

## New Consumer Product Complaint Database Creates Risks for Manufacturers, Retailers

For years, the [Consumer Product Safety Commission](#) has provided an outlet for consumer complaints, while still offering businesses some degree of protection against false or irresponsible claims. However, the planned development of a CPSC database stands to practically eliminate those safeguards and put both manufacturers and retailers at risk.

Corporate leaders and in-house counsel should be aware of the following:

1. **The CPSC database is scheduled to go live March 11, 2011.** At that time, any complaint to the CPSC that a product causes harm can be accessed online by anyone. Any objection to any complaint must be sent to the CPSC within 10 days to avoid public airing. [The Washington Post likens it](#) to “the massive equivalent of an Internet bulletin board on which consumers can post personal safety reviews of products.”

Certain products, such as tobacco, alcohol, automobiles, tires, food, drugs and cosmetics, are excluded from the database. But that still leaves millions of consumer items subject to harmful, public ridicule on a federal government website, regardless of merit.

2. **All consumer complaints cannot be vetted by the CPSC.** Previously, such complaints to the agency were required to be kept private unless the CPSC found they had sufficient merit to notify the manufacturer and/or distributor, and, even then, the CPSC rarely made the complaints public. A few were followed by the Office of Compliance, and could require action, such as a product recall. But the nature of this new, public database makes it a practical impossibility for the CPSC to review complaints for merit, but instead requires CPSC to make the complaints public unless a company objects and the CPSC agrees that the grounds for objection are well taken.

The potential certainly exists for the database to be abused by false complaints. It also is highly possible that unscrupulous competitors or disgruntled employees could use the database to disseminate unflattering information or even damaging trade secrets.

3. **Companies only have a 10-day window to dispute false or misleading claims, or breaches of confidential information.** So companies, or their outside legal counsel, need to be constantly monitoring both complaints filed with the CPSC and the database for allegations.

With less than three months until the public database is implemented, companies, particularly product manufacturers and “big box” retailers, need to develop a plan for monitoring complaints to the CPSC and the database, and responding to false or damaging complaints.

Womble Carlyle will be hosting a webinar in January providing further details about what company executives need to know. Should you have questions about the contents of this alert, please contact your Womble Carlyle attorney or one of the following lawyers:

**Bill Womble Jr.**

(336) 721-3630

[BWomble@wcsr.com](mailto:BWomble@wcsr.com)

**John Sweeney**

(410) 545-5821

[JSweeney@wcsr.com](mailto:JSweeney@wcsr.com)

**Sky Woodward**

(410) 545-5823

[SWoodward@wcsr.com](mailto:SWoodward@wcsr.com)

Womble Carlyle client alerts are intended to provide general information about significant legal developments and should not be construed as legal advice regarding any specific facts and circumstances, nor should they be construed as advertisements for legal services.

***IRS CIRCULAR 230 NOTICE:*** *To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed in this communication (or in any attachment).*