



Consumer Federation of America

June 13, 2012

Statement of Rachel Weintraub,

Director of Product Safety and Senior Counsel, Consumer Federation

Before the

U.S. Consumer Product Safety Commission

Addressing

Agenda and Priorities FY 2014

I appreciate the opportunity to provide comments to you on CPSC's FY 2014 priorities. I am Rachel Weintraub, Director of Product Safety for Consumer Federation of America and Senior Counsel. Consumer Federation of America is a non-profit association of approximately 280 pro-consumer groups that was founded in 1968 to advance the consumer interest through advocacy and education.

I. CPSIA Implementation

The implementation of the Consumer Product Safety Improvement Act should continue to be of the highest priority for the Consumer Product Safety Commission. The CPSC has been effectively prioritizing CPSC implementation and we congratulate the Agency for its work thus far. Never in CPSC's history have more rules been promulgated and in such a short time period. Not only have many rules been promulgated but the rules themselves will have an important and positive impact on consumers.

Because of the rules promulgated by CPSC, infant durable products including bath seats, portable bed rails, full-size cribs, non-full-size cribs, infant walkers and toddler beds must now meet new robust mandatory standards. The crib standard which went into effect in June of 2011 is of particular significance as it is the strongest crib standard in the world and offers our nation's infants a safe sleep environment, which their parents have a right to expect. For all of these products, third party testing and certification requirements are required. We congratulate CPSC on their leadership of and commitment to this important process.

CPSC has additional infant durable product rules to promulgate under section 104; the Danny Keysar Child Product Safety Notification Act, which includes play yards, infant swings, bassinets, strollers, and highchairs. We urge CPSC to continue to commit the staff time and resources necessary to prioritize the promulgation of these rules. This is a critical component of

the CPSIA that consumers recognize as necessary to ensure the safety of their infants when they are using products designed for their use. In addition, we urge CPSC to consider increasing its role in voluntary standards proceedings to ensure that voluntary standards for products under CPSC's jurisdiction adequately address hazards.

Another high priority for CPSC should continue to be the consumer incident database required by the CPSIA. We recognize CPSC's current commitment to this important consumer tool and urge the CPSC to maintain that commitment and to research reports that appear to indicate trends. CFA and KID conducted a study of the database that was released in April of 2012.¹ We found that the database is being used as intended. Of the 6,080 reports we analyzed, almost all were submitted by consumers, which was the hoped for and expected outcome. But while consumers make up 97% of the reporters to the database, medical professionals made up only .46%; medical examiners and coroners made up only .2%; and other public safety entities made up 1%. We urge CPSC to reach out to medical experts and others to ensure that they are aware of the database.

Our report also documented that eighty-four percent of all reports included a serial number or model name or number. While previous concerns had been raised about the lack of information in reports on the database, our findings, which are consistent with those of CPSC, show that most reports have specific information to accurately identify the product involved. We also found that manufacturers exercised their right to post additional comments on 53% of reports and that most reports (70%) involved products purchased in the last five years, not older products.

II. Emerging hazards

There are numerous emerging hazards that CPSC should prioritize.

1. Furniture Tip Overs

According to the U.S. Consumer Product Safety Commission (CPSC), each year, more than 22,000 children 8 years and younger are injured as a result of a piece of furniture, appliance or television tipping over. Between 2000 and 2010, there were 245 tip-over related deaths involving children 8 years old and younger. While the ASTM standard for furniture is in the process of being strengthened, much more must be done to bring all of the stakeholders together to collectively address this increasingly problematic, multifaceted and dangerous injury pattern.

2. Bumbo seat

In 2007, Bumbo International working with the U.S. Consumer Product Safety Commission (CPSC), recalled the baby seat, after 28 reported injuries from the product. Three of these injuries were skull fractures in babies between the ages of 3 to 10 months, resulting from the chair being used on elevated surfaces, such as a table. Bumbo International cooperated with the voluntary recall and agreed to add a special warning instruction on the chair, "WARNING - Never use on a raised surface. Never use as a car seat or bath seat. Designed for floor level use only. Never leave your baby unattended as the seat is not designed to be totally restrictive and may not prevent release of your baby in the event of vigorous movement."

¹ <http://www.consumerfed.org/pdfs/CPSCDatabase1YearAnniversary3-29-12.pdf>

However, subsequent injury reports caused CPSC to issue another warning for the product this past November. CPSC is now aware of at least 33 skull fractures. According to CPSC data there have been 95 additional injuries since the 2007 recall. Fifty of these injuries occurred while the product was used on the floor as recommended or its use position was unclear. There are fourteen postings to SaferProducts.gov documenting risks of injuries from the product as well.² Warning labels have generally been shown to be ineffective in reducing injuries and that is specifically evident with this product as well.

Because serious injuries are occurring when this product is used as intended, and since these injuries involve an alarming number of skull fractures we have grave concerns about the safety of Bumbo International's Baby Seat. Unlike other products intended for the same age range such as bouncers and stationary activity centers, there are no safety standards or testing requirements covering this type of product. In addition, manufacturers of similar products have made design changes to address the safety concerns associated with these types of products— a step Bumbo International has refused to take to date.

On February 6, 2012, CFA, Kids In Danger, Consumers Union, U.S. PIRG and Public Citizen wrote to CPSC urging the Commission to issue a recall of Bumbo International's Baby Seat to remove these potentially hazardous products from the market and to allow the manufacturer to address the serious safety concerns in the future. We are not aware of any CPSC action on this matter and continue to strongly urge CPSC to issue a recall of the baby seat and.

3. BB Shaped Magnetic Balls

BB shaped products containing powerful rare earth magnets have increasingly been linked to serious injuries to children and teens. These products contain rare earth magnets and are sold as rare earth super magnets, executive desk toys, Buckyballs, Nanospheres, Zen Magnets and Magnet Balls.³ These products, while sold for children over age 13, have been linked to many serious hazards to young children as a result of ingestion or inhalation of this product.⁴ Reports of injuries have been reported by doctors and in saferproducts.gov. Children enjoy playing with this product as a toy and use it as faux a nose or lip earring which precipitates ingestion. CPSC must closely study this product, the play value of this product and the injury patterns caused by this product. CPSC must take action to protect to protect children. Further, there are numerous brands of similar or identical products which pose the same hazards. Though not labeled for use by younger children, they can be found in toy stores and are found online characterized as toys.⁵

4. Button Cell Batteries

Button cell batteries pose serious and potentially fatal ingestion hazards to children. According to the most recent data reported to U.S. Poison Control Centers, in 2011 there were 3,471 button

² <http://www.saferproducts.gov/Search/Result.aspx?dm=0&p=1&q=bumbo&srt=0>

³ <http://aapnews.aapublications.org/content/33/6/4.full>

⁴ <http://www.aap.org/en-us/advocacy-and-policy/federal-advocacy/Pages/AAP-Alerts-Pediatricians-to-Dangers-of-Magnet-Ingestions.aspx>

⁵ http://www.amazon.com/s/ref=nb_sb_ss_c_1_5?url=search-alias%3Dtoys-and-games&field-keywords=buckyballs&sprefix=bucky%2Caps%2C147

battery ingestion cases. This data indicates that the incidents of button cell battery ingestions that result in fatalities and severe injuries have increased by a factor of more than six since 1985. According to a new study released last month in the American Academy of Pediatrics Journal,⁶ *Pediatrics*, an estimated 65,788 children less than 18 years of age were injured by button cell batteries serious enough to require emergency room treatment from 1990 to 2009, averaging 3,289 battery-related emergency room visits each year.

The number and rate of visits increased significantly during the study period, with substantial increases during the last 8 study years. Of the emergency room visits caused by button cell batteries, battery ingestion accounted for 76.6% of emergency room visits, followed by nasal cavity insertion (10.2%), mouth exposure (7.5%), and ear canal insertion (5.7%). Button batteries were implicated in 83.8% of patient visits caused by a known battery type. Most children (91.8%) were treated and released from the emergency room. We urge CPSC to continue its work to strengthen the voluntary standard to include a provision to securely enclose all button cell batteries.⁷

5. Inflatable Amusements

We urge CPSC to address hazards posed by inflatable amusement products such as bounce houses. According to CPSC's most recent data,⁸ which we urge CPSC to update; from 2003 to through 2007 there were an estimated 31,069 inflatable amusement injuries serious enough to require emergency room treatment. Ninety one percent of those injuries were caused by moon bounces. Most of the injuries (62%) were in the 5 to 14 age group, and almost all the estimated injuries (85%) involved children under the age of 15.⁹ CPSC documented, in its report released in 2009, that it was aware of four deaths involving inflatable amusements from 2003 through 2007.

News reports¹⁰ have indicated that bounce houses and other types of similar products can pose various hazards to consumers. For example, reports have indicated sudden deflation, entrapment of children as well as falling by children. Reports have also shown that such products have blown away and injured children. These incidents cause great concern. There is no voluntary standard for these products. We urge the CPSC to investigate this emerging hazard and to work with ASTM International in the development of voluntary standards for inflatable amusements that are intended for recreational use by consumers.

III. Enforcement

1. Recall Effectiveness

The vast majority of consumers who own a recalled product never find out about the recall. Most recall return rates, if publicized at all, hover around the 30% mark. While there are now

⁶ <http://pediatrics.aappublications.org/content/early/2012/05/09/peds.2011-0012>

⁷ <http://pediatrics.aappublications.org/content/early/2012/05/09/peds.2011-0012>

⁸ <http://www.cpsc.gov/library/inflate2007.pdf>

⁹ <http://www.cpsc.gov/library/inflate2007.pdf>

¹⁰ http://journalstar.com/news/local/article_6d1e2610-ca92-11df-8850-001cc4c03286.html,
<http://news.lalate.com/2011/06/06/bounce-house-terror-as-bouncy-house-blows-away/>,

requirements for recall registration cards and online mechanisms for a subset of infant durable products, much more must be done to ensure that consumers find out about recalls of products which they own and to ensure that consumers effectively remove the potentially hazardous product from their home. We urge CPSC to continue to prioritize this issue. Specifically we urge the CPSC to work with manufacturers of infant durable products to maximize awareness about product registration. Further, we urge CPSC to engage in a dialogue with all stakeholders about the factors that are essential to the most well publicized recalls to replicate that success with all recalls.

2. Civil Penalties

Based on numerous past recalls, we understand that there are numerous civil penalties that are currently pending but have not yet been assessed. In 2011, the CPSC assessed fourteen civil penalties.¹¹ In 2010, CPSC assessed just six civil penalties,¹² while in 2009, there were 38 civil penalties assessed.¹³ Civil penalties serve an important deterrent effect to non compliance with CPSC laws and we urge CPSC to prioritize this important element of its enforcement responsibilities.

3. Import Surveillance

We applaud CPSC's current commitment to enforcing its safety mission at the ports of entry to the United States. With the profound increase of imported products into the United States, CPSC's efforts at the ports in cooperation with U.S. Customs and Border Protection is critical to preventing unsafe products from entering the United States marketplace. We further support the CPSC's efforts to prioritize enforcement at both the ports of entry as well as the United States' domestic marketplace to ensure compliance with the Consumer Product Safety Improvement Act as well as other CPSC mandatory standards and regulations.

IV. Critical Ongoing Safety Issues

1. Infant Suffocation- Sleep Environment

The Center for Disease Control and Prevention (CDC) analyzed 2000–2009 mortality data from the National Vital Statistics System. CDC found that from 2000 to 2009, the overall annual unintentional injury death rate decreased among all age groups except for newborns and infants younger than 1 year; in this age group, rates increased from 23.1 to 27.7 per 100,000 primarily as a result of an increase in reported suffocations.¹⁴ Suffocations were the second highest cause of death (motor vehicles ranked first). As part of CPSC's work on safe sleep environments, CPSC must continue to prioritize this issue, educate consumers about the importance of safe sleep environments and understand why data indicates that suffocations have been increasing for infants.

2. ATV and ROHV Safety

¹¹ <http://www.cpsc.gov/cgi-bin/civfy.aspx>

¹² <http://www.cpsc.gov/cgi-bin/civfy.aspx>

¹³ <http://www.cpsc.gov/cgi-bin/civfy.aspx>

¹⁴ http://www.cdc.gov/mmwr/preview/mmwrhtml/mm61e0416a1.htm?s_cid=mm61e0416a1_w

According to the most recent data released by CPSC,¹⁵ at least 115,000 people were injured seriously enough to require emergency room treatment in 2010, and the estimated number of all-terrain vehicle (ATV)-related fatalities was 781 in 2009, though the 2009 data is not considered complete. Trend analysis by CPSC indicates that for all ATVs, there is a statistically significant upward trend in emergency room visits for people of all ages during the years 2001 through 2010.

Fifty-five children lost their lives and 28,300 were injured seriously enough to require treatment in a hospital emergency department in 2010. Forty seven percent of children killed during that time period were younger than 12 years old. Children under 16 suffered an estimated 28,300 serious injuries in 2010 – or 25 percent of all injuries. In 2009, serious injuries to children also made up 25 percent of all injuries. CPSC must prioritize the issue of ATV safety. While CPSC's rulemaking is required to be finalized on ATVs this August, the completion of that rulemaking should not complete CPSC's serious analysis of the safety hazards posed to children by ATVs, the adequacy of existing ATV safety training and training materials, and efforts to ensure that children are not riding ATVs that are too large and powerful for them.

Recreational off highway vehicles (ROHVs) pose hazards to consumers and have been associated with more than 165 deaths from 2003–2010. The current voluntary standard fails to address hazards in five significant areas: 1) the stability standard is inadequate; 2) the occupant protection measures are insufficient; 3) the draft standard does not sufficiently address handling of recreational off-highway vehicles; 4) there is no maximum speed established for these vehicles; and 5) the measures to ensure seat belt use by occupants of the vehicles are inadequate. We urge the CPSC to move forward with the promulgation of a mandatory standard to address these critical safety issues.

3. Window Covering Safety

CPSC's most recent data on window covering incidents indicates that since 1999 there have been 135 fatalities and 140 non fatal incidents as a result of a child's interaction with the cord of the window covering. Most of the non fatal incidents resulted in serious injuries to children. Approximately one child, between the ages of 8 months and 8 years old, dies each month from window cord strangulation and another child is seriously injured in a near strangulation incident. CPSC has recalled tens of millions of window coverings of numerous types, including Roman shades, roller and roll-up blinds, vertical and horizontal blinds because of hazards they pose to consumers. While a voluntary standard exists for window coverings, it has failed to eliminate or significantly reduce the strangulation risk posed by corded window coverings. We urge CPSC to prioritize this issue and to meaningfully address the hazards posed by corded window coverings.

4. Upholstered Furniture

We urge CPSC to prioritize the completion of the Upholstered Furniture rulemaking. In May of 2008, CFA filed comments in support of the rulemaking along with other consumer and environmental public interest organizations. In that letter, we stated that,

¹⁵ <http://www.cpsc.gov/library/foia/foia12/os/atv2010.pdf>

“We strongly support a smoldering ignition performance standard for fabrics and other upholstery cover materials and urge you to move forward with implementation of this standard. The adoption of this standard will not only result in superior fire safety for consumers, but will also discourage the use of halogenated fire retardant chemicals (FRs) in furniture filling materials, which have been associated with serious health impacts to humans, wildlife, and the environment.”¹⁶

In this letter, we also raised concerns about the continued use of halogenated fire retardants even after this rule is promulgated and urged CPSC to require labels indicating such use. We reaffirm the statements made in our 2008 letter and urge CPSC to promulgate the final rule, especially after recent news articles highlighted new and important aspects of this issue,¹⁷ which will improve fire safety standards and will not lead to the use of potentially toxic fire retardant chemicals.

V. Conclusion

We support the CPSC’s existing priorities to strengthen its regulatory and enforcement efforts to fulfill its mission to protect consumers from hazards posed by consumer products. We urge the CPSC to consider including the additional priority issues that we outlined in our statement today. We urge the Commission to address these issues as soon as possible as many pose urgent hazards to consumers. We look forward to working with the Commission to address these issues.

¹⁶ <http://www.cpsc.gov/LIBRARY/FOIA/FOIA08/pubcom/flamm4.pdf> at pages 144-148.

¹⁷ <http://media.apps.chicagotribune.com/flames/index.html>