



TUCKER ELLIS LLP

CLIENT ALERT

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THE BOOMING “WORLD WIDE WEB” OF CONSUMER PRODUCT SAFETY CONTINUES TO EXPAND

The “world wide web” of consumer product safety is continuing to expand. While the first boom began here in the United States with the passage of the Consumer Product Safety Improvement Act of 2008 (CPSIA), its echo can be heard around the world as several new consumer product safety laws enacted in 2011 affect those involved in the consumer products supply chain both in the United States and abroad.

The Consumer Product Safety Commission (CPSC) is as active as ever, performing roughly 6,000 in-depth investigations (IDIs) and 500 recalls per year. During the first quarter of 2012, the CPSC received roughly 18,000 reports of harm (6,300 of which have been posted on Saferproducts.gov (“the Database”) since the Database came on-line in March 2011), yet only 3,000 businesses are registered on the Database. The CPSC has made it clear that the Database will become a central repository for all CPSC documents, making it important for businesses to register in order to be in the best position to react to the frequent activity by the CPSC. The CPSC is already planning for fiscal year 2014 and is holding a public hearing on June 20, 2012 to consider the public’s views on the priorities and activities on which the CPSC should focus.

In June 2011, Canada passed the Canada Consumer Product Safety Act (CCPSA). As

of the first quarter of this year, Canada had received roughly 1,700 reports of harm through its new mandatory incident report forms. One of a number of Canada’s new policies includes the newly proposed Administrative Monetary Penalties on Consumer Product Regulations under the CCPSA. The proposed penalties for violations range from \$1,000 to \$25,000 per violation. As Health Canada just closed its comment period on June 7, 2012, we can expect to see the penalties in effect in the near future.

In January 2011, the Australian Competition and Consumer Commission (ACCC) passed the Australian Consumer Law (ACL). In 2011 alone, 1,993 reports were filed under the new mandatory reporting requirement. The ACCC followed up on 50 percent of the reports and conducted formal investigations on seven percent of the reports. At a recent conference on consumer product safety, ACCC officials promised a robust product safety education campaign as a result of the ACCC’s goal of becoming a leader in the global network of consumer product safety.

The European Union is about to be the next party to make noise in the area of consumer product safety. RAPEX is the EU rapid alert system that facilitates the rapid exchange of information between Member States and the EU Commission on measures taken to prevent

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or restrict the marketing or use of products posing a serious risk to the health and safety of consumers. Although the RAPEX system has traditionally averaged 2,000 reports each year, the number of reports has increased over the past 12 months. The monthly average for 2011 was 150, while the current monthly average for 2012 has been approximately 200, with 136 reports on serious risk notifications filed in April 2012 alone. In May 2012, the European Commission Consumer Agenda

included a robust plan to improve and enhance consumer product safety in the EU and promised a number of significant changes.

As the world of consumer product safety continues to change, it is important that those involved in the consumer products supply chain stay current on expanding regulations in order to make any necessary changes to current policies and procedures.

ADDITIONAL INFORMATION

Attorneys at Tucker Ellis LLP have recently published two informative articles on consumer product safety:

- “International Consumer Product Safety Regulations” (*ACC Docket*, June 2012); and
- “One Flaw Can Trigger Worldwide Reporting Obligations” (*Manufacturing Engineering*, May 2012).

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