



TESTIMONY OF

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Before the

**FINANCIAL SERVICES AND GENERAL GOVERNMENT
SUBCOMMITTEE
SENATE COMMITTEE ON APPROPRIATIONS**

CPSC'S IMPORTANT ROLE IN CHILDREN'S PRODUCT SAFETY

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Chairman Durbin, thank you for the opportunity to provide comments about the important subject of consumer product safety in general and about the safety of toy products in particular. I am Carter Keithley, President of the Toy Industry Association (TIA). TIA is a not-for-profit trade association with more than five hundred (500) members. Our members account for 85% of U.S. domestic toy sales. While there are a few very large toy manufacturers, over 75% of our members are companies with under \$5 million in sales.

Because our market consists of one of the most vulnerable segments of our population, our children, our number one priority, and the number one priority of our members, is to assure that our products are safe. Together with the U.S. government, recognized standard development organizations, independent toy safety experts and others, the toy industry has led the world in the development of globally recognized toy safety standards. We have invested heavily in child development research, dynamic safety testing, quality assurance testing, risk analysis and basic anthropometric studies of children. For decades, TIA has worked tirelessly for toy safety and we are proud of our record of accomplishment and our relationships with the National Safety Council (NSC), National Bureau of Standards (NBS), American National Standards Institute (ANSI), ASTM International and the International Standards Organization (ISO). To help assure the effective implementation of toy safety standards, we provide comprehensive and accurate information on toy safety 24 hours a day, through a special area on our website: www.toy-tia.org/consumer/parents/safety/4toysafety.

The Success of the Consensus Safety Standard System

In 1976, under the auspices of NBS, TIA led the development of a voluntary safety standard for toys. In 1986 the standard was revised and published as an ASTM consensus standard.

Consensus standards, including the standard for toys, are developed under the auspices of international standards development organizations such as ASTM International. The development of such standards involves the participation of consumers, consumer organizations, CPSC, industry experts, retailers, safety consultants, testing laboratories and academic institutions. In the ASTM standards process, consensus of all participants and ASTM is required prior to enactment. ASTM standards are developed in an open and transparent process, with a

balance of participants. Consensus standards, such as the ASTM Toy Standard are more quickly achieved than rulemaking, which can take several years.

The system of bringing all of the interested parties and subject matter experts together to provide guidance and direction in the development of safety standards has made America the leader in safety standards around the world. The system is expeditious, flexible and effective. It avoids the slow, rigid bureaucratic processes of government. It allows for constant review and revision to accommodate changes in products and technology, and enables industry and public safety organizations to react quickly to emerging and unforeseen safety issues.

As a consequence of the merits and success of this system, Congress wisely emphasized a preference for reliance upon voluntary safety standards in the Consumer Product Safety Act. Section 7(b) of the Act provides:

“The Commission shall rely upon voluntary consumer product safety standards rather than promulgate a consumer product safety standard prescribing requirements described in subsection (a) whenever compliance with such voluntary standards would eliminate or adequately reduce the risk of injury addressed and it is likely that there will be substantial compliance with such voluntary standards.”

The consensus standard system deserves the continued support of Congress.

As one of the largest standard development organizations in the world, we are proud to have ASTM as the publisher of the toy safety standard. The current standard, *ASTM F963-07 Consumer Safety Specification on Toy Safety*, is under constant review, and a revised and updated version of the toy safety standard was published at the beginning of last month. The revised Standard contains important new provisions to address certain types of hazardous magnets, individually or as a component in toys or craft sets intended for children from 3 to 8 years of age. Products containing such magnets as loose parts will be required to include safety labeling on their packaging and instructions. The labeling shall contain, at a minimum, the following text or equivalent that clearly communicates to parents:

“WARNING: This product contains (a) small magnet(s). Swallowed magnets can stick together across intestines causing serious infections and death. Seek immediate medical attention if magnet(s) are swallowed or inhaled.”

The Standard also addresses the potential for release of magnets during reasonably foreseeable use or abuse of toys. Under the new standard, toys should not liberate magnets during use or abuse.

ASTM commended the efforts of the Magnets Work Group in developing a standard for magnets in toys in record time. The ASTM Subcommittee on Toys approved the standard as published, with the intent that the Subcommittee's Magnets Work Group would continue to evaluate the potential hazards and the standard, refining it, if needed, over the next year. In addition, CPSC is this very day conducting a forum at the agency headquarters in Bethesda, MD to educate industry on the new magnet standard.

Toys Are Tested for Safety

In addition to the design specifications prescribed by the toy safety standards, manufacturers must submit their toy products for testing to reduce or eliminate potential hazards during normal use or reasonably foreseeable abuse conditions. These include, but are not limited to, testing requirements addressing mechanical, electrical, thermal and chemical hazards. For example, testing involves simulated use-and-abuse tests, testing for accessible sharp points and edges, small parts, projectiles, heavy metals in paint and other surface coatings, flammability, toxicity, and even noise level restrictions.

Many manufacturers, especially larger ones, have their own in-house testing laboratories sophisticated enough to ensure that products meet standards for safety. Those without safety facilities on site use independent testing laboratories. Manufacturers producing toys overseas test them before shipping, and then sample production lots again once they arrive in the United States. Major retailers duplicate this process on product orders.

The Toy Safety Standard Is Extraordinarily Successful in Protecting Children

In spite of remarkable progress in improving the safety of children in America over the past century, children today still face significant risks, but those risks are mostly unrelated to toys. Tragically, often-avoidable injuries take the lives of more than 1 out of every 10,000 children in the U.S. annually. This includes infants that die before their first birthday in motor vehicle accidents and many who drown in bathtubs. Here are the data relating to primary causes of the death of children annually in the United States:

**Estimated Annual Mortality Risk for Children under Age 10
(Number of deaths per million children)¹**

Motor vehicles	46	Guns	5
Drowning	20	Poisoning	2
Suffocation	17	Bicycles	2
Fire	16	Medical care	2

CPSC’s annual report indicates that of fifteen commonly used household products, toys had among the lowest number of incidences of injuries and deaths. Although there are risks associated with some toys, they are clearly very small by comparison with other products. The actual rate of children’s deaths related to toys would be about the same as the rate of suicide for children under 10, which is extremely rare! Of course accidents still occur, and we react quickly and vigorously when any pattern of hazards emerges relating to our products.

Unfortunately, media attention continues to focus on the small risks associated with toys while some very big risks remain unaddressed. In a world where perception is reality, where misinformation often drives perception, and where new, scary and uncertain hazards receive widespread attention, it is no wonder that policy makers and parents lack context for understanding and managing children’s risks. The net result is that we often waste scarce financial resources in areas of minimal risk, such as toys, at the expense of allocating them efficiently to make children’s lives measurably safer.

CPSC’s Vital Function

CPSC’s mission is to protect children and families against an unreasonable risk of injury and death from more than 15,000 types of consumer products from a wide range of product hazards. Their work addresses consumer product hazards through a framework of mandatory product safety standards where appropriate; engagement in the voluntary or consensus standard-setting process; compilation of consumer injury data; issuance of safety guidelines; information and education programs to proactively avoid injuries; and product recalls and corrective actions when necessary.

¹ Harvard University School of Public Health, Kids Risk Symposium, March 26-27, 2003 (Kimberly Thompson, M.S. SCP, Assoc. Professor of Risk Analysis and Decision Science, Children’s Hospital Boston, Harvard Medical School Co-Founder/Director of Research Center on Media and Child Health; Director HSPH Kids Risk Project.

In 2006, CPSC completed 471 product recalls involving nearly 124 million product units that either violated mandatory standards or presented a potential risk of injury to the public and negotiated civil penalties of approximately \$2.3 million. In addition, the CPSC compliance staff has continued to refine its Retailer Reporting Model implemented in 2005 and used by two of the nation's largest retailers. This provides additional complaint data for evaluation by the staff, which supplements manufacturer and consumer reporting.

An enormous number and variety of consumer products are designed, manufactured, imported and sold in the United States. Thousands of new toy products alone are created for sale in the United States, nearly half of which are sold in just the last quarter of the year. Any governmental system of standards or testing for such a vast number of consumer products could never cope with the sheer volume. That is why our pluralistic system of consensus standards has worked so successfully to promote prosperity and consumer satisfaction while assuring safety in America. Consumer product companies also recognize the value of responsible corrective action to address patterns of injuries or misuse that may indicate a problem with their products. This alertness accounts for most of the product recalls conducted in cooperation with the Commission.

The CPSC does a very effective job with a relatively modest budget. We believe that their budget request of \$63,250,000 for fiscal year 2008 should be granted. We commend the Commission and its hard-working staff for their successful work on behalf of the American public, and we believe that there are ways the Commission can become even more effective and efficient. Toward that end, I would like to offer the following recommendations:

1. Collaborative Information and Education Programs

First, we support dynamic new partnerships between stakeholders and the Commission to promote safety and safe consumer practices. Consumer information and education does not substitute for the essential responsibility of manufacturers to provide safe products, but it can help with a large percentage of accidents due to improper or irresponsible conduct or lack of supervision of minors. The Commission is fully authorized to embark on such programs, but encouragement and additional funding from Congress should be provided.²

² CPSC has been increasingly effective at using electronic media and websites. The creation of www.recalls.gov and enhancements to their website has resulted in a rapid growth from 200,000 visits in 1997 to what is expected to be almost 25 million visits by the end of the year. Product safety information is increasingly available in Spanish and other languages. In addition, outreach activities such as the Neighborhood Safety Network; collaborative efforts with FEMA and public information education initiatives with NGOs and industries have resulted in increasingly effective communication about fire and

2. Continued Involvement in Consensus Safety Standards and Activities

Second, we support the Commission's involvement in private standards activities as authorized in the current statute. These standards are the bulwark of our national and even international safety system, and the Commission plays an important role in providing comments and proposals.³ However, we believe the Commission needs to better manage and supervise its internal process, particularly staff input to standards organizations, to ensure an opportunity for public comment and to prevent proposals which lack technical merit or otherwise cannot be justified as federal standards. This is why we support the Commission's stated strategic goal to improve the quality of CPSC's data collection through 2009 by improving the accuracy, consistency and completeness of the data.

3. Continued Efforts to Engage and Educate Small Manufacturers

Third, there is a need for better guidance and education from the Commission on the implementation of the Section 15 Substantial Product Hazard Reporting provisions. Manufacturers with defective products that could create substantial product hazards are obliged to report to the Commission and, if needed, to take corrective action including recalls. However, the law and implementing regulations are vague and ambiguous. It is difficult for manufacturers, especially small businesses, to determine when reporting and corrective action is necessary. We support the Commission's efforts to clarify guidance on reporting and penalty computation by issuance of guidelines, which were subject to prior publication, comment and review prior to adoption.⁴

4. A Strong Role in Setting and Enforcing Safety Standards in a Global Economy

Fourth, in a global economy, we note the importance of the agency's international engagement to ensure greater import compliance with U.S. safety standards and harmonization

carbon monoxide hazards, disaster preparedness, hazards associated with recreational vehicles, proactive holiday safety messaging, poison prevention, pool drowning risks and back to school safety programs.

³ CPSC has worked with stakeholders to develop effective consensus standards completing approximately 10 times as many voluntary standards as mandatory standards (CPSC assisted in completing and developing 352 voluntary safety standards while issuing 36 mandatory standards from 1990 through 2006).

⁴ Federal Register, Vol. 71, No. 142, pages 42028-42031 and proposed interpretive rule, Federal Register, Vol. 71, No. 133, pages 39248-39249

of standards to promote export opportunities for American businesses and the elimination of non-tariff trade barriers. CPSC has entered into Memorandums of Understanding (MOU) with a number of foreign governments to provide for a greater exchange of information regarding consumer product safety. We note by the end of 2008, CPSC expects to have MOUs with 17 countries. These activities are becoming increasingly important in helping to ensure consistent hazard-based, harmonized global safety standards.

5. Existing Regulatory Framework is Effective, But More Resources are Needed

Finally, we believe that the existing authority granted to the Commission under the Consumer Product Safety Act and related Acts, together with existing implementing regulations, are sufficient for the CPSC to execute its mission in an effective manner. The CPSC does not lack the requisite authority to implement fully its congressional mandate "to protect the public against unreasonable risks of injury associated with consumer products." However, it requires greater resources to implement such authority. Recently the Consumer Federation of America noted that this is the most important action that Congress can take. We agree that funding is necessary to insure staffing levels are maintained and laboratory equipment is kept up to date.

Thank you for providing me the opportunity to testify. The Commission is an important agency and we fully support its mission. It can and should, have the funding and resources it needs to effectively function and we look forward to working with the Committee to this end.