

UNITED STATES GOVERNMENT

Memorandum

RECEIVED
OFFICE OF THE SECRETARY

Nov 18 8 59 AM '74

CONSUMER PRODUCT
SAFETY COMMISSION

CONSUMER PRODUCT
SAFETY COMMISSION
WASHINGTON, D.C. 20207

DATE: NOVEMBER 19, 1974

TO : Commissioners
THRU : Michael A. Brown, General Counsel
THRU : Sadye E. Dunn, Secretary
FROM : Alan C. Shakin, Office of the General Counsel

SUBJECT: Petition for Regulation of Textbooks (CP-75-5)

The attached petition requests regulation of the content of certain textbooks on a claim that the instructions for performing scientific experiments involve an unreasonable risk of injury.

For the reasons stated in our suggested response (also attached), we recommend that the petition be denied on jurisdictional grounds.

Please indicate below your decision on this matter.

GRANT PETITION

(SIGNATURE)

(DATE)

DENY PETITION

(SIGNATURE)

(DATE)

AND

APPROVE LETTER

(SIGNATURE)

(DATE)

OR

DISAPPROVE LETTER

(SIGNATURE)

(DATE)

ABSTAIN

(SIGNATURE)

(DATE)

DRAFT

U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

Harvey E. Schock, Jr.
30 Oak Ridge Drive
Haddonfield, New Jersey 08033

Dear Mr. Schock:

This is in response to your October 1, 1974 petition concerning the regulation of textbooks and your October 17 follow-up letter. Your petition requests the Commission to regulate certain textbooks based on an unreasonable risk of injury which they present. The claimed basis for such risk is that the books contain instruction for performing science experiments that does not include discussions, cautions, or illustrations relating to safety consideration.

The Commission finds that its jurisdiction under the Consumer Product Safety Act (CPSA) and the other Acts the Commission administers does not extend to risks of injury such as the one you allege. Accordingly, your petition is denied.

Textbooks are clearly "consumer products" under Section 3(a)(1) of the CPSA. If any textbook were manufactured with unreasonably sharp edges, by way of illustration, it could be regulated under this Act. However, we can find no evidence in the Act or its legislative history that regulating the risk of printing unsafe directions for scientific experiments was anticipated by Congress in passing this legislation. Therefore, we do not believe that this

ADVISORY OPINION

issue is within the scope of the Act. As is clear from the legislative history and the type of products, injuries, and safety risks investigated by the National Commission on Product Safety in laying the groundwork for the CPSA, Congress was concerned with those injury risks directly associated with and caused by the consumption, use or enjoyment of consumer products. There is no doubt that unsafe textbook directions might affect the way a child performs a scientific experiment, and could even contribute to an injury that might result from the unsafe performance of that experiment. However, such indirect potential injury is not included within the types of injuries from which Congress intended to protect the public.

We appreciate the concern which prompted you to petition the Commission for a product safety rule, and we hope that you will continue to participate in our activities.

Sincerely,

Sadye E. Dunn
Secretary

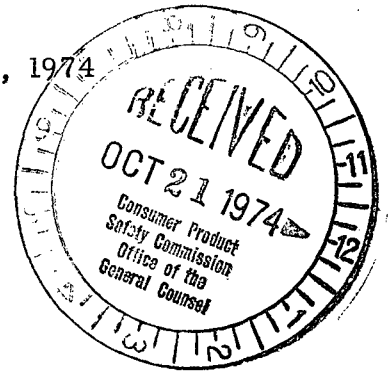
HARVEY E. SCHOCK, JR.
30 OAK RIDGE DRIVE
HADDONFIELD, NJ 08033

October 17, 1974

Consumer Product Safety Commission
Washington, D. C. 20207

Attention: Mr. Michael Brown, General Counsel

Gentlemen:



On October 1, 1974 I sent a Petition to the Consumer Product Safety Commission on the matter of Textbooks as products under Public Law 92-573. I received Certified Mail Receipt 211474 signed October 4, 1974 by D. Zerra (spelling questionable) for the CPSC.

My Petition was made as a citizen and parent of an eleven year old child who is being instructed by a textbook to use aerosol products under the heading of freon experiments without recognizing the Vinyl Chloride hazard or other hazards associated with the action and training nor with any regard for appropriate safety protection. My Petition requested the CPSC to consider products to include textbooks and to require the recall and correction of such textbooks.

Further, the same referenced textbook calls for children to take gas samples from the exhaust pipe of automobiles with only the instruction of "at least two adults" without giving requirements for the skill of the adults or listing all of the hazards involved. This is on pages 246 and 247 of the textbook.

I visited the Commission on October 16th and could find no indication of action on the Petition, although I did not contact your office. I did observe that the Advisory Council for Product Safety was interested in CPSC action for student education and they were not aware of my Petition which requested that the CPSC develop Rules for the preparation and control of Textbooks as Products under Public Law 92-573.

I would appreciate advice as soon as possible on the action you plan to take on my Petition. You might desire to contact Vice Chairman Kushner and Commissioner Pittle as I had the opportunity on October 16th of briefly mentioning this matter during conversation.

Thank you for your assistance on this matter and feel free to contact me for further information in the support of this action and in other activities of the Commission for the protection of our citizens.

cc: Vice Chairman Kushner
Commissioner Pittle

Sincerely,

A handwritten signature in dark ink, appearing to read "H. E. Schock, Jr.".

Harvey E. Schock, Jr.

-00247-

HARVEY E. SCHOCK, JR.
30 OAK RIDGE DRIVE
HADDONFIELD, NJ 08033

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CONSUMER PRODUCT
SAFETY COMMISSION

To: Consumer Product Safety Commission
Washington, D. C. 20207
Attention: Honorable Richard O. Simpson, Chairman

Whereas the Consumer Product Safety Act, Public Law 92-573 is for the protection of the public against unreasonable risk of injury, and

Whereas the importance of safety and health for youth and their training is needed, and

Whereas a consumer product is defined to include items used in school, and

Whereas textbooks, such as the new Houghton Mifflin Company, 110 Tremont Street, Boston, Massachusetts 02107 in its textbook MODULES ACTION PROGRAM FOR SCIENCE ISBN 0-395-16701-9, Copyright 1974, and used by children 11 years old in Sixth Grade, is a product that provides instructions on the performing of experiments involving unreasonable risk of injury, without cautions or illustrations for any associated protection by eye shields, thermal gloves, exhaust hoods or other safety protection devices or guidance, and

Whereas it could be an experiment causing unreasonable risk of injury to ask a child, on Pages 244 and 245 and on other pages of such book, without proper protection to perform an experiment of emptying a full can of pressurized freon into a simple plastic bag, and

Whereas one of the purposes of child education is to equip children, among other things, to be prepared for or to reduce the impact of situations in later life as well as in their youth from situations involving unreasonable risk of injury, and

Whereas Section 10 of the Act does provide for the petitioning of the Commission for issuance of consumer product safety rules, and

Whereas Section 15 of the Act does provide for the repair, replacement and refund of a product presenting a substantial product hazard, so

Therefore it is hereby petitioned that the Commission

Will develop rules for the issuance and regulation of textbooks containing directions for experiments involving unreasonable risk of injury either in performance of such experiments or resulting from the education of persons in practices considered to offer unreasonable risk of injury to such persons or to others, either in the performing of such experiments or in the learning of practices which would provide unreasonable risk of injury to themselves or to others at a later time, and

Will take necessary action to order correction of the forenoted textbook and other such textbooks as may be determined by the Commission as providing unreasonable risk of injury in their content and resulting acts

Petitioned this First of October, 1974, Borough Haddonfield, State New Jersey, by

Harvey E. Schock, Jr. (Seal)

Chauma [Signature]

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DATE: NOVEMBER 19, 1974

TO : Commissioners
FROM : Michael A. Brown, General Counsel
IRU : Sadye E. Dunn, Secretary
IRU : Alan C. Shakin, Office of the General Counsel
ACJ

SUBJECT: Petition for Regulation of Textbooks (CP-75-5)

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For the reasons stated in our suggested response (also attached), we recommend that the petition be denied on jurisdictional grounds.

Please indicate below your decision on this matter.

GRANT PETITION

(SIGNATURE)

(DATE)

DENY PETITION

R. Simpson
(SIGNATURE)

11-21-74
(DATE)

AND
APPROVE LETTER
OR
Substitute

R. Simpson
(SIGNATURE)

11-21-74
(DATE)

DISAPPROVE LETTER

(SIGNATURE)

(DATE)

ABSTAIN

(SIGNATURE)

(DATE)

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(SIGNATURE)

(DATE)

DENY PETITION

B. Franklin 11-21-74
(SIGNATURE) (DATE)

AND

APPROVE LETTER

OR

(SIGNATURE)

(DATE)

DISAPPROVE LETTER

B. Franklin 11-21-74
(SIGNATURE) (DATE)
(Substitute letter should be used instead)

ABSTAIN

(SIGNATURE)

(DATE)

Commissioner Kustner

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DATE: NOVEMBER 19, 1974

Commissioners

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RU : Sadye E. Dunn, Secretary
DM : Alan C. Shakin, Office of the General Counsel

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(DATE)

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(SIGNATURE)

(DATE)

AND

APPROVE LETTER

(SIGNATURE)

(DATE)

OR

DISAPPROVE LETTER

(SIGNATURE)

(DATE)

ABSTAIN

(SIGNATURE)

(DATE)

As modified.

NOV 19 1974
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Commissioner Newmar
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CONSUMER PRODUCT
SAFETY COMMISSION
WASHINGTON, D.C. 20207

DATE: NOVEMBER 19, 1974

Commissioners
Michael A. Brown, General Counsel
Sadye E. Dunn, Secretary
Alan C. Shakin, Office of the General Counsel

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GRANT PETITION

(SIGNATURE)

(DATE)

DENY PETITION

R. David Pittle
(SIGNATURE)

11/21/74
(DATE)

AND
substitute
APPROVE LETTER
OR

R. David Pittle
(SIGNATURE)

11/21/74
(DATE)

DISAPPROVE LETTER

(SIGNATURE)

(DATE)

ABSTAIN

(SIGNATURE)

(DATE)



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

November 21, 1974

RDS
Substitute Letter

Mr. Harvey E. Schock, Jr.
30 Oak Ridge Drive
Haddonfield, New Jersey 08033

Dear Mr. Schock:

This is in response to your October 1, 1974, petition concerning the regulation of textbooks and your October 17 follow-up letter. Your petition requests the Commission to regulate certain textbooks based on an unreasonable risk of injury which they present. The claimed basis for such risk is that the books contain instructions for performing science experiments that do not include discussions, cautions, or illustrations relating to safety consideration.

The Commission, after careful deliberation, has concluded that its jurisdiction under the Consumer Product Safety Act (CPSA) and the other Acts the Commission administers does not extend to risks of injury such as the one you allege. Accordingly, we must deny your petition. In so doing, we wish to make clear that our decision is based solely upon our judgment regarding the limitations of our jurisdiction and not upon the merit or lack of merit of your petition.

Textbooks, as physical objects, are clearly "consumer products" under Section 3(a)(1) of the Consumer Product Safety Act (CPSA) and thus, by way of illustration, if any textbook were manufactured with unreasonably sharp edges it could be regulated for such sharp edges under this Act. However, we can find no evidence that Congress intended to give us authority to regulate the written contents, such as directions for scientific experiments, of textbooks when it passed the CPSA. Congress was concerned with those injury risks directly associated with and caused by the consumption and use or enjoyment of consumer products. While it is no doubt true that unsafe textbook directions might affect the way a child performs a scientific experiment and could even

Harvey E. Schock, Jr.

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contribute to an injury resulting from the unsafe performance of that experiment, we do not believe that such an indirect causal connection was included within congressional thinking in passage of this legislation.

We deeply appreciate the concern which prompted you to petition the Commission for a product safety rule and we hope that you will continue to participate in our activities.

Sincerely,

Sadye Dunn
Secretary

Nevertheless, The Commission ~~is~~ will look into what it can do to ^{urge} ~~encourage~~ ~~the~~ publishers of educational materials intended for children to ^{text and/or illustrations which could encourage} avoid ~~encouraging~~ the unsafe use of consumer products.

Newtucker: The Commission intends

to look into what it ~~is~~^{can} do to encourage publication of educational materials to ~~avoid~~ avoid encouraging the excessive use of consumer products.