

TESTIMONY OF

ROBERT A. ECKERT

CHAIRMAN AND CHIEF EXECUTIVE OFFICER, MATTEL, INC.

**SUBCOMMITTEE ON COMMERCE, TRADE, AND CONSUMER PROTECTION
OF THE COMMITTEE ON ENERGY AND COMMERCE**

WASHINGTON, D.C.

SEPTEMBER 19, 2007

Summary of Major Points

- Mattel's recent lead paint toy recalls have been a disappointment to Mattel, for which it is truly apologetic.
- Mattel has responded to the lead paint problems, initiating voluntary recalls under the CPSC's fast track recall procedures.
- Mattel has gone to extraordinary lengths, with the approval and cooperation of the CPSC, to communicate to parents the identity of toys affected and the process for returning them.
- Mattel's ongoing investigation of what occurred has revealed that a few vendors, intentionally or carelessly, circumvented Mattel's long-established safety procedures and violated their agreements with Mattel, resulting in the application of lead paint on portions of some of Mattel's toys.
- Mattel has implemented a system of multiple and redundant procedures designed to prevent future circumvention of its safety protocols and agreements.
- Mattel agrees that others, including Congress and the CPSC, can and should play an important role in what it believes should be a joint and cooperative effort to achieve a shared objective – the safety and well-being of our children.
- Mattel is committed to working with members of Congress in connection with the proposals designed to achieve this objective.

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Thank you for your invitation to appear before the subcommittee to address Mattel's recent lead-paint related recalls and for the opportunity to reinforce our commitment to efforts that will result in effective improvements in toy safety.

While I am the Chairman and CEO of Mattel, I am also a parent of four children. And like you, I and the more than 30,000 other employees at Mattel know that nothing is more important than the safety of our children. Mattel has worked hard through the years to earn the trust of parents worldwide, and we know full well that we have disappointed those parents by the recalls you have seen over the past several weeks. For that, we are very sorry. I am proud to say, however, that Mattel has faced up to these issues and to our responsibilities. We have been open and forthright about them, and we have moved vigorously to take steps to prevent these problems from re-occurring.

In my testimony, I would like to start by providing you some important background facts regarding Mattel and our production of toys before the recent recalls. I will then turn to a description of what we now know about the specific circumstances that led to each of the recalls. Finally, I will address the steps that Mattel has taken to prevent this kind of problem in the future.

Mattel Operations

Founded in 1945, Mattel designs, manufactures, and markets a broad variety of toy products. Our toys are enjoyed by children in over 150 countries. We manufacture toys in both company-operated facilities and through third-party contract vendors. Mattel has been manufacturing products and using contract vendors in China successfully and without significant manufacturing related safety issues for more than 20 years.

Mattel and its vendors manufacture almost 800 million products a year. Approximately fifty (50) percent of all the toys we sell are manufactured at our own plants, a higher proportion than other large toy makers. When Mattel does contract with vendors to manufacture toys, our contracts require that the vendors comply with Mattel's quality and safety operating procedures and Global Manufacturing Principles ("GMP"), which reflect the company's commitment to responsible practices in areas such as employee health and safety, environmental management and respect for the cultural, ethnic and philosophical differences of the countries where Mattel operates. The contracts and accompanying documents also require that vendors comply with all applicable safety standards, and Mattel specifies, for each toy, the standard that applies. As to each standard, Mattel generally specifies the most stringent requirement that applies anywhere in the world. The contracts and accompanying documents also specify the tests that must be performed to ensure compliance.

In China, Mattel, through its subsidiary Mattel Asia Pacific Sourcing ("MAPS"), has contracts with approximately 37 principal vendors making our toys. Additional vendors are involved in the production of paper products, like board games and cards, cosmetics, inflatables, and our American Girl and Corolle dolls and accessories. Mattel's policies provide that approval to be a vendor for MAPS requires both a production facilities review and an audit under Mattel's GMP.

Mattel's Pre-August 2007 Safety Procedures

We believe that, prior to August 2007, Mattel already had some of the most rigorous safety standards and procedures in the toy industry. With respect to paints, vendors could purchase coatings from one of MAPS' qualified paint suppliers, all of which had implemented pigment traceable control programs to ensure that pigments met heavy elements requirements, including for lead, before being released to production and could be traced to specific containers of paint on the factory floor. The qualified suppliers were required to test pigments before delivery and, with each delivery of paint, provide traceability records to the vendors linking the pigment in that paint to pigment certificates. In addition, each container of paint had to have a label with a date code and batch/lot number. The vendor was contractually obligated to match each incoming shipment with a corresponding pigment certificate and sticker each container with traceability information. Records demonstrating compliance with these procedures had to be maintained and kept available for periodic audit by MAPS auditors, which occurred approximately monthly.

If vendors needed to buy paint from other suppliers, they could only do so if they complied with additional rules. Incoming shipments of paint from the supplier had to be quarantined. Samples from the shipment had to be submitted to a MAPS-approved lab for a heavy elements test. Again, paints that passed the test had to have a label affixed with batch number, test number, and other required information. As with approved suppliers, records demonstrating compliance with these procedures had to be maintained and made available for periodic audit by MAPS auditors.

If a vendor used a subcontractor to assist with any of its production, our contracts required that the vendor identify that subcontractor to MAPS. Vendors also were required to

identify all facility locations. Vendors were required to supply all paint, obtained as described above, to be used by any subcontractor on Mattel products.

The above procedures were designed to protect the integrity of the paints to be used on Mattel products. In addition, there were a number of checks built into the system prior to August 2007 to verify that finished toys did not have paint with lead in amounts above applicable standards. Under the procedures imposed by our agreements with vendors, at the commencement of production, before any product could be shipped, samples had to be tested for compliance with all facets of Mattel's product requirements, including the standards for lead and other heavy elements. Product could be shipped only after a certificate of compliance was issued.

In addition to all this testing, a majority of Mattel's direct import customers required periodic testing of products before export. In those circumstances, the direct importer determined the nature or scope of the tests, including tests for heavy elements. The testing for direct importers was sometimes done by MAPS and sometimes done by independent labs. In addition, recertification testing was required for products made for direct import if production continued for more than one year. Finally, after certification, vendors were not permitted to change manufacturing locations, materials, components or material sources without approval from MAPS and recertification.

The Recalls

Mattel's safety standards and procedures had functioned successfully for many years prior to this summer's recalls. Clearly, however, something new arose that we had to address. When Mattel discovered toys with noncomplying paint, we initiated an exhaustive investigation to get to the root cause. What that ongoing investigation has revealed so far is that a few vendors, either deliberately or out of carelessness, circumvented our long-established safety

standards and procedures. As a result, MAPS has terminated its business relationships with some of the entities involved and is continuing to investigate others. Let me provide you the details of what we have discovered so far.

The August 2, 2007, Recall

The August 2, 2007, recall had its genesis in a direct importer's pre-shipment test for lead in paint on a sample of product bound for France. Specifically, Intertek, an independent laboratory, performed the pre-shipment lead test for Auchan, a French direct importer. On June 8, 2007, Intertek reported noncompliant paint on a sample of toys manufactured for MAPS by Lee Der Industrial Company, Ltd. Mattel Product Integrity employees in Asia stopped shipment of the item and contacted the vendor, Lee Der, requesting that it immediately remedy the problem and provide another sample of the corrected production for testing. On or about June 29, 2007, Mattel Product Integrity employees in China were notified of an Intertek lead test result on another sample of the same toy previously tested on June 8 for Auchan. The product passed the lead test. At that point, Mattel Product Integrity employees in Asia had reason to believe that Lee Der had solved any lead paint issue that it had.

Independent of the test failure in China, but during the same time period, on June 27, 2007, a consumer reported to Mattel's call center in the U.S. a home test kit finding of lead paint on a product also manufactured by Lee Der, a result which Mattel was subsequently unable to replicate when testing several samples of the same product. On June 28, 2007, Mattel Product Integrity employees in China took additional samples of Lee Der's products and sent them to MAPS' laboratory in China for testing.

On July 3, 2007, a third lead test report for Auchan, performed by the same independent laboratory, Intertek, found noncomplying lead levels in paint on another sample of the originally-tested toy in a different assortment made by Lee Der. Shipment of that product was held and, on

July 5, MAPS picked up samples of 23 additional Lee Der products to test. On July 6, 2007, MAPS' laboratory in China reported results of its testing of the five samples of Lee Der toys that MAPS had taken on June 28. Nonconforming levels of lead were found in the paint on portions of three of five samples of the toys made by Lee Der. That same day, July 6, immediately following receipt of these results, MAPS notified Lee Der that MAPS would accept no more toys made by Lee Der. On July 9, MAPS' laboratories reported that 9 of the 23 additional samples of Lee Der toys taken on July 5 contained some paint with nonconforming lead levels.

In light of these additional test results, Mattel's employees in Asia notified senior management at Mattel of an issue with Lee Der products for the first time on July 12, 2007. Mattel management ordered an immediate freeze of all shipments of suspect Lee Der products on July 13, 2007, and expanded the freeze to apply to all Lee Der products on July 17, 2007. Mattel also launched an investigation to identify both the root cause and potential scope of the lead paint problem, including what toys might be affected, what dates of production might be affected, and whether any of the affected toys may have been shipped and, if so, to what locations. Mattel traced the nonconforming lead levels to yellow pigment in paint used on portions of certain toys manufactured by Lee Der at a previously undisclosed plant located in Foshan City, China.

Mattel filed an Initial Report with the Consumer Product Safety Commission ("CPSC") on July 20, 2007, and a Full Report on July 26, 2007, indicating Mattel's desire to institute a fast track recall. Mattel recalled all products that we believed potentially could contain some paint with impermissibly high lead levels. Thus, the recall covered 83 different stock keeping units ("SKUs") made by Lee Der between April 19, 2007 (the date when Lee Der took delivery of the paint containing lead from its supplier) and July 6, 2007 (the date when Mattel stopped taking delivery of Lee Der's products).

Lee Der's use of an unregistered facility to produce Mattel product was a violation of its manufacturing and procurement agreement with MAPS, as was its failure to test every batch of paint received from its paint supplier for use on Mattel product.

The August 14, 2007, Recall

On July 30, 2007, just prior to the announcement of the August 2 recall, a test conducted by Mattel on paint on a different toy, the Sarge car, made by a different vendor, failed the lead test. The test was part of Mattel's routine recertification testing for direct importers described above. Mattel immediately began an investigation to verify the result, locate potentially affected product, and determine the cause and scope of the problem. In light of the test result on the Sarge car and the lead test results on the Lee Der-made toys, on August 1, 2007, Mattel decided to detain from distribution *all* finished products in Asia, whether made by Mattel or our vendors, until test samples proved the toys to be in compliance with lead standards.

On August 6, 2007, Mattel concluded that the excess lead on the Sarge car was due to yellow pigment used by an undisclosed subcontractor on the olive-green top. That same day, Mattel filed an Initial Report with the CPSC. The next day, August 7, Mattel filed a Full Report with the CPSC asking for a fast track recall of the toy. The Sarge car was recalled on August 14, 2007.

The olive-green top of the Sarge car that contained lead paint was painted by Hon Li Da Plastic Cement Products Co., Ltd. located in Shenzhen City, China. Hon Li Da was a subcontractor of Early Light Industrial Company, Ltd. in Hong Kong. Early Light incorporated the top painted by Hon Li Da in the finished Sarge car made in its manufacturing facility located in Pinghu, China. Early Light had not identified its subcontractor, Hon Li Da, though it was required to do so by its agreement with MAPS. It is not clear at this time whether Early Light supplied Hon Li Da with certified paint, whether it supplied an insufficient quantity of certified

paint, or whether Hon Li Da sold the certified paint it was provided by Early Light and bought and used other paint containing lead.

The September 4, 2007, Recall

When Mattel detained all finished product in Asia on August 1, we began to test for lead in paint on samples of each toy. This exhaustive testing program resulted in identifying certain parts of some additional toys with paint containing lead in excess of the applicable standard. Specifically, Mattel obtained some test results indicating that a few parts of certain Barbie accessory sets (7 SKUs), a Geo Trax vehicle (2 SKUs), and the Fisher-Price 6-in-1 Big World Bongos Band (1 SKU) also had paint on some portions of the toys with lead levels in excess of the applicable standard.

The nonconforming paint on portions of certain plastic Barbie accessories was first detected on or about August 9 and 11, 2007. The CPSC was notified of the results of Mattel's testing and investigation by letters delivered on August 10 and 17, 2007. A Full Report was filed with the CPSC on August 27, 2007, again requesting a fast track recall. As in the prior two recalls, Mattel was over-inclusive in the toys we included in the recall. In fact, the recall included some Barbie accessories that, when sample tested, complied with the applicable lead standard.

The affected Barbie accessory products were painted by one or both of two related subcontractors, Dong Lian Fa Metals Plastic Produce Factory and Yip Sing. Dong Lian's factory is located in Huizhou City, China. Yip Sing's factory is located in Shenzhen City, China. The lead paint affected parts were incorporated into finished product manufactured by MAPS' vendor, Holder Plastic, at its factory in Shenzhen, China. Holder failed to identify its subcontractors to MAPS as it was required to do. Holder appears to have supplied Dong Lian Fa

and Yip Sing with approved paint, and it is not yet known why paint containing lead was applied to the toys.

The nonconforming paint lead levels on the Geo Trax vehicle's small yellow ladder and headlights were discovered on or about August 16, 2007. The CPSC was notified on August 20, 2007, of the Geo Trax test result, and a Full Report was filed on August 27, 2007, asking for a fast track recall. Mattel's recall of approximately 89,000 Geo Trax included a significant number of compliant toys because the toys with noncompliant ladders and head lights painted by Apex Manufacturing Co., Ltd.'s subcontractor, Boyi Plastic Products Factory, between July 31, 2006, and September 4, 2006, had been mixed with pieces of compliant production in Apex's inventory. Mattel has recalled all 89,000 finished products that were made from the mixed inventory.

Certain of the Geo Trax products included in the recall were painted by Boyi in Dongguan City, China. These toys were intermingled with other finished products manufactured by MAPS' vendor, Apex, in Dongguan City, China. Apex violated its agreement with MAPS by failing to identify its subcontractor, Boyi. Apex claims that it provided compliant paint to Boyi, but that has not been confirmed.

Nonconforming paint lead levels on portions of some 6-in-1 Big World Bongos Band were found initially on or about August 20 and confirmed in retests on August 27, 2007. Even though the noncomplying paint is located on the underside of the Bongos' plastic skin, Mattel decided to recall the toys by notifying the CPSC on August 27, 2007, and by filing a Full Report on August 28, 2007, also requesting fast track treatment. Our current understanding, based on our ongoing investigation, is that the affected 6-in-1 Big World Bongos Band were painted at the request of a subcontractor, Wo Fong Packaging Co., Ltd., located in Dongguan City, China. The

components made at the request of Wo Fong were incorporated into finished product manufactured by MAPS' vendor, Shun On Toys Co., Ltd., at its factory in Dongguan City, China. Shun On violated its agreement with MAPS by failing to identify its subcontractor, Wo Fong, and by failing to provide Wo Fong with the paint to be used on a Mattel product.

Mattel's exhaustive testing program to identify any lead paint on any part of our toys continues to this day. I am pleased to report that, thus far, this testing has revealed no other products, beyond those subject to the September 4, 2007, recall, that should be recalled for lead in paint in excess of the applicable standard.

Mattel's Follow-Through on the Recalls

All of these recent recalls were initiated by Mattel as voluntary recalls. In addition, in order to expedite the recalls, Mattel requested that each recall be implemented pursuant to the CPSC's "fast track" program. Mattel and the CPSC have worked together closely and cooperatively to plan the recalls and to make sure that the recalls are being clearly communicated to parents. Thus, in agreement with the CPSC, Mattel staffed its call center with adequate numbers of properly trained operators, developed a CPSC-approved script, prepared a CPSC-approved portion of the company's web site addressing the recall, explored means by which consumers could be contacted directly by mail using Mattel's consumer data base, prepared and sent to retailers a CPSC-approved notice for retail stores, prepared CPSC-approved posters to be displayed in retail stores, and finalized the terms of the recall. Mattel also gave retailers advance notice of the recall, as permitted by the CPSC, so that they could remove recalled products from their stores even as preparations for the implementation of the recall were being finalized.

With the CPSC's assistance, permission and approval, Mattel also:

- Issued a joint press release with the CPSC;

- Set up a toll-free, multi-lingual, interactive voice response phone line that assists consumers in determining whether their product is subject to the recall and that allows registration for the recall;
- Placed a notice on the Mattel web site that includes a web tool, in more than 20 different languages, that aids consumers in determining whether their product is subject to the recall and that allows for on-line registration for participation in the recall;
- Produced and placed prominently on our website two specially-made videos in which I addressed these issues directly with parents;
- Mailed letters to individual consumers whose contact information was in the Mattel Consumer Relations database by virtue of their having called Mattel previously about any toy that is subject to the current recalls; and
- Formally notified retailers of the recalls by letter.

In order to get the news out to as many consumers as quickly as possible, Mattel also took the initiative and ran full-page newspaper ads in major newspapers on August 14 and September 5, 2007. Among the newspapers that carried the ads on one or both of those dates were *USA Today*, *The New York Times*, *The Los Angeles Times*, *The Chicago Tribune*, and *The Washington Post*. We gave satellite interviews to numerous television programs, which appeared on global, national and local broadcasts. We also did many print and on-line interviews. In addition, Mattel placed ads on various web sites, especially those that we believed were likely to be visited by parents. These websites included Yahoo!, Disney, Nickelodeon, and the Cartoon Network. This combination of the CPSC's prescribed measures and Mattel's further independent efforts resulted in intense media coverage of the recalls.

With respect to the procedures for returns of recalled products, retailers may return all recalled products in their inventory to Mattel for full credit. Consumers are provided a postage prepaid "mailing label" to use to send recalled product back to Mattel. In most cases, when Mattel receives recalled product from consumers, we issue vouchers redeemable for Mattel products in an amount that is intended to be equal to or greater than the retail price actually paid

plus tax. In some cases, we issue replacement parts rather than a voucher. If any consumer has a proof of purchase at a higher price than the voucher amount, Mattel will issue a voucher for the higher price.

Mattel's Enhanced Procedures To Ensure Compliance

Mattel has acted quickly to implement new procedures designed to provide enhanced protections against potential future violations of our manufacturing standards and procedures. For example, after the August 2 recall, we immediately supplemented our contractual requirements with a three-stage safety check related to the paint used on our toys. The three-stage safety check applies to all plants that manufacture toys for Mattel, not just those located in Asia.

First, every batch of paint must be purchased only from a certified paint supplier. Even though the supplier is already certified, samples of the paint must still be tested before use to ensure compliance with lead standards. Those sample tests must be performed either by Mattel's own laboratories or by laboratories certified by Mattel. Copies of the test results must be made available to Mattel.

Second, paint on samples of finished product from every production run must be tested for lead by either Mattel's own laboratories or by laboratories certified by Mattel.

Third, we have increased the frequency of random, unannounced inspections of vendors and subcontractors for compliance with these new procedures. In addition, Mattel has been conducting unannounced inspections of every one of our vendors and subcontractors worldwide.

Beyond this three-stage safety check, Mattel's vendors must disclose to Mattel the identity of any subcontractor that a vendor proposes to use before that subcontractor is allowed to work on Mattel products, and any such subcontractor must be open to audit by Mattel. Those subcontractors are not permitted to further subcontract the work on Mattel's products. Vendors

must supply all paint to the subcontractors, and the vendors and subcontractors must segregate all production for Mattel, including having dedicated storage for paint used on Mattel products. Mattel's vendors also must test the paints on a sample of all components produced by any subcontractor for lead before using the subcontractor's components in a Mattel product. Review of compliance with these additional requirements will also be part of the unannounced inspections of vendors and subcontractors.

Through the above steps, Mattel has now implemented a system of multiple and redundant safety checks. We certify paint suppliers to ensure the paint they supply is good paint. We require tests of the paint from the certified paint suppliers before it is used, and if it fails, it doesn't go on our product. We have increased random inspections of vendors and subcontractors during production to make sure they are testing paint. We require that vendors test samples of any components that they get from subcontractors before they go into our products. We test samples of the finished products on a regular basis to verify that the process has worked. At the same time, our direct importers are continuing to perform their own testing of our products.

Other Measures

In addition to these many safeguards, we are continuing to evaluate and, where appropriate, adopt further measures to enhance the safety of our products and the effectiveness of the recalls. We have made some recent announcements that will have a direct impact on how we do business. For example, we have created a new organization, reporting directly to me, that will combine, in one operation, all of Mattel's principal safety, compliance and reporting functions.

While Mattel is confident that the measures we have adopted will go far in preventing these lead-paint problems from re-occurring, we agree that others, including Congress, the CPSC and foreign regulatory bodies and governments, can and should play an important role in what

we believe should be a joint and cooperative effort with a shared objective – the safety and well-being of our children.

Mattel supports the Consumer Product Safety Act and the mission of the Consumer Product Safety Commission. We are committed to working with members of Congress to strengthen the Commission. We believe that more resources are needed for the organization to carry out its important duties most effectively. Mattel further supports proposals that would ensure laboratories used for testing toys, wherever produced, are fully qualified and are accredited by independent organizations.

These recent lead recalls have been a personal disappointment to me and, I am sure, to all of the men, women and parents who take great pride in working at Mattel. But, as I said at the start of my remarks, these events have also called for us to act, and we have. As an industry leader often deeply involved in setting standards for our industry, we have adopted safety standards and procedures that we hope will be a model for all toy companies.

I would like to conclude by reiterating my personal apology on behalf of Mattel and to emphasize my commitment to parents. Parents expect that toys carrying the Mattel brand are safe. I believe the steps we have taken and continue to take will strengthen the safety of our products and earn their trust.

Thank you for the opportunity to address these important issues with you today. I would be happy to answer any questions that you may have.