7 includes information received from other firms as a factor to consider, that element may not have the same efficacy as applied to companies distributing and selling products overseas as it does when applied to companies with purely domestic business. Practicality seems to demand that companies doing business overseas should have some different, and perhaps higher, standard for reporting.

Overall, I applaud the Commission’s effort to expand its reporting requirements

Sincerely,



Jennifer Carpenter Kane

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OFFICE SECRETARY

March 5, 2001

Office of the Secretary
U S Consumer Product Safety Commission
4330 East West Highway
Bethesda, Maryland 20814

RE **AHAM Comments on CPSC Proposed Policy Statement
on Potentially Hazardous Products Distributed Outside the United States**

AHAM supports the comments filed by the NAM CPSC Coalition. We also want to make clear that we strongly believe that in a global marketplace responsible product stewardship requires reasonable consideration of events around the world and their implication in the U S marketplace.

AHAM recognizes, in principle, that when a manufacturer, importer, distributor or retailer of consumer products actually obtains knowledge of a product defect or substantial product hazard associated with products manufactured, sold or distributed in the U S from overseas sources, that information should be shared with the Commission. AHAM also agrees, in principle, that where product incidents or defects occur overseas, information about such incidents could inform the determination by a U S manufacturer, distributor, importer or retailer that a product defect or substantial product hazard exists in products distributed in the U S. How these principles can and should apply in practice are difficult questions which the Notice fails to consider.

As the Coalition points out, CPSC's Notice is deficient such that it makes a worthwhile discussion of important safety, regulatory, and marketplace issues almost impossible. If the Commission steps back from the Notice and opens a dialogue on overseas events then progress can be made on safety while avoiding mechanistic application of Section 15 to foreign activities and creating unfair, commercial advantages to firms with little U S investment, infrastructure or knowledge of CPSC or U S laws.

Respectfully submitted,


Charles A. Samuels



March 5, 2001

Office of the Secretary
Consumer Product Safety Commission
Room 502
4330 East West Highway
Bethesda, MD 20814

RE CPSC Draft Policy Statement on Reporting Information under 15 U S C
2064(b) About Potentially Hazardous Products Distributed Outside the
United States, 66 Federal Register 251

Dear Sir/Madam

These comments are submitted on behalf of the Consumer Specialty Products Association (CSPA), which was formerly known as the Chemical Specialties Manufacturers Association (CSMA), regarding the CPSC Draft Policy Statement on reporting Information under 15 U S C 2064(b) about potentially hazardous products distributed outside the United States. CSPA is a trade association representing some 220 companies engaged in the manufacture, formulation, distribution and sale of non-agricultural pesticides, antimicrobials, as well as aerosol products, scented candles and air fresheners, automotive products, detergents and cleaning compounds, and polishes and floor finishes for home, institutional and industrial use.

CSPA believes that the policy statement seeks to extend the jurisdiction of the CPSC beyond the borders of the United States. It requires companies to implement monitoring programs, comparable to those in the United States, in countries where the infrastructure does not exist. Incidents involving international products may also be of questionable relevance to consumers in the United States.

Before establishing such a policy, CPSC must demonstrate the need for it. Is there data available indicating that U S consumers would be better protected by intensified product monitoring efforts outside the United States? The Notice cites the fact that a number of companies have reported under section 15(b) information on experience with products abroad. This is not evidence of the need for such a policy. On the contrary, the relevant question is whether there is evidence that companies selling substantially similar products in foreign markets are failing to comply.

While a number of companies voluntarily supply relevant information when available, to impose reporting requirements on products sold in foreign markets implies that comparable product monitoring efforts must be present. In many cases, this just is not possible. In the United States,

Serving Makers of Formulated Products for Home and Commercial Use Since 1914

there are a number of mechanisms by which a company can monitor consumer experience. In other countries, differences in social infrastructure, economic status, and habits and practices, not only make such information difficult to obtain, but often of questionable relevance for purposes of the CPSC.

As stated in the Federal Register notice, a number of companies are already voluntarily reporting under section 15(b) relevant information on incidents involving products sold internationally. Hence, we question the need for a formal policy. We do not believe that reporting this data will significantly protect consumers in the United States.

CSPA appreciates the opportunity to comment on this draft policy. Please contact me if you have any questions.

Sincerely,

Brigid D. Klein
Senior Counsel

OFFICE OF THE SECRETARY

MAR -05 12 36



American Apparel & Footwear Association
the fashion association

March 5, 2001

Ms. Sadye E. Dunn
Office of the Secretary
Consumer Product Safety Commission
4330 East West Highway, Room 502
Bethesda, MD 20814

Dear Ms. Dunn:

I am writing in response to the solicitation for comments published by the Consumer Products Safety Commission (CPSC) on January 3, 2001 (66 FR 351) on a proposed "policy statement on reporting information about potentially hazardous products distributed outside the United States."

AAFA is the national trade of the apparel and footwear industries. Our members produce clothing and shoes in the United States and abroad for sale around the world.

AAFA strongly supports the comments submitted by the National Association of Manufacturers (NAM) CPSC Coalition that identify substantive and procedural defects to the "policy statement." Accordingly, we urge the CPSC to withdraw this policy statement. If the CPSC is interested in pursuing further the issues and objectives raised by the policy statement, we would encourage a more deliberate and transparent process that could determine whether any further regulations, reporting requirements, or guidance is appropriate or necessary.

We welcome the opportunity to submit comments on this important initiative and look forward to working closely with the CPSC in our continuing joint efforts to promote the sale of safe apparel and footwear.

Sincerely,

Stephen Lamar
Director, Government Relations

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Comments
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NAM CPSC Coalition



March 5, 2001

Ms Sadye E Dunn
Office of the Secretary
Consumer Product Safety Commission
4330 East West Highway, Room 502
Bethesda, MD 20814

Dear Ms Dunn

The Consumer Product Safety Commission Coalition ("the Coalition") of the National Association of Manufacturers ("NAM") submits these comments in response to the CPSC's proposed "Policy Statement on Reporting Information Under 15 U S C § 2064(b) About Potentially Hazardous Products Distributed Outside the United States" Fed Reg 351 (Jan 3, 2001). The Coalition comprises trade associations and corporations large and small that manufacture or sell consumer products. The Coalition welcomes the opportunity to discuss this important subject with the Commission.

I. Executive Summary

The members of the Coalition believe that the Consumer Product Safety Commission's ("the Commission") proposed policy statement of January 3 is flawed from both a procedural and a substantive perspective. Substantively, the policy statement seems both overly broad and vague, making it impossible to assess whether new law and new obligations are being created. If no new obligations or requirements are created, the appropriate course of action for the CPSC is to withdraw the statement and issue a clarification. If new obligations are created, however, then, procedurally, such action may result only from following the formal rulemaking requirements of the Administrative Procedure Act. We urge the Commission to withdraw this policy statement, and either issue a clarification to establish that no new obligations or modifications to existing rules are established; or initiate a more in-depth review of the issues and objectives raised by the policy statement, which could include a series of public workshops designed to develop an adequate record for any potential, relevant future regulatory action.

II. The Policy Statement is Flawed Procedurally and Substantively

The Coalition believes that the proposed policy statement is flawed both in terms of substance and form. The notice is drafted in a perfunctory and summary manner hardly inviting

comment beyond simple acceptance or denial of the proposed policy statement. Indeed, readers of the proposed policy statement will have difficulty understanding what it represents. How exactly does a regulated industry interpret the reporting requirement for “information concerning products sold outside the United States that may be relevant to evaluating defects and hazards associated with products distributed within the United States” as reportable under § 15(b)? Interpreted one way, this could lead to new reporting requirements and expand the Commission’s statutory authority – and, in the process, create new law without meeting the requisite procedural requirements.

A. The Policy Statement is Procedurally Flawed

The Commission notice of January 3 was issued in the form of a general policy statement. Under § 553(b)(A), general statements of policy are exempt from notice-and-comment requirements. To be labeled as a policy statement, federal courts have asserted that

[a] general statement of policy . . . does not establish a “binding norm.” It is not finally determinative of the issues or rights to which it is addressed. The agency cannot apply or rely upon a general statement of policy as law because a general statement of policy only announces what the agency seeks to establish as policy

Pacific Gas & Electric Co v Federal Power Commission, 506 F.2d 33, 38 (D.C. Cir. 1974). In other words, a policy statement indicates how an agency intends to exercise a discretionary function – assuming the agency has statutory authority to do so. However, to the extent that the Commission’s proposed policy statement is a binding rule, and could lead to new legal obligations for regulated entities, the statement could readily be interpreted as creating new law. It is well accepted that when new law is developed by an administrative agency, the process outlined for rulemaking within the Administrative Procedure Act, 5 U.S.C. § 553, must be followed to ensure public discussion and due process for regulated entities. These include a notice of public rulemaking,¹ and a notice-and-comment period that provides for public participation. In promulgating the rule, the agency must consider relevant matter presented by the comment period, and must adopt a concise general statement of its basis and purpose.

In this case, the Commission has issued a proposed rule that does not sufficiently meet the APA test. While the public has been invited to comment on the so-called “policy statement,” the notice as it stands does not require the Commission to weigh the merits of the comments, to formally publish the rule in the Federal Register or C.F.R., or to offer a statement of basis and purpose about why it reached its conclusions. Indeed, as Commissioner Mary Sheila Gall points out in her dissent, the Commission has attempted to communicate its message in such a way that there is minimal public scrutiny or discussion. We should not allow this form of guidance to be used as a backdoor manner of regulating absent rulemaking procedures.

¹ Including (1) a statement of time, place, and nature of public rulemaking procedures, (2) reference to the legal authority under which the rule is proposed, and (3) either the terms or substances of the proposed rule or a description of the subjects and issues involved. 5 U.S.C. § 553(b).

The reporting requirements that the Commission discusses in its policy statement are a matter of sufficient importance that a more active attempt to solicit the views of interested parties should be sought before a policy statement is published. So many substantive questions are raised, as will be seen below, that due process could only be afforded if the Commission provides for full discussion of the many issues to ensure useful public comment. The Commission's notice should be open to the possibility of differing views, and should not so confidently claim that the policy statement is a "straightforward reading" of the Consumer Product Safety Act ("CPSA")

B. The Policy Statement is Substantively Flawed

Not only does the policy statement likely violate the APA, the substance of the proposed policy statement is both complex and unclear within the backdrop of the requirements of § 15(b) of the CPS Act

The CPSA provides, *inter alia*, that a manufacturer, importer, distributor and retailer of consumer products – regardless of the size of the company – must notify the Commission immediately if it obtains information which reasonably supports the conclusion that a product distributed in commerce

- Fails to meet a consumer product safety standard or banning regulation,
- Contains a defect which could create a substantial product hazard to consumers,
- Creates an unreasonable risk of serious injury or death

15 U S C § 2064

In the context of these legal requirements, the text of the policy statement raises many questions

- In the case of a multinational corporation whose U S -based parent or subsidiary sells the same (or substantially similar) product in the U S., does the Commission intend under 16 C F R § 1115.14 to impute knowledge of safety-related information received by overseas employees of that corporation² May it do so? (Members of the Coalition believe the Commission should not, because the information is not necessarily transmitted back to the U S for a variety of reasons. Indeed, many companies have thousands – if not hundreds of thousands – of employees of subsidiaries or affiliated companies, agents, and distributors. Thus, the fact that an employee in another country has information about a "similar" product – one which still may have significant differences in design and manufacture from its American counterpart – does not mean that the information exists back in headquarters)

² Even the regulations contained in Part 1115 of Subchapter B of Title 16, Code of Federal Regulations, are interpretive, and non intended to promulgate new obligations in accordance with the APA 16 C F R § 1115.1

- Does the Commission intend to apply the same-time computation standards under 16 C F R § 1115.14 in such circumstances? May it do so?
- Does the Commission, under 16 C F R § 1115.13, intend to ask U.S. firms to produce documents and answer detailed questions related to product safety, incidents, manufacture, distribution, sales, and design of products that are under the control of related or overseas entities, or that are produced under a contractual arrangement with the U.S. firm, outside this country? May it do so?
- Does the Commission contend that U.S.-based firms investigate possible safety-related issues outside the U.S. to the same extent as those occurring within the U.S.? May it do so?
- Does the Commission expect all employees and agents of companies which sell consumer products in the U.S., but who are working overseas, to be fully cognizant of the requirements of § 15 and to adhere to U.S. reporting obligations on pain of penalty violations? May it do so?
- How does the Commission intend to take into account information developed outside the U.S. in determining whether or not a civil penalty investigation will be initiated, or whether a civil penalty will be sought?

The issue of “substantial similarity” also raises key questions. Vast differences exist in applicable regulatory requirements, safety requirements, and voluntary or third-party standards around the world. Under the policy statement, who has the burden of proof on the issue of product similarity? And does the proposed standard of product similarity meet the legal standard under the statute that requires manufacturers, distributors, retailers and importers to report on defects or substantial hazards associated with products distributed in commerce in the U.S.?

The notice does not deal with the myriad issues that arise when one considers full or partial application of § 15 to incidents, products or components sold outside the United States. The Coalition questions whether the Commission’s view is that all the rules, including attribution of corporate knowledge and the time periods for reporting and taking action contained within § 15 and its regulations are fully applicable to events and products outside of the U.S. If so, this is an expansive interpretation that probably is not supported by the law and that, in any case, must be discussed and understood in greater detail. This is an important issue that should be considered not only under the CPSA and related safety law, but also under federal laws that require regulatory review and analysis of small business impact, because these applications could significantly and adversely affect small American businesses that export and import products. Even larger businesses, including foreign-owned businesses that have substantial investment in the U.S., that are aware of the Commission’s § 15 requirements, might be placed at a disadvantage to importing entities that have no understanding of § 15 and thus are unlikely to connect events overseas with any possible issues or reporting obligations in the United States.

Only a more in-depth analysis of the issues raised by the policy statement will provide clarity for the regulated community.

III. Recommendation

The Coalition understands the obligatory reporting requirements that are under § 15. If, however, the Commission intends to implement this policy statement by applying either new reporting requirements on U.S. companies based on overseas activities, or by modifying key aspects of existing regulations with which they must comply, both of which will be the basis for enforcement actions against them, then the policy statement fails to provide notice to regulate companies about how the Commission will fairly do this.

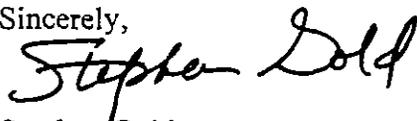
The Coalition recommends that the Commission withdraw this notice, and if interested in pursuing this route, it should initiate a more in-depth review of the issues and objectives raised by the policy statement. This could include a series of public workshops designed to develop an adequate record for any potential, relevant future regulatory action. The regulated community and other interested parties should be fully engaged in discussions with the Commission on the parameters of how events outside the U.S. are relevant, both legally and from a safety perspective, to both the safety of products in the United States and to relevant obligations under the CPS Act and related statutes administered by the CPSC. These discussions could lead to a proper and more carefully crafted notice, which would in turn lead to much more useful public comment.

IV. Conclusion

The Coalition believes the Commission's proposed policy statement is flawed from both a procedural and a substantive perspective. The Coalition urges the Commission to withdraw this notice of proposed policy statement, and either issue a clarification to establish that no new obligations or modifications to existing rules are established, or initiate a more in-depth review of the issues and objectives raised by the policy statement, which could include a series of public workshops designed to develop an adequate record for any potential, relevant future regulatory action.

The public, affected firms, and the Commission must all share a common understanding about the manner and circumstances in which firms must bring safety-related developments outside the United States to the Commission's attention, and the scope of the Commission's authority to inquire about or mandate responses to questions about foreign activities. Perhaps such discussions could form the basis on which the Commission could consider further regulatory action which truly advances the product safety goals we all share.

Sincerely,



Stephen Gold

Executive Director, Associations Council
For the NAM CPSC Coalition



NATIONAL RETAIL FEDERATION

March 5, 2001

Sadye E. Dunn
Secretary
Consumer Product Safety Commission
Washington, DC 20207-0001

**RE: PROPOSED FOREIGN PRODUCTS REPORTING POLICY STATEMENT
(FR DOC. 01-134)**

Dear Secretary Dunn

The purpose of this letter is to urge the Consumer Product Safety Commission *not* to issue its proposed policy statement to broadly extend reporting requirements under the Consumer Product Safety Act (the "Act") to consumer products sold internationally that are similar to consumer products sold in the United States

For reasons that follow, we propose alternatively that the Commission adopt a simpler standard where domestic reporting of foreign product safety issues is required *only* when reporting would otherwise be required under the Act itself. In other words, the reporting would be required only when U.S. *product safety standards* are at issue, rather than contradictory and oftentimes confusing international standards

To begin with, the fact that the Commission plays an important role in saving lives and preventing serious injury to American consumers goes without saying. Moreover, we support the underlying rationale of a policy statement of the type proposed

What we raise, however, are potential *unintended* consequences if the policy statement is ultimately adopted as initially proposed

The following short scenario should help illustrate the point

Take, for example, a common consumer product as pajamas, which are sold in the United States and abroad by multinational retailers under varying flammability standards. Let us assume that product safety officials in a foreign country decide one day to adopt flammability standards based on unsound or unproven scientific principles

Under the proposed policy statement, any violation (actual or potential) of the country's questionable flammability standards would probably have to be reported to the Commission (in addition to foreign product safety officials) despite the fact that the pajamas at issue were in full compliance with the U.S. Act

More importantly, if such information were to become public, the potential net effect could be unnecessary and widespread confusion and concern (perhaps even panic) among U S consumers about the safety of domestically sold pajamas

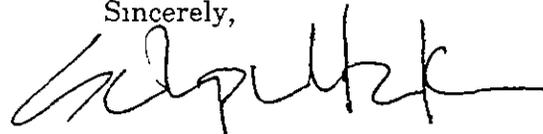
In addition, U S consumers could begin to doubt the viability of the Commission's own standards and safety procedures Surely this is not what the Commission intended when it proposed its policy statement

By limiting the scope of its proposed policy statement to foreign product safety reporting only when the Act would require if such products were sold domestically, the Commission may even encounter legal arguments sure to be raised during the comment period that on its face the policy statement is overly broad and vague, that the Commission has somehow exceeded the scope of its jurisdiction; or, that the formal rulemaking process established by the Administrative Procedure Act has not been properly followed

Above all, we believe that our proposed domestic reporting standard balances the need for the Commission and U S companies to continue working together to provide safe and reliable products with the need for U S consumers to be reasonably informed about potential risks associated with products they purchase

Thank you for your consideration of our comments By way of background, the **National Retail Federation (NRF)** is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet and independent stores NRF members represent an industry that encompasses more than 1 4 million U S retail establishments, employs more than 20 million people -- about 1 in 5 American workers -- and registered 2000 sales of \$3 1 trillion NRF's international members operate stores in more than 50 nations In its role as the retail industry's umbrella group, NRF also represents 32 national and 50 state associations in the U S as well as 36 international associations representing retailers abroad

Sincerely,



Sarah Whitaker
Senior Director
Government Relations