

Teeth-whiteners containing hazardous concentrations of peroxides [SEC=IN-CONFIDENCE] - Message (HTML)

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From: Wright, Dean Sent: Fri 2/12/2011 4:01 PM

To:

Cc: info@whitemybite.com.au; info@chemcorp.com.au; enquiries@churchlight.com.au; admin@whitesmile.com.au; sales@whitesmile.com.au; sales@teeth-whitening.com.au; info@chemistwarehouse.com.au; chemiac@pharmecydirect.com.au; info@pharmacystore.com.au; svinraz@grist.com; info@chemcora.com.au; info@teethwhitening.com.au; info@yourchemistshop.com.au

Subject: Teeth-whiteners containing hazardous concentrations of peroxides [SEC=IN-CONFIDENCE]

Dear Supplier,

The ACCC has become aware of reports of serious injuries associated with the use of do-it-yourself (DIY) teeth-whiteners and has reason to believe that you are a supplier of DIY teeth-whitening kits that are retailed directly to the public. I wish to alert you to our concerns about the possible supply of unsafe consumer goods and to ensure that you are meeting your legal obligations under the Competition and Consumer Act 2010 (CCA).

The ACCC has reason to believe that some products currently being supplied directly to the public may contain concentrations of hydrogen peroxide or carbamide peroxide that exceed the recognised safe limits for cosmetics that will foreseeably be taken into the mouth for significant periods of time. DIY teeth-whiteners that contain concentrations of more than 6% hydrogen peroxide and/or more than 18% carbamide peroxide should not be supplied to consumers as they are unsafe. The recognised safe limits are based on the requirements of the Poisons Standard 2011, expert clinical advice published by the Australian Dental Association and a scientific risk assessment published by the European Commission. References for those documents are provided at the end of this correspondence.

If you are presently supplying, or have ever supplied, DIY teeth-whiteners that contain concentrations of more than 6% hydrogen peroxide and/or more than 18% carbamide peroxide in Australia, you should immediately take all reasonable steps necessary to cease supply of the goods and recall them from the market. I have attached details about the regulatory requirements for cosmetics, including suppliers' recall obligations as an appendix.

The ACCC requests that you immediately confirm the following by return email

1. Please identify any and all DIY teeth-whitening products you have supplied, or currently supply, in Australia.
2. Please advise of the concentration(s) of active bleaching chemicals that any such products contain.
3. Please advise of any serious injuries or safety complaints that you are aware of in relation to any such products.

Feel free to contact me if you have any questions regarding your legal obligations or if you need assistance in submitting recall notification(s).

Regards,

Dean Wright
Assistant Director | Regalis & Hazard Assessment Section, Product Safety Branch
Australian Competition & Consumer Commission
Level 1 | 23 Marcus Clarke Street Canberra 2602 | <http://www.accc.gov.au>
T: +61 2 6243 1395 | F: +61 2 6248 1073
Make safe — Buy safe — Use safe Find out how at www.productsafety.gov.au
Please consider the environment before printing this email

Appendix: Obligations for suppliers of teeth-whitening kits in Australia

Teeth-whitening kits are consumer goods and are therefore subject to statutory consumer guarantees that require suppliers to remedy consumers if goods are unfit for purpose or of unacceptable quality, including if they are unsafe. The CCA also requires that all representations or claims made in relation to the supply of consumer goods are truthful. It is an offence to engage in misleading and deceptive conduct.

Herron, William

From: Wright, Dean
Sent: Friday, 2 December 2011 4:01 PM
Subject: Teeth-whiteners containing hazardous concentrations of peroxides [SEC=IN-CONFIDENCE]

Security Classification: IN-CONFIDENCE

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Dean Wright

Assistant Director | Recalls & Hazard Assessment Section, Product Safety Branch
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Cosmetics, including teeth-whitening kits, are also subject to the Trade Practices (Consumer Product Information Standards) (Cosmetics) Regulations 1991, which requires that ingredients used in cosmetics are declared on the label. This mandatory information standard is intended to enable consumers to identify the presence of ingredients to which they may be allergic or sensitive, or otherwise concerned about, and to allow comparison of different products.

As a supplier, you should also be aware that you are required to report any serious injury, illness or death associated with consumer goods that you have supplied in Australia within two days of becoming aware of a reportable incident. A supplier who fails to fulfil this mandatory requirement may be found guilty of an offence and be liable for a penalty of up to \$16,500 for a body corporate or \$3,300 for a person other than a body corporate *for each offence*. Further information explaining your Mandatory Reporting obligations, including the online reporting form, can be found on the Product Safety Australia website at <http://www.productsafety.gov.au/mandatoryreporting>.

Cosmetic ingredients must be legally permitted for use in Australia and meet requirements under the *Industrial Chemicals Notification and Assessment Act 1989* and comply with the Cosmetics Standards 2007. There are also legal requirements and restrictions for certain substances, such as hydrogen peroxide and carbamide peroxide, by virtue of the Poisons Standard 2011.

Information explaining your consumer product safety recall obligations, including the online recall notification form, can be found on the Recalls Australia website at <http://www.recalls.gov.au/content/index.phtml/itemId/1000103>.

References

Australian Dental Association, Policy Statement 2.2.8 - Tooth Whitening (Bleaching) by Persons Other Than Dental Care Providers
<http://www.ada.org.au/about/policies.aspx>

National Drugs and Poisons Schedule Committee Records-of-Reasons, February and June 2005
<http://www.tga.gov.au/archive/committees-ndpsc-record.htm>

European Union Scientific Committee on Consumer Products 2007, "[Opinion on Hydrogen peroxide, in its free form or when released, in oral hygiene products and tooth whitening products](#)"