

Opening Statement  
Senator Richard Durbin  
CPSC Field Hearing  
FSGG Appropriations Subcommittee  
June 18, 2007

I want to start off by thanking Congressman Bobby Rush for Co-Chairing today's hearing with me.

I would also like to thank our witnesses for being here with such short notice.

- Attorney General Lisa Madigan;
- Acting Chairman of the CPSC Nancy Nord; and
- All of our outside experts for giving testimony.

I called today's hearing because I have concerns about consumer product safety and the ability of our regulatory agencies to protect consumers from unscrupulous actors.

I am alarmed by reports that magnetic toys we will discuss today caused a child's death and more than a dozen cases of life-threatening injuries AND yet for a variety of reasons consumers were not adequately protected from this danger.

Our exposure to these issues was recently heightened by the pet food recall we all heard about in March and April this year.

In the pet food case, the combination of a weak regulatory system, an under-funded federal agency, and tainted products made by irresponsible Chinese manufacturers led to the sickness and death of many household pets and a massive recall of pet food and human food products.

In early May, I was reminded of the lessons learned from the pet food recall when I read the Chicago Tribune series on the recall of Magnetix products.

In this recall, the Consumer Product Safety Commission worked to recall the very popular children's toy Magnetix but was confronted with an uncooperative firm. Like in the pet food recall, the product being recalled was produced by a Chinese manufacturer.

In fact, according to the CPSC, nearly two-thirds of all products recalled are imports and two-thirds of those are made in China.

Over the past week, we have seen a parallel story emerge in the recall of another popular children's toy ó 1.5 million units of Thomas the Train cars that contain lead paint and were also made in China.

The news is part of a larger picture we've observed in recent months ó poisonous Chinese toothpaste made with diethylene glycol, a common ingredient in antifreeze, pet and animal feed made with toxic melamine, and now shoddily produced magnetic toys and wooden train cars coated in lead paint.

In the case of Magnetix, the plastic casings that encapsulated powerful, rare earth magnets were not properly made.

When these pieces broke, tiny magnets fell out. The CPSC and the firm, Rose Art Industries, received reports of these magnets falling out and of the possible health risks associated with ingesting them.

When more than one of these magnets is ingested, and we know how young children are prone to putting toys in their mouths, they would attach through stomach and intestinal linings, causing serious injury and even death.

More than a dozen serious surgeries associated with this risk were reported and one family even lost a child – a 20-month old boy named Kenneth Sweet who ingested the magnets and died a tragic death.

Unfortunately, these injuries and deaths could have been prevented by a series of steps that never occurred. They never occurred because of the evasive actions of an uncooperative firm and the limitations on the CPSC's authority to protect consumers.

This is the main reason for today's hearing. I hope this hearing will allow various experts to discuss today's toy and consumer product industries, how increasing quantities of imports affect consumer safety, and how to better equip CPSC to protect consumers from similar dangers.

From the moment this risk was perceived, the CPSC and the relevant firm should have acted quickly to remove these products from store shelves and alert consumers of their risk to children.

Unfortunately, this didn't happen and I'd like to know why it didn't and what we can do to be better prepared in the future.

There are three areas that I'd like to focus on in particular during today's hearing.

First, timing. The CPSC first learned of the health risk posed by these magnets on May 12, 2005 when a 5-year old child underwent intestinal surgery for ingesting magnets.

However, it wasn't until March 31, 2006 that the first recall of Magnetix was announced and wasn't until May of 2007 that a full, clear recall was established by Rose Art/Mega Brands and the CPSC.

I want to understand why we witnessed that lag time and what the recalling firm and the regulatory agency could have done in a more timely fashion to protect children.

Could CPSC have issued a subpoena sooner, could the firm have been held responsible earlier, what regulatory authorities did CPSC lack that could have expedited this case? Is it clear what penalties a company faces when it delays in these matters? Should penalties be increased?

It's my thought that companies that unnecessarily delay reporting and endanger human health should face penalties. The current penalties are so minimal right now that Rose Art/Mega Brands was able to flaunt multiple deadlines without worry of penalty.

Second, I'm concerned by the string of media reports that detail lax Chinese standards as a source of risk for American families. In the Magnetix case and for Thomas the Toy Engines, irresponsible manufacturers in China have put American families at risk.

The Made in China label has become a warning label.

I want to know what we can do in terms of establishing robust international standards, either through testing organizations like ASTM or through Memoranda of Understanding to establish clear guidelines, penalties, and systems for information exchange.

Third, why should our regulatory agency ó the CPSC ó not have the authorities it needs to deal with uncooperative firms?

I want to know what changes in authority or funding are necessary to allow this agency to fully do its job to protect Americans from dangerous products.

There are a lot of questions to ask and I want answers. These are the reasons why we're here today.

I thank the witnesses for being here and I look forward to hearing your testimony.