



Detailed Agenda

Product Risk Management Seminar

*Product Risk Management: A Product Lifecycle Approach to
Identifying, Mitigating and Managing Legal Risks*

Wednesday, October 19, 2011

8:45 am – 4:45 pm

CLE credit pending / This seminar is complimentary / Space is limited

Crowell & Moring | 1001 Pennsylvania Avenue, NW | Washington, DC 20004

AGENDA

8:45 – 9:10 **CONTINENTAL BREAKFAST / NETWORKING**

9:10 – 9:15 **WELCOME**

9:15 – 9:45 **KEYNOTE ADDRESS**

Mark Pryor, United States Senator for Arkansas

Senator Pryor was responsible for spearheading key amendments to the Consumer Product Safety Improvement Act of 2008 (CPSIA) that addressed longstanding complaints about some aspects of the law. President Obama signed the amendments into law on August 12, 2011, paving the way for the Consumer Product Safety Commission (CPSC) to have greater flexibility and discretion in enforcing safety laws.

I. PRODUCT INPUTS AND SOURCING

9:45 – 10:35 **CHEMICAL REGULATION:** *Trends, Emerging Issues and the Future of Chemical Regulation*

During the last decade, the chemical industry has experienced unprecedented changes in the global regulatory environment. The traditional regulatory paradigm relating to human health and environmental protection is being supplanted by more precautionary based approaches. This paradigm shift has not only increased costs for chemical manufacturers, but also for downstream users dependent on specific chemicals for their products. The panel will explore the political, scientific and legal aspects of this paradigm shift. In addition, this panel will address specific burdens imposed on product manufacturers in California by California's Proposition 65 and Green Chemistry initiatives.

- *Moderators:* Warren Lehrenbaum and Kevin Mayer, Crowell & Moring
 - Maria J. Doa, Director, Chemical Control Division, Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency
 - Michael Reilly, Associate General Counsel, FMC Corporation
 - Ernie Rosenberg, President and CEO, American Cleaning Institute
 - Matthew Jaffe, Crowell & Moring
 - Lawrence Freeman, Crowell & Moring
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10:35 – 11:20 **CUSTOMS AND TRADE:** *The Price of Admission: Managing the New Import Regulation Model and Avoiding Pitfalls at the Border*

The panel will cover the evolving nature of Customs' enforcement of its own regulations as well as other agencies' regulatory regimes (the CPSC's, for instance), and include a discussion of "best practices" in managing that enforcement process.

- *Moderator:* Laurent Ruessmann, Crowell & Moring
 - Leigh Schmid, Senior Vice President, Customs Compliance and Brand Protection, Limited Brands
 - Alex Schaefer, Crowell & Moring
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11:20 – 11:30 **BREAK**

II. PRODUCT MARKETING AND DISTRIBUTION

11:30 – 12:15 **SOCIAL MEDIA AND ADVERTISING:** *Managing Your Reputation and Liability in the Age of Consumer Product Reviews, Astroturfing, and Blogger Endorsements*

In 2000, four years before Facebook even launched, the FTC last released guidance on Internet advertising. Now, eleven years later, social media is pervasive, consumers regularly tweet, blog, and post product reviews and the FTC is preparing revised guidelines. Panelists from the FTC, industry, and private practice will discuss ways in which advertisers can avoid traps for the unwary and minimize regulatory liability while engaging in social media advertising.

- *Moderators:* Dina Epstein and Lauren Patterson, Crowell & Moring
- Stacey Ferguson, Senior Attorney, Division of Advertising Practices, Federal Trade Commission
- Brian Falbo, Counsel, Product Group, Dell
- Bridget Calhoun, Crowell & Moring

12:15 – 12:55 **NETWORKING LUNCH**

12:55 – 1:40 **ANTITRUST DISTRIBUTION:** *Up All Night: Distribution Risk as a Leading Cause of Insomnia*

Panelists will discuss a broad range of antitrust issues related to distribution management. The conversation will incorporate government, private sector, and European perspectives on topics like resale price maintenance, pricing discrimination, non-price restraints, and dealer termination.

- *Moderator:* Ryan Tisch, Crowell & Moring
- Melanie Sabo, Federal Trade Commission
- Laura Jones, Corporate Counsel, Avaya
- Sean-Paul Brankin, Crowell & Moring
- Robert Lipstein, Crowell & Moring

III. GLOBAL PRODUCT SAFETY AND COMPLIANCE

1:40 – 2:30 **GLOBAL CONSUMER PRODUCT SAFETY:** *Strategic Issues in Compliance, Reporting and Negotiating with Multiple Product Safety Regimes*

This panel will cover U.S. and global compliance, reporting and strategic considerations for consumer products. Topics include an update on U.S. CPSC actions, such as new product rules, the status of the public database, and anticipated future agenda items of the agency. We will also examine the new Canadian Consumer Product Safety Act and the EU General Product Safety Directive (and Toy Safety Directive), and how these regimes compare to each other and to that in the U.S. The panel will discuss strategies for negotiating with today's consumer product regulatory bodies, examining what negotiations are possible or advisable. We will generate ideas and debate on how best to implement proactive reporting and compliance protocols.

- *Moderator:* Bridget Calhoun, Crowell & Moring
 - Marc Schoem, Deputy Director, Office of Compliance and Field Operations, U.S. Consumer Product Safety Commission
 - Sean Beckstrom, North American General Counsel, Graco Children's Products
 - Laurent Ruessmann, Crowell & Moring
 - Laura Walther, Crowell & Moring
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2:30 – 3:00 **MOTOR VEHICLE SAFETY / NHTSA:** *Steering in the Right Direction: What you need to know about NHTSA enforcement, the 'electrification' of motor vehicles, and other automotive hot topics*

This panel will address important current issues for automotive part suppliers and manufacturers, with a focus on NHTSA's present initiatives regarding enforcement and electric vehicle safety. The goal of the panel is not just to report recent activity at NHTSA or in the auto products world, but to provide guidance to the audience on how to be smarter and more proactive in managing the risks that come with selling automobiles and automotive parts in today's climate.

- *Moderators:* Dan Campbell and Rebecca Baden, Crowell & Moring
 - O. Kevin Vincent, Chief Counsel, National Highway Traffic Safety Administration
 - James Chen, Director of Public Policy & Associate General Counsel for Regulatory Affairs, Tesla Motors
 - Joe Stancati, Managing Attorney and Director of Litigation, Dana Holding Corporation
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3:00 – 3:10 **BREAK**

IV. REGULATORY ENFORCEMENT AND LITIGATION

3:10 – 3:55 LITIGATION RISK MITIGATION: *Getting Inside the Mind of a Plaintiff's Lawyer*

Delve into the mind of the plaintiff's lawyer to learn steps you can take to avoid painting a target on your company, and once a case is filed, to blunt its impact. We will address their key tactics in developing and litigating putative class actions and other mass litigation as well as what plaintiffs are currently focusing on in the consumer arena.

- *Moderator:* Lynn Parseghian, Crowell & Moring
 - Andrew Kaplan, Crowell & Moring
 - Tracy Roman, Crowell & Moring
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3:55 – 4:40 RESPONDING TO INVESTIGATIONS AND ENFORCEMENT ACTIONS BY REGULATORY AGENCIES

This panel will discuss best practices for preparing for and responding to government investigations relating to product safety from the perspective of outside legal counsel, industry, and the government. Among other things, the panel will address internal investigations and competing legal and public relations concerns that a company must consider when determining how to respond to the government.

- *Moderator:* Ann Mason Rigby, Crowell & Moring
 - Mark Josephs, United States Department of Justice, Consumer Protection Branch, Assistant Director
 - Phil Inglima, Crowell & Moring
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4:40 CONCLUDING REMARKS

4:45 NETWORKING RECEPTION

**** Agenda as of October 18, 2011 ****