



# U.S. CPSC Takes Big Step Towards Regulating Safety of Products Sold on E-Commerce Platforms

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With state courts split over Amazon's legal responsibility for the safety of consumer products sold by third parties on its online marketplace pursuant to state products liability laws,<sup>[\[1\]](#)</sup> the federal government, through the Consumer Products Safety Commission (CPSC), made its position clear on recalls under the Consumer Products Safety Act (CPSA). 15 U.S.C. §2051 *et seq.* In a unanimous decision issued late last month, the CPSC painstakingly addressed and rejected each of Amazon's arguments as to why e-commerce platforms should not be regulated under the CPSA.<sup>[\[2\]](#)</sup>

Amazon's position in this, and other litigation, has been in stark contrast to the regulation of, and liability placed on, traditional distributors and brick-and-mortar retailers, although Amazon has assumed the functions of those traditional entities. In ruling that Amazon was a "distributor" under the CPSA, the CPSC asserted its regulatory authority with respect to unsafe children's sleepwear, carbon monoxide detectors, and hair dryers, which were the consumer product recalls at issue.

As the method and mode of commerce continues to evolve, laws and regulations struggle to keep up, as evidenced by the split among the state courts. Expert commentators see this as a global trend to bring e-commerce platforms under the existing regulatory structures. The strength of CPSC's decision finding that Amazon is a "distributor" of products, as defined by most laws and regulations, may inform state products liability decisions moving forward. Some states are considering amendments to state law to address liability for distribution of unsafe products, and we can assume that the CPSC is lobbying Congress to provide clear regulatory authority over e-commerce platforms. In the interim, this decision is a big step towards leveling the playing field between traditional commerce entities and e-commerce platforms.

If your consumer products are sold through an online e-commerce platform, you are likely to see significant changes in the risk allocation and liability clauses of the standard vendor agreements. For more information, contact the authors or any member of Frost Brown Todd's [Product Recalls & Regulatory](#) and [Consumer Products Litigation](#) teams.

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[1] California, Pennsylvania, Texas and Wisconsin have concluded that Amazon is in the chain of distribution under their respective state products liability statutes, while Arizona, Illinois, Maryland, New Jersey, New York and Ohio courts have disagreed.

[2] In re AMAZON.COM, INC., CPSC Docket No.: 21-2 (July 29, 2024)

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