



U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

Record of Commission Action
Meeting of August 10, 1978

1111 18th Street, N.W.
Washington, D.C.

Presiding: Chairman King

Present : Commissioner Franklin
Commissioner Pittle
Commissioner Sloan

ITEM

Discussion of section 12 case in litigation, Consumer Product Safety Commission v. Chance Manufacturing Company, Inc., et al.

DECISION

I. The Commission does not find acceptable, and will not sign, any settlement agreement offered in Consumer Product Safety Commission v. Chance Manufacturing Company, Inc., et al., Civil Action No. 77-1581 (D.D.C., filed Sept. 15, 1977), which does not contain a provision by which the defendants consent to reinstatement of the case for the purpose of entry of an Order. Settlement agreements without such reinstatement provisions are unacceptable because they are difficult to enforce and therefore do not adequately protect the public.

II. The Commission authorizes the staff to appeal in the Commission's own name (to the U.S. Court of Appeals for the District of Columbia) the Order of Dismissal, dated June 20, 1978 and entered in Consumer Product Safety Commission v. Chance Manufacturing Company, Inc. et al., Civil Action No. 77-1581 (D.D.C., filed Sept. 15, 1977), if the District Court does not reinstate the case for the purpose of entry of the Agreement and Order to be negotiated by the staff.

III. The Commission has considered the applicability of section 6(b) of the Consumer Product Safety Act to Chance Manufacturing Company, Inc., in light of the section 12 case which has been filed against Chance.

ITEM: Discussion of section 12 case in litigation, Consumer Product Safety Commission v. Chance Manufacturing Company, Inc., et al.

The Commission concludes that the exception contained in section 6(b)(2)(A) of the CPSA is applicable to this matter as the section 12 case (C.P.S.C. v. Chance Manufacturing Company, Inc., et al., Civil Action No. 77-1581 (D.C.C., filed Sept. 15, 1977)) is in litigation.

The Commission has also taken into consideration the status of the litigation, the facts of the case, the potential for death or grievous bodily injury presented by the consumer product involved, and the public need to be informed about the hazard associated with the consumer product. Therefore, although the finding is not necessary in light of the pending litigation, the Commission hereby finds out, in accordance with section 6(b) of the CPSA, that the public health and safety requires a lesser period of notice to Chance Manufacturing Company, Inc.

Therefore, the staff is authorized to contact Chance Manufacturing Company, Inc., by telephone; to give Chance Manufacturing Company, Inc., reasonable notice not to exceed 24 hours; and thereafter immediately to disclose to the public information about the Zipper amusement ride which will permit the public to ascertain readily the identity of Chance Manufacturing Company, Inc.

VOTE

Concurring: Chairman King

Susan B. King

Commissioner Franklin

Barbara H. Franklin

Commissioner Pittle

R. David Pittle

Commissioner Sloan

Edith L. Paddock Sloan