



**Consumer Federation of America**

Testimony of

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Before the  
Subcommittee on Commerce, Trade and Consumer Protection  
Committee on Energy and Commerce  
U.S. House of Representatives

Protecting Our Children: Current Issues in Children's Product  
Safety

Rayburn House Office Building 22123

May 15, 2007

Chairman Rush, and members of the Subcommittee, I am Rachel Weintraub, Director of Product Safety and Senior Counsel for Consumer Federation of America (CFA). CFA is a non-profit association of approximately 300 pro-consumer groups, with a combined membership of 50 million people that was founded in 1968 to advance the consumer interest through advocacy and education. Thank you for holding this hearing and for providing us with the opportunity to speak today.

## **I. Introduction**

The theme of today's hearing, "Protecting Our Children: Current Issues in Children's Product Safety," is a critically important topic that CFA prioritizes. Sadly, we have much work to do to protect our children from product safety hazards and there are many issues in need of immediate attention.

The Consumer Product Safety Commission (CPSC) is the independent federal agency charged with protecting the public from hazards associated with over 15,000 different consumer products, including children's products. The Agency was created because the marketplace was not adequately policing itself: litigation and various federal laws were not adequately preventing death and injuries from unsafe products. CPSC's mission, as set forth in the Consumer Product Safety Act, CPSC's authorizing statute, is to "protect the public against unreasonable risks of injury associated with consumer products."<sup>1</sup> CPSC's statutes give the Commission the authority to set safety standards, require labeling, order recalls, ban products, collect death and injury data, inform the public about consumer product safety, and contribute to the voluntary standards setting process. CPSC was created to be a proactive organization. Unfortunately, much of that proactivity has been thwarted by a shrinking budget, a lack of aggressive action by the

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<sup>1</sup> Consumer Product Safety Act, 15 U.S.C. 2051, section 2(b)(1).

agency and statutory provisions which create obstacles to the effective prevention of product risks.

Consumer Federation does not always agree that CPSC is acting in the best interest of consumers: indeed CPSC has denied several petitions CFA has filed to better protect the public and CFA has opposed numerous aspects of CPSC's rulemakings and inaction on other issues. However, CFA still believes that a stronger CPSC, one with more funds and more staff, can better serve the public than a less robust one struggling to re-set and limit its priorities. In addition, CFA has deep respect for CPSC staff: they are dedicated and hardworking and have worked diligently while weathering the storms of budget cuts and a lack of quorum.

While we are concerned about the role CPSC has played in protecting children from product hazards, as our country's gate keeper for unsafe products, CPSC saves \$700 billion in societal costs each year.<sup>2</sup> We know from past experience, from survey data, and from consumers who contact us, that safety is an issue that consumers care deeply about and that CPSC is an agency that consumers support and depend upon to protect them and their families. However, there is much more this agency should do to protect our children.

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<sup>2</sup> U.S. Consumer Product Safety Commission, 2008 Performance Budget Request, submitted to Congress, February 2007, page 72. On the web at <http://www.cpsc.gov/CPSCPUB/PUBS/REPORTS/2008plan.pdf>

## **II. What CPSC Needs to Better Protect Our Children**

### **A. An Increased Budget**

With jurisdiction over many different products, this small agency has a monstrous task. This challenge is heightened by the fact that, over the past two decades, CPSC has suffered the deepest cuts to its budget and staff of any health and safety agency.<sup>3</sup>

In 1974, when CPSC was created, the agency was appropriated \$34.7 million and 786 FTEs. Now 32 years later, the agency's budget has not kept up with inflation, has not kept up with its deteriorating infrastructure, has not kept up with increasing data collection needs, has not kept up with the fast paced changes occurring in consumer product development, and has not kept pace with the vast increase in the number of consumer products on the market. CPSC's staff has suffered severe and repeated cuts during the last two decades, falling from a high of 978 employees in 1980 to just 401 for this next fiscal year. This is a loss of almost 60 percent.

The President's 2008 budget would fund only 401 full time employees ("FTE"), the fewest number of FTEs in the agency's over 30 year history, and provide only \$63,250,000 to operate the agency. This is a reduction of 19 FTEs and a small increase of \$880,000 from the 2007 appropriation. This increase does not provide for inflation, will not allow CPSC to maintain its current programming, and will not allow for CPSC to invest in its research, resources and infrastructure.

Funding for CPSC has remained essentially flat for the past two years, forcing staff decreases of 31 FTEs in 2006 and 20 FTEs in 2007. Since 2000, CPSC has lost 79 FTEs, a loss of 16 percent. This loss in staff is particularly significant because "CPSC is a staff intensive organization with nearly 90 percent of its recent funding absorbed by

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<sup>3</sup> See Appendix 1, at the end of this document.

staff compensation and staff related space rental costs.”<sup>4</sup> CPSC estimates that just to maintain its current staffing level of 420 FTEs, which already required limiting CPSC’s programs, CPSC would need an additional \$2,167,000. CPSC, like all Federal Agencies, is to increase costs for staff such as a projected 3 percent Federal pay raise, increased Federal Employee Retirement System contributions and two additional paid work days.

While every year an estimated 27,100 Americans die from consumer product related causes, and an additional 33.1 million suffer injuries related to consumer products under the jurisdiction of CPSC, this agency, with its reduced staff and inadequate funds, is limited in what it can do to protect consumers. “CPSC has maximized staff efficiencies and cannot absorb further reductions without having an impact on its product safety activities.”<sup>5</sup> Due to these constraints, CPSC cannot even maintain its current level of safety programs, let alone invest in its infrastructure to improve its work in the future.

Because of this historically bleak resource picture, CFA is extremely concerned about the agency’s ability to operate effectively to reduce consumer deaths and injuries from unsafe products. It is for this reason that CFA believes that two of the most important things that can be done to protect consumers, including children, from unsafe products are to assure that CPSC has sufficient funding and to increase oversight of CPSC. CPSC’s current budget, staff, and equipment are stretched to the point of breaking. CPSC salaries and rent currently consume almost 90 percent of the agency’s appropriation. The remaining 10 percent of the agency’s budget pays for other functions (such as supplies, communications and utility charges, operation and maintenance of

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<sup>4</sup> U.S. Consumer Product Safety Commission, 2008 Performance Budget Request, submitted to Congress, February 2007, page v. On the web at <http://www.cpsc.gov/CPSCPUB/PUBS/REPORTS/2008plan.pdf>

<sup>5</sup>U.S. Consumer Product Safety Commission, 2008 Performance Budget Request, submitted to Congress, February 2007, page vi. On the web at <http://www.cpsc.gov/CPSCPUB/PUBS/REPORTS/2008plan.pdf>

facilities and equipment) that merely allow CPSC to keep its doors open for business each day.

## **B. Improved Authority to Implement Product Safety Standards and Testing**

Consumers believe that when they see a product on the shelf it has been tested by the government or some other trustworthy entity to ensure that the product is safe. This is not the case. First, there are not necessarily safety standards for every product. Second, CPSC does not have pre-market jurisdiction of any of the products it regulates. CPSC does not enter manufacturing facilities and is hard pressed, due to its shrinking budget, to police the marketplace even after products are in the stream of commerce. CPSC must rely upon manufacturer assurances that their products comply with various voluntary and mandatory standards. Reliance upon these assurances has proven to be fatally flawed—placing children at risk. For example, CPSC relied upon assurances of magnet toy manufacturers that the toys they sold to the public after recalls would not pose the same hazards to children as the recalled toys. However, the same recalled toys continued to be sold without any changes to improve safety.

Section 7(b) of the Consumer Product Safety Act requires that the Commission “rely upon voluntary consumer product safety standards” rather than promulgate a mandatory safety standard when “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.”<sup>6</sup> This requirement for reliance upon voluntary standards can act as a shield, preventing the agency from taking critical steps to initiate mandatory rulemaking proceedings. Effective voluntary standards have

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<sup>6</sup> Consumer Product Safety Act, 15 U.S.C. 2056, section 7(b).

decreased consumer risk, such as those for baby walkers. However, it was actually the initiation of a mandatory rulemaking proceeding that led to the more stringent and ultimately effective voluntary standard.

In addition, CFA is concerned that the Commission does not police the market well enough to accurately ascertain whether a voluntary standard is preventing the intended harm. For example, a CPSC rulemaking for baby bath seats has essentially been tabled as a voluntary standard has been implemented. Unfortunately, the baby bath seats not meeting the new standard have never been recalled, thus they are still posing serious harm to babies. The bath seats meeting the new standard have been problematic: in July of 2005, CPSC and Dorel Juvenile Products issued a safety alert to consumers acknowledging that they had “received nine reports of breakage due to use of Tubside Bath Seats in non-traditional or sunken bathtubs and an additional 67 reports of breakage due to handling, assembly and unknown reasons.”<sup>7</sup> The new bath seats also caused at least 9 deaths from May 2004 to May 2006. However, despite this information, CPSC has not taken broader action on baby bath seats.

To best protect consumers from product hazards, products should be required to be tested for safety -- including for compliance with existing mandatory and voluntary standards, if they exist -- before they can enter the stream of commerce, and potentially pose risks to children. This power would give CPSC proactive authority that it desperately needs. CFA supports H.R. 1698, *The Infant and Toddler Durable Product Safety Act*, introduced by Representative Schakowsky. This bill requires CPSC to issue mandatory safety standards for durable infant products and requires that these products be tested and certified for compliance by an independent third party before sale. This bill

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<sup>7</sup>See Press Release: <http://www.cpsc.gov/cpsc/pub/prerel/prhtml05/05219.html>

would effectively and proactively protect consumers from purchasing potentially harmful products for their children.

### **C. Action Needed on Numerous Product Safety Issues**

Due to limited resources and a statutory reliance on voluntary standards, the Commission has not issued mandatory standards for numerous products posing risks to consumers.

#### **1. Furniture Tip-overs**

An estimated 8,000 to 10,000 people are injured seriously enough to require emergency room treatment each year in the United States for injuries associated with the tip-over of furniture or appliances, resulting in an average of 6 deaths each year. The majority of these injuries and deaths are to children. These injuries and deaths frequently occur when children climb onto, fall against, or pull themselves up on such items as shelves, bookcases, dressers, bureaus, desks, chests, television stands, and television sets. There are currently no mandatory safety standards in place for such products. For just one electrical appliance, stoves, there have been over one hundred incidents of death or injury as a result of tip-overs. While a voluntary standard is in place which requires gas and electric ranges to remain stable while 250 pounds of force is applied for five minutes and which requires anti-tip brackets to be installed upon delivery, the anti-tip devices are rarely if ever installed. Consumers are unaware of this hidden hazard which, data shows, places children and the elderly especially at risk.

In the 109<sup>th</sup> Congress, Representative Schwartz introduced, HR. 1861, *The Katie Elise and Meghan Agnes Act*, which would require CPSC to promulgate consumer product safety standards applicable to any furniture or electronic appliance that the

Commission determines poses a substantial safety hazard due to tipping because of its design, height, weight, stability, or other features. The bill would also require the Commission to promulgate regulations mandating warning labels on the packaging of such items and on the packaging of furniture with drawers that pose a danger to children due to tipping. The bill would require the Commission, in promulgating safety standards under this Act, to take into consideration the intended uses of furniture and electronic appliances and the likelihood that children could climb on or tip the furniture. CFA supports this legislation and believes it will decrease the hazard posed by unstable furniture and appliances.

## **2. Pool Safety**

CPSC no longer includes reducing child drowning deaths as one of its “results-oriented hazard reduction strategic goals.” The Commission, in the 2008 Performance Budget document states, “We continue our work in reducing child drowning deaths at the annual project level including expanding our public information efforts. Staff, however, proposes that we no longer address this area at the level of a strategic goal because of resource limitations and the limited ability to develop further technical remedies to address the behavioral aspects of child drowning.”<sup>8</sup> Drowning continues to be the second leading cause of accidental injury-related death among children ages one to fourteen and the leading cause of accidental injury-related death among children one to four. Thus, even though drowning remains a leading cause of death among children, the Commission can no longer prioritize its work on reducing child drowning as a result of reduced funding. Representative Wasserman Schultz has introduced H.R. 1721, the *Pool and Spa*

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<sup>8</sup>U.S. Consumer Product Safety Commission, 2008 Performance Budget Request, submitted to Congress, February 2007, page 8. On the web at <http://www.cpsc.gov/CPSCPUB/PUBS/REPORTS/2008plan.pdf>

*Safety Act*, which seeks to increase the safety of swimming pools and spas by requiring the use of proper anti-entrapment drain covers and pool and spa drainage systems by establishing a swimming pool safety grant program administered by CPSC to encourage States to improve their pool and spa safety laws and to educate the public about pool and spa safety. CFA supports the goal of this legislation.

### **3. All-Terrain Vehicles**

One of CFA's priority issues before CPSC is all terrain vehicle safety. It is no secret that CFA is extremely dissatisfied with CPSC's current rulemaking on ATVs. Serious injuries requiring emergency room treatment increased to 136,700 in 2005. Since 2001, there has been a statistically significant 24 percent increase in serious injuries from ATVs. The estimated number of ATV-related fatalities increased to 767 in 2004. Children under 16 suffered 40,400 serious injuries in 2005. Since 2001, there has been a statistically significant increase of 18 percent in the number of children under 16 seriously injured by ATVs. Children made up 30 percent of all injuries. In 2005, ATVs killed at least 120 children younger than 16 accounting for 26 percent of all fatalities. Between 1985 and 2005, children under 16 accounted for 36 percent of all injuries and 31 percent of all deaths.

One of our biggest concerns with CPSC's proposed rule is that it will change the way ATVs are categorized. CPSC is seeking to change the way ATVs have been traditionally categorized—by engine size to a system based upon speed. Since the late 1980's, adult size ATVs have been defined as an ATV with an engine size of over 90cc's. CPSC now proposes to alter the age/size guidelines by creating a system that limits the maximum speeds of ATVs intended for children under the age of 16.

The Commission's rule proposes Teen ATVs, intended for children between 12-15 years old, with a maximum speed of 30 mph; Pre-teen ATVs, intended for children between 9-11 years old, with a maximum speed of 15 mph; and Junior ATVs, intended for children between 6-8 years old, with a maximum speed of 10 mph. We are not satisfied that the Commission has adequate evidence to support this rule. CPSC staff admitted that speed limiting devices upon which the above outlined categories depend, do not work consistently. This categorization fails to take weight of the ATV into consideration, which significantly impacts the consequence of a crash or tip-over. Further, we are vastly concerned that the Commission has neglected researching critical aspects of this issue, partly because it simply cannot afford to do so.

For example, 45 percent of ATV incidents involve an ATV tipping over, thus raising the issue of an ATVs inherent stability. However, CPSC has not conducted stability tests or research. When Commissioner Moore asked CPSC staff about this lack of information, CPSC staff responded, "CPSC staff has not had the resources to perform the necessary tests and evaluations to develop a comparative analysis of the current market of ATVs for steering, pitch stability, lateral stability, braking, and other handling features."<sup>9</sup>

This is unfathomable: those aspects of ATVs that are most involved in ATV incidents leading to death and injury are factors that CPSC staff are not studying. Failures of these systems are critical to ATV crashes and tip-overs. However, the Commission is moving forward on an ill advised rule without studying these issues due at least to a significant degree to a lack of resources. We fear that not only will this rule not

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<sup>9</sup> CPSC Staff Response Regarding Follow Up Questions from Commissioner Moore after June 15, 2006, ATV Safety Briefing, July 11, 2006.

save lives, but that it may lead to younger children riding larger, faster and potentially more dangerous machines.

#### **4. Lead in Children's Products**

Shockingly and increasingly, lead has been found in children's products, including children's jewelry, lunch boxes, bibs, cribs and other products. CFA supports the CPSC's proposed ban on children's jewelry containing more than .06 percent by weight of lead, as a first step in reducing the risks of lead exposure to children. However, jewelry is just one route of lead exposure among many under the jurisdiction of CPSC. Serious, acute and irreversible harm can result to children as a result of exposure to lead. CPSC and Congress should do all it can to ensure that manufacturers find safer alternatives for lead in all consumer products, making children's products a priority. CPSC has been unable to effectively communicate, recall, and regulate lead in children's products because of limiting provisions in its authorizing statute. For example, in the recently publicized hazard of lead in children's bibs, while the state of Illinois conducted a recall of certain bibs sold by Walmart, CPSC did not conduct a recall and only warned parents about the potential hazard of lead in bibs without providing identifying information indicating which bibs were found to contain lead. Consumers need a vastly more effective regulatory system to protect their children from the hazards of lead exposure.

#### **5. Yo Yo Water Balls**

Yo yo water balls are long stretchy cords with a ball of the same material, at one end. As of November 2nd, 2006, the CPSC has received 409 reported injuries related to this toy, 294 of those injuries were classified as suffocation or strangulation. Australia,

France, the United Kingdom, Luxembourg, Brazil, and Canada have banned yo yo water balls. The state of Illinois also banned the sale of this toy in 2005. However, CPSC has taken no action to recall or ban these products. Rather, the Commission issued one warning to parents in September of 2003. CFA supports the ban of these products and supports Congress' role in removing these products from the stream of commerce and from the hands of children. While a voluntary standard has been written, which will significantly change the design of these products and reduce the harm they pose, the voluntary standard does not impact the millions of products already in consumer's hands. Further, it is not yet clear that all manufacturers and especially importers will comply with this voluntary standard. Last Congress, Representative Andrews introduced H.R. 3738 which directs CPSC to promulgate a rule to ban yo yo water balls as banned hazardous product. CFA supports this legislation.

#### **D. Improve CPSC's Statutes**

##### **1. Recall Effectiveness**

The ability of CPSC to conduct effective recalls of unsafe products is critical to protecting the public from unreasonable risks associated with consumer products. In 2001, CFA filed a petition with CPSC urging them, among other things, to issue a rule that would require that manufacturers (or distributors, retailers, or importers) of products intended for children to provide along with every product a Consumer Safety Registration Card that allows the purchaser to register information, through the mail or electronically. Such information will allow the manufacturer to contact the purchaser in the event of a recall or potential product safety hazard.

The Commission denied CFA's petition in March of 2003 and has not undertaken any concrete efforts to broadly increase recall effectiveness other than the creation of a web site dedicated to recalls. Unfortunately, the web site requires a consumer to take proactive steps to obtain recall information, even though research indicates that direct-to-consumer notification is the best method for informing consumers about recalls. Direct ways to inform consumers who purchased the recalled product exist and would be more effective than the current approach which relies upon the media to convey the news of the recall. CFA supports H.R. 1699, the *Danny Keysar Child Product Safety Notification Act*, which directs CPSC to require certain manufacturers to provide consumer product registration forms to facilitate recalls of durable infant and toddler products. This legislation mirrors the concept CFA proposed in its 2001 petition and CFA believes that the direct-to-consumer notification directed in this bill will significantly increase consumer awareness of product recalls.

Consumers who do not hear of product recalls are at greater risk of tragic consequences, including death or injury. By relying solely upon the media and manufacturers to broadly communicate notification of recalls to the public, CPSC and the companies involved are missing an opportunity to communicate with the most critical population--those who purchased the potentially dangerous product. Product registration cards or a similar electronic system would provide consumers the opportunity to send manufacturers their contact information enabling manufacturers to directly notify consumers about a product recall.

To improve recall effectiveness, CFA recommends that section 15 of the CPSA be amended to require manufacturers to provide a means of directly communicating

information of recalls to consumers through a registration card, electronically or by other means of technology. Manufacturers, retailers and importers should be required to report the existence of the recall to retailers and all commercial customers within 24 hours after issuing the recall or warning. All entities within the stream of commerce should be required to post the recall to web sites, if in existence, within 24 hours of issuance of recall. We suggest that manufacturers, retailers, distributors and importers be required to communicate notice of the recall with all known consumers. Retailers, after receiving notice of the recall, must remove the recalled product from their shelves and web site within three business days and retailers must post notice of the recall in their stores for 120 days after issuance of the recall.

## **2. Eliminate the Cap on Civil Penalties**

CFA suggests that Congress eliminate the cap on the amount of civil penalties that CPSC can assess, as spelled out in section 20 (a) of the Consumer Product Safety Act (CPSA), against an entity in **knowing** violation of CPSC's statutes. The current civil penalty is capped at \$7,000 for each violation up to \$1.83 million. A "knowing violation" occurs when the manufacturer, distributor or retailer has actual knowledge or is presumed to have knowledge deemed to be possessed by a reasonable person who acts in the circumstances, including knowledge obtainable upon the exercise of due care to ascertain the truth of representations. Knowing violations often involve a company's awareness of serious injury or death associated with their product. Eliminating the cap will encourage manufacturers to recall products faster and comply with CPSC's statutes in a more aggressive way. Importantly, the elimination of the cap will act as a deterrent to non-

compliance with CPSC's regulations. Eliminating the cap will also strengthen CPSC's bargaining power when negotiating with many companies to take a particular action. CFA supports H.R. 1698, the *Infant and Toddler Durable Product Safety Act*, introduced by Representative Schakowsky, which eliminates the cap on civil penalties for infant and durable products.

### **3. Eliminate Section 6(b) of the CPSA**

CFA urges Congress to eliminate section 6(b) of the CPSA. This section of the Act prohibits CPSC, at the insistence of industry, from communicating safety information to the public. This provision, to which no other health and safety regulatory agency must adhere, requires that CPSC must check with the relevant industry before it can disclose the information to the public. It serves to hold CPSC captive to the very industry it regulates. If the industry denies access to the information, CPSC must rely upon the industry's response and may just drop the issue, thus denying the information to consumers. This has the effect of delaying or denying access of important information to consumers.

### **4. Changes to Section 15(b) of the Consumer Product Safety Act**

On July 13, 2006, the Commission issued Final Interpretative Guidance on section 15(b) of the Consumer Product Safety Act. Section 15(b) requires that every manufacturer, distributor, or retailer immediately inform the CPSC if it "obtains information that reasonably supports the conclusion that its product either: (1) fails to comply with an applicable consumer product safety rule or with a voluntary consumer product safety standard . . . ; (2) contains a defect which could create a substantial

product hazard . . . ; or (3) creates an unreasonable risk of serious injury or death.<sup>10</sup> The CPSC guidance purported to clarify the current law by adding factors to be considered when evaluating the duty to report: the definition of defect will be amended to include the role of consumer misuse, adequacy of warnings, and obviousness of the risk; the number of defective products on the market will be considered; and compliance with product safety standards will be evaluated. We fear that these factors could cloud the interpretation of the law and the obligation to report under this section.

We are also troubled that these proposed changes will shift the burden of weighing relevant factors in reporting under section 15(b) from the CPSC to businesses as well as create a safe harbor for non-reporting. Further, we are alarmed about reliance on factors such as the number of defective products in use as well as compliance with product safety standards to determine whether hazards are reportable. We fear that this guidance may jeopardize the Commission's ability to receive important product safety information that is critical for CPSC's consumer protection function.

### **5. Restore CPSC Authority over Fixed-site Amusement Parks**

CFA encourages Congress to restore CPSC's authority over fixed-site amusement parks. According to the CPSC, between 1999 and 2003, serious injuries on theme park rides soared 96 percent. Federal oversight is crucial to the prevention of any future deaths and injuries associated with fixed-site amusement parks due to the vast variation in state laws and the absence of any regulation in some states. CPSC has illustrated its ability to identify and prevent injuries from many consumer products, including mobile amusement park rides. CPSC should be granted the same scope of authority to protect against unreasonable risks of harm on fixed-site rides that it currently retains for carnival

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<sup>10</sup> 15 U.S.C. §2064(b)(1), (b)(2), and (b)(3).

rides that move from site to site. However, with this additional authority, CPSC should be authorized more money to take on this important role. CFA supports the National Amusement Park Ride Safety Act, introduced by Congressman Markey, which will restore fixed-site amusement park authority to CPSC.

### **6. Toys on the Internet**

We ask Congress to require businesses selling toys on the Internet to provide on their website the same cautionary labeling that is required on toy packaging. Currently, Section 24 of the Federal Hazardous Substances Act (FHSA) requires cautionary labeling on small balls, marbles and toys that contain small parts for children three years of age and younger. This labeling must be apparent to consumers at the point of purchase so consumers are able to make informed decisions about potential safety hazards associated with the toys. Online retailers should be required to post cautionary warnings on their website so that consumers could be aware of the potential safety issues before actually purchasing the product. We support H.R. 1893, the *Choking Hazard Awareness Act*, introduced by Representative Lowey which would require the same warning labels on toy packaging to appear online and in catalogs because we believe that consumers should see critical safety warnings no matter where they purchase toys.

### **III. Changing Consumer Product Market -- New Products and More Imports**

Sophisticated, high-tech products, such as Segway devices, which CPSC engineers may have never seen, much less have expertise with, pose particularly resource intensive challenges. Similarly, products such as computer lithium batteries that have recently been subject to recall as well as products involving nanotechnology challenge the Commission's limited resources. For the CPSC to live up to its safety mandate, it

must be able to keep pace with the ever-changing development of technology. The 2008 Performance Budget does not provide funds or an opportunity for CPSC staff to adequately study these and other emerging technologies in the consumer product market.

Another aspect of the changing consumer product market is that every year, more and more consumer products are imported into the United States. According to CPSC, two-thirds of all recalls involve products manufactured overseas. CPSC has two programs dealing specifically with this issue. The first is its program with the U.S. Customs and Border Protection. In 2006, CPSC field staff and U.S. Customs staff prevented about 2.9 million non-compliant cigarette lighters and fireworks from entering the United States<sup>11</sup> and also prevented 434,000 units of toys and other children's products from entering the country.<sup>12</sup> The 2008 Performance Budget includes a goal of import surveillance for one product for which fire safety standards are in effect and one product for which safety standards are in effect. These are limited goals due to limited resources. Further, the customs program has many other competing homeland security priorities, which limit its product safety surveillance.

The second is the relatively new Office of International Programs and Government Affairs which seeks to have signed Memorandums of Understanding with seventeen countries by the end of 2008. These memoranda establish closer working relationships and set up frameworks for exchanging safety information with CPSC's counterparts in other countries. CFA hopes that these memoranda lead to concrete efforts to prevent unsafe products from entering the United States and we believe that to achieve

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<sup>11</sup> U.S. Consumer Product Safety Commission, 2008 Performance Budget Request, submitted to Congress, February 2007, page 21. On the web at <http://www.cpsc.gov/CPSCPUB/PUBS/REPORTS/2008plan.pdf>

<sup>12</sup> U.S. Consumer Product Safety Commission, 2008 Performance Budget Request, submitted to Congress, February 2007, page 36. On the web at <http://www.cpsc.gov/CPSCPUB/PUBS/REPORTS/2008plan.pdf>

this goal, CPSC must work with other countries to prohibit the export of products that do not meet voluntary or mandatory safety guidelines. Specifically, compliance with safety standards should be made a necessary condition of receiving an export license for certain products which have had pervasive safety problems. Further, products should be required to be tested and certified by an independent third party laboratory to determine if products meet safety standards. If they do not, products cannot be imported in to the United States. This regulation would protect the marketplace before products enter the stream of commerce. Unfortunately, many unsafe products are being imported from other countries and much more must be done to protect American consumers and children specifically. Ultimately, the responsibility falls on the manufacturers, many of which are based in the United States, which must be more fully engaged in policing their products.

#### **IV. Conclusion**

In conclusion, this Subcommittee must make sure that the federal government lives up to the commitment it made to protect consumers from product-related deaths and injuries when it created the Consumer Product Safety Commission. CFA urges this Subcommittee to appropriate more funds to the Consumer Product Safety Commission so that the Commission can grow to incorporate a changing and more complex marketplace, increase CPSC oversight, pass product safety legislation for numerous potentially unsafe products and pass amendments strengthening CPSC's authorizing statutes. The safety of our children depends upon it. Thank you.

## Appendix 1

### *CPSC Resources*

<u>Year</u>	<u>Budget Authority</u>	<u>FTEs<sup>13</sup></u>
1974	\$34,776,000	786
1975	\$36,954,000	890
1976	\$39,564,000	890
1977	\$39,759,000	914
1978	\$40,461,000	900
1979	\$42,940,000	881
1980	\$41,350,000	978
1981	\$42,140,000	891
1982	\$32,164,000	649
1983	\$34,038,000	636
1984	\$35,250,000	595
1985	\$36,500,000	587
1986	\$34,452,000	568
1987	\$34,600,000	527
1988	\$32,696,000	513
1989	\$34,500,000	529
1990	\$35,147,000	526
1991	\$37,109,000	514
1992	\$40,200,000	515
1993	\$48,400,000	515
1994	\$42,286,000	518
1995	\$42,431,000	487
1996	\$39,947,000	487
1997	\$42,500,000	480
1998	\$45,000,000	480
1999	\$46,949,000	480
2000	\$48,814,000	480
2001	\$52,384,000	480
2002	\$55,200,000	480
2003	\$56,767,000	471
2004	\$59,604,000	471
2005	\$62,149,000	471
2006	\$62,370,000	446
2007	\$62,370,000	420
2008 (proposed)	\$63,250,000	401

<sup>13</sup> This column represents the staffing ceiling established for the agency in each year. The term FTE or full time employee has been used since 1980. From 1974-1979 the figures in this column represent positions or people. One FTE is equivalent to 2080 hours per year.



# Consumer Federation of America

Outline of Testimony of Rachel Weintraub, Director of Product Safety and Senior Counsel,  
Consumer Federation of America  
Before the Subcommittee on Commerce, Trade and Consumer Protection Committee on Energy  
and Commerce, U.S. House of Representatives

Protecting Our Children: Current Issues in Children's Product Safety

May 15, 2007

## **I. Introduction**

The theme of today's hearing, "Protecting Our Children: Current issues in Children's Product Safety," is a critically important topic that CFA prioritizes. Sadly, we have much work to do to protect our children from product safety hazards and there are many issues in need of immediate attention.

## **II. What CPSC Needs to Better Protect Our Children**

### **A. An Increased Budget**

### **B. Improved Authority to Implement Product Safety Standards and Testing**

### **C. Action Needed on Numerous Product Safety Issues**

- 1. Furniture Tip-overs**
- 2. Pool Safety**
- 3. All-Terrain Vehicles**
- 4. Lead in Children's Products**
- 5. Yo Yo Water Balls**

### **D. Improve CPSC's Statutes**

- 1. Recall Effectiveness**
- 2. Eliminate the Cap on Civil Penalties**
- 3. Eliminate Section 6(b) of the CPSCA**
- 4. Changes to Section 15(b) of the Consumer Product Safety Act**
- 5. Restore CPSC Authority over Fixed-site Amusement Parks**
- 6. Toys on the Internet**

## **III. Changing Consumer Product Market -- New Products and More Imports**

## **IV. Conclusion**

In conclusion, this Subcommittee must make sure that the federal government lives up to the commitment it made to protect consumers from product-related deaths and injuries when it created the Consumer Product Safety Commission. CFA urges this Subcommittee to appropriate more funds to the Consumer Product Safety Commission so that the Commission can grow to incorporate a changing and more complex marketplace, increase CPSC oversight, pass product safety legislation for numerous potentially unsafe products and the pass of strengthening amendments to CPSC's authorizing statutes. The safety of our children depends upon it.