

MEETING LOG

CPSA 6(b)(1) Cleared
No Mfrs/Prvtlbrs or
Products Identified 5/28/96 TSI.

Meeting Date: March 26, 1996

CPSC Attendees: Ann Brown, Chairman
Eric Rubel, General Counsel
Alan Schoem, Executive Assistant Office of
Compliance

Non CPSC Attendees:

Charles Samuels, AHAM Government Relations Counsel
Wayne Morris, Technical Director, Regulatory Affairs

The meeting was held at AHAM's request. The AHAM representatives discussed their support for CPSC and the CPSA. They also discussed their reasons for supporting various amendments to the Commissions statutes proposed by the National Association of Manufacturers. Their proposals are included in the attached AHAM submission.

Chairman Brown thanked the AHAM representatives for sharing their views with her. She noted they were the only organization that had met with her to discuss their views.

The AHAM representatives suggested the possibility of a formal forum to discuss the section corrective action process and how it works. Chairman Brown indicated she preferred more informal discussions but noted the Commission would be holding a small business conference in New York to allow firms to understand how CPSC works.

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March 26, 1996

1. We support the existence of CPSC and the CPSA.

- AHAM does not have an opinion on the funding levels of the Commission. It is beyond our expertise to determine the appropriate funding level of the Commission.
- The Commission is nearing its 25 year mark. The time may be right to review the operations of the agency and renew itself by a broad look at its key functions and structure. This should be done using a "zero base" method to justify each operation based on need, effectiveness and function.

2. Our concerns with the Consumer Product Safety Act are well documented and historic.

AHAM has raised many of these same objections each time that Congress considered changes to the CPSA or reauthorization of the Commission. These concerns existed prior to the present administration.

3. AHAM participates in the NAM Coalition on CPSC. We believe the overall goals of this Coalition are consistent with the points we raised above. We also have more focused views based on the specific experiences of the appliance industry.

4. Our manufacturers have a substantial investment in their factories, their designs, and, most of all, in their brand name franchises. This industry may be particularly vulnerable to the actions of this Commission. That brand name franchise is based on consumer trust and carries with it a strong need to put consumer safety first. For this reason, our industry may have experiences with the Commission that have led to specific concerns with the Consumer Product Safety Act. We believe that change would be positive for the Act and for the Commission overseeing it.

Specifically,

A. Disclosure of privileged information that the Commission gains under Section 15 (b) filings is of concern to our members. We believe information that companies make available to the Commission, which may be in the "grey" area of hazard identification or which a company seeks a ruling from the Commission staff on as to whether it constitutes a hazard, should be protected. Information contained in these preliminary determination files should not be released to the general public. We support amending Section 6(b)(5) to prohibit preliminary disclosure of such preliminary information until the Commission has reached a final determination.

B. We believe general information that the Commission gains in consumer complaints should be reviewed and substantiated prior to release to the public. For a consumer to "blame" a product is not unique. However, before this information is shared with the public, it should be reviewed by the Commission's technical or epidemiological staff for accuracy and for technical substantiation. Such a change shows our support for the Commission staff and belief that once reviewed, they will separate unwarranted claims from true potential hazards. We support adding a new section 6(b)(6) to provide for investigation and substantiation of such reports.

C. We believe any action by the Commission should be limited to cases where there are defects to the product. Consumers, in many cases, understand the risk of many products, and even when injuries result, the consumers recognize their responsibility. Such a policy would also serve to focus the Commission's limited resources. In addition, when determining if a substantial hazard exists, the Commission, in some actions, gives scant consideration to warnings issued with the products. Manufacturers spend considerable time and effort designing warning information and labels for products. We support amending Section 9 to provide for CPSC consideration of product nature, content, design or labeling in determining risk.

D. Frequently, manufacturers have filed information under Section 15 (b) and an investigation is undertaken by Commission staff. In a few cases, manufacturers receive no further communication from the Commission. The investigation seems to languish indefinitely. Months or years later, the manufacturer is notified that they are still under investigation. We believe that the enforcement division should make a determination on these issues within a reasonable period of time and fully inform the manufacturers of that determination.

E. Our manufacturers have for many years questioned the value of Section 37 reporting requirements. They are vague, easily misunderstood and most important, duplicative of requirements under Section 15 (b). Legal actions filed against the manufacturers are not presumptive of product defect. If manufacturers choose to settle nuisance actions filed against them rather than incur large legal costs, this should in no way mean that there is a problem with the product. The requirements under Section 15 (b) are more carefully defined and speak to the main point. We support elimination of Section 37.

F. AHAM supports restrictions on the public disclosure of product specific information through the addition of a new provision to Section 6 (b). Comments not based on substantial evidence, even if specific brands or companies are not named, have caused damaging consumer reactions to some products. The Commission exercises great authority and it should do so with appropriate deliberation.

5. A number of Federal Agencies are looking seriously at their mission and effectiveness this year. Most of these have involved the stakeholders in "reinventing government" discussions. Just as our manufacturers are continually seeking to improve their quality and efficiency, we urge the Commission to look closely and comprehensively at its operations. Our manufacturers believe that by more closely defining the reporting requirements and obligations of the CPSA, this will strengthen the Commission. A better focused Commission is in everyone's best interest.