

**CPSC POLICY STATEMENT REGARDING IMPOSITION
OF REPORTING REQUIREMENTS ON PRODUCTS
SOLD OUTSIDE THE UNITED STATES**

January 2001

www.morganlewis.com

*Brussels ■ Frankfurt ■ Harrisburg ■ London ■ Los Angeles ■ Miami ■ New York
Philadelphia ■ Northern Virginia ■ Pittsburgh ■ Princeton ■ Tokyo ■ Washington*

CPSC Policy Statement Regarding Imposition of Reporting Requirements on Products Sold Outside the United States

January 2001

This White is published to inform clients and friends of Morgan Lewis and should not be construed as providing legal advice on any specific matter.

On January 3, 2000, the Consumer Product Safety Commission ("CPSC") released a proposed policy statement announcing its position that the reporting requirements under section 15(b) of the Consumer Product Safety Act ("CPSA") extend to products that are sold outside of the U.S. 62 *Fed. Reg.* 351 (Jan. 3, 2001). Section 15(b) of the CPSA requires manufacturers, importers, distributors, and retailers of consumer products to immediately report information to the Commission that supports a conclusion that a product: (1) fails to comply with an applicable consumer rule or voluntary consumer product standard; (2) contains a defect that could create a substantial product hazard;¹ or (3) creates an unreasonable risk of serious injury or death. The requirement applies not only if the product actually contains a defect that creates a substantial product hazard, but also if information the company receives reasonably supports a conclusion that a product defect *could* create such a hazard or an unreasonable risk of serious injury or death.

According to the Commission, nothing in the reporting requirements under the CPSA or its regulations limits reporting to information that is derived solely from experiences with products sold in the U.S. The reporting requirements also extend to information that is based on incidents or experience that originate outside of the U.S., if the information is relevant to a product that is sold or distributed in the U.S. Thus, any information about a product, product component, or substantially similar product that could support a conclusion that the U.S. marketed product could create a substantial product hazard, or cause serious injury or death is now relevant to a company's reporting requirements regardless of its geographic origin. The Commission claims that it has the authority under the CPSC and regulations to implement this policy, but it is seeking public comment on the policy statement by March 5.

In a dissenting opinion, CPSC Commissioner Gall questioned whether the CPSA gives the Commission the authority to require information regarding "substantially similar" products or components thereof that are sold in a foreign country. However, she also recognized the importance of gaining information about foreign products due to the increasing globalization of consumer products.

¹16 C.F.R. § 1115.

This White Paper is published to inform clients and friends of Morgan Lewis and should not be construed as providing legal advice on any particular matter.

If finalized, the policy statement may significantly impact consumer product companies by requiring manufacturers, distributors, and retailers to adopt new compliance programs and recordkeeping policies and procedures concerning worldwide product experiences to ensure compliance with the 15(b) reporting requirements, and to avoid assessments of penalties for failure to report.

Kathleen M. Sanzo
202.467.7209
ksanzo@morganlewis.com