

Antitrust, Franchise & Consumer Law Client Service Group

To: Our Clients and Friends

January 24, 2011

CPSC Opens Business Registration for New Consumer Product Safety Information Database

The New Database

Private labelers, manufacturers, and importers can now pre-register to receive online access to reports by consumers involving their products that will be submitted on the Consumer Product Safety Commission (CPSC)'s new Consumer Product Safety Information Database ("Database"), and to participate in the CPSC's current trial launch of the Database.

The Database, a requirement under the Consumer Product Safety Improvement Act, is being launched on a trial basis this week and will launch officially in March at www.SaferProducts.gov. The Database will allow a broad range of people -- not only consumers but also trial attorneys and consumer advocacy groups, as well as health care providers and public safety agencies -- to file so-called "reports of harm" ("Reports") informing the CPSC about an incident or concern that the submitter believes is an indication a product is unsafe or potentially hazardous. The CPSC will publish those Reports in its Database, along with any comments and responses from the appropriate private labeler, manufacturer, or importer if those comments are received in time. To permit a Report to be published, the CPSC need only minimally verify the following information provided:

- (1) Identity of the submitter and/or the victim, including name, location, age, and gender (although reports will be published anonymously);
- (2) Name of the consumer product, including serial or model number, date code, color, or size;
- (3) Harm or risk of harm related to the use of the consumer product;
- (4) Description of the incident related to use of the consumer product;
- (5) Date or approximate date of the incident; and/or
- (6) Category of submitter (e.g., consumer or other party)

Why Register?

Registering for the Database will allow private labelers, manufacturers, and importers to receive electronic notice of Reports submitted about their products as soon as the CPSC reviews and transmits them, which is supposed to be within five business days of a consumer submitting them to the CPSC. Registered companies will have the opportunity to comment on the Reports and may request that their comments appear with the Report when it is published in the Database. The Report will be published on the 10th business day after the manufacturer or labeler receives it, regardless of

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whether the manufacturer or labeler has responded. The entire process -- from the initial submission of the report to publishing on the Database -- will generally be 15 business days.

The CPSC has indicated that its Staff will review importer, manufacturer, and private labeler comments before they are published, so it is important that comments the importer, manufacturer, or labeler desires to be published along with a Report be submitted to the CPSC at least a few days before the report publishing date. (The CPSC has not indicated exactly how much time is needed to review comments.) Comments submitted after a Report has been published also will be posted "as soon as practicable" - but are not required to be published by a certain date and would not accompany the Report. All published information will be visible and searchable online.

In addition to submitting substantive comments, a private labeler, manufacturer, or importer may submit separately a claim that a Report contains confidential or materially inaccurate information, along with supporting documents. If the CPSC receives such claim before a Report is published, it either will make a determination on whether the Report contains confidential or materially inaccurate information before the publishing date, or will redact portions of the Report claimed to be confidential or materially inaccurate until such a determination can be made. Additionally, importers, manufacturers, and labelers can receive advance processing of such a claim by submitting it in a "timely" fashion (i.e., well before the date the Report will be published); clearly marking it for "expedited review;" and limiting the claim to five pages or fewer.

Initial Launch of Database

This week the CPSC also has begun a "soft launch," or trial run, of the Database at www.SaferProducts.gov. Registered importers, manufacturers, and labelers will be able to test the Database by receiving comments submitted by consumers from the CPSC within five business days of submission, and having the opportunity to respond to comments and claim that they contain confidential or materially inaccurate information. Unlike Reports submitted after the official launch in March, these Reports, and any comments or claims, will not be published on the Database. The reports, however, may be accessible to the public under the current requirements for disclosure under Section 6(b) of the Consumer Product Safety Act. During the trial period the will CPSC make changes to the Database as necessary.

How to Register

Currently, businesses can register to be notified of Reports on the online Business Portal, which can be found on the SaferProducts.gov homepage. After accepting Terms of Use, registrants will be directed to a page requiring them to provide: (a) Company Contact Information (Name, Address; Phone number; email address) and (b) whether the Company is a manufacturer, private labeler or importer. Additionally, the CPSC requires the company to designate a "Primary Contact" who will be responsible for receiving e-mail notifications of submitted reports of harm. The CPSC will notify the company once registration is accepted and complete. Once complete, companies will also be able to create subaccounts for additional parties, such as any employees other than the Primary Contact who will handle responses to Reports, or retailers the registered company wishes to notify about Reports.

Questions about the New Database?

If you have additional questions, please do not hesitate to contact Dan Schwartz at 202-508-6025 (dschwartz@bryancave.com), or Seyi Iwarere at 202-508-6318 (seyi.iwarere@bryancave.com).