Consumer Federation of America

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Before the

U.S. Consumer Product Safety Commission

Addressing

Agenda and Priorities FY 2015 and 2016

I appreciate the opportunity to provide comments to you on CPSC's FY 2015 and 2016 priorities. I am Rachel Weintraub, Legislative Director and Senior Counsel at Consumer Federation of America (CFA). CFA 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 (CPSIA) should continue to be of the highest priority for the Consumer Product Safety Commission (CPSC). The CPSC has been effectively prioritizing CPSIA implementation and we congratulate the Agency for its work thus far. CPSC has promulgated more rules that it ever has in its history and has done so is a relatively short period of time. The rules are substantively strong and 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, toddler beds, play yards, bed side sleepers, soft infant carriers, bassinets, strollers and infant swings 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 highchairs, infant bouncer seats, infant bath tubs, folding chairs and stationary activity centers. 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 infants. 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- saferproducts.gov- 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. We know that 20,425 reports have been posted to saferproducts.gov and that the database continues to be an important and useful tool for consumers, researchers, doctors, coroners and the CPSC.

We recommend that CPSC continue to explore how to make saferproducts.gov more useful and accessible to consumers including increasing consumer access to saferproducts.gov through the use of "apps" as a means for reporting risks of harm. We also urge the CPSC to work to increase awareness of the database so that reports to saferproducts.gov will increase.

II. Product Safety Hazards

There are numerous product safety hazards that CPSC should prioritize. While CPSC is working on these issues in various ways, we urge CPSC to further prioritize these issues.

1. Window Coverings

In May of 2013, Consumer Federation of America, along with Kids In Danger, Consumers Union, Parents for Window Blind Safety and others filed a petition with the CPSC requesting that the CPSC promulgate mandatory standards to make operating cords for window coverings inaccessible.

The CPSC has long recognized window covering cords as a hidden strangulation and asphyxiation hazard to children and continues to identify it on its website as one of the "top five hidden hazards in the home." Due to the documented and persistent hazard that cords on window coverings pose to children, the petition filed specifically asked the CPSC to prohibit accessible window covering cords when feasible, and require that all cords be made inaccessible through passive guarding devices when prohibiting them is not possible.

A strong mandatory standard to address the hazards posed by corded window coverings is necessary because, according to data from the CPSC, 293 children have been killed or seriously injured by accessible window covering cords between 1996 and 2012, and the rate of injuries and deaths has not been significantly reduced since 1983[1], despite six industry attempts at developing adequate voluntary standards. The voluntary standards process, starting from the first standard in 1996 and including the most recent standard in 2012, has failed to eliminate or even significantly reduce the risk of strangulation and asphyxiation by window covering cords to children. In addition, window covering manufacturers' have failed to comply with the existing voluntary standard.

[1] CFA 2011 Press Release. http://www.consumerfed.org/pdfs/WindowCoveringsStandardPressRelease.pdf

Deaths and injuries can be eliminated by designs that already exist and that are already available in the market:

- **Cordless Technology:** Window coverings which eliminate pull cords, thereby addressing both outer and inner cord hazards, are available, add minimum costs to manufacturing, and can be used on the vast majority of blinds and shades.
- **Cord Cover Designs:** Designs that render the pull cords of window coverings inaccessible have been available since the 1990's but were never sold in the marketplace because the CPSC allowed separated cord tassels to serve as a compliant design.

In a tragic twenty-two day period this year, four children strangled to death from cords on a window covering: a 6-year-old girl in Maryland on February 8th; a 3-year-old girl in Texas on February 15th; a 4-year-old boy in Georgia on February 17th; and a 2-year-old boy in Maryland on March 1st. Each of these children died after the cord of a window covering strangled them. These most recent tragic incidents contribute to the already long list of 293 deaths and serious injuries caused by these products between 1996 and 2012.

A strong mandatory standard by the CPSC is necessary to protect children. For almost 20 years, the voluntary standard has failed to address the strangulation threat posed to children. In light of the history of the voluntary standard, the documented and persistent hazard that cords on window coverings pose to children, and these recent deaths, it is time for CPSC to grant the petition for mandatory standards and move forward with a mandatory rulemaking process that effectively addresses the hazards posed by window covering cords.

2. ATV and ROHV Safety

According to the most recent data released by CPSC,[2] at least 107,900 people were injured while riding all-terrain vehicles (ATVs) seriously enough to require emergency room treatment in 2012. The estimated number of ATV related fatalities was 684 in 2011, though the 2011 data is not considered complete and the number of fatalities will almost certainly grow as more data is received.

In 2012, ATVs killed at least 54 children younger than 16, accounting for 15 percent of ATV fatalities. Fifty-seven percent of children killed were younger than 12 years old. Children under 16 suffered an estimated 26,500 serious injuries in 2012. This represents 25 percent of all injuries.

CPSC must prioritize the issue of ATV safety. While CPSC's ATV rulemaking was required to be finalized in August of 2012, we applaud CPSC for holding an ATV Safety Summit in October of 2012 and urge CPSC to complete the rulemaking which should include a 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.

[2] 2011 Annual Report of ATV-Related Deaths and Injuries http://www.cpsc.gov//Global/Research-and-Statistics/Injury-Statistics/atv2011.pdf

Recreational off highway vehicles (ROHVs) pose hazards to consumers and have been associated with more than 231 deaths and 388 injuries from 2003–2011. 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. Unfortunately, the ROHV industry has not been responsive to concerns raised by CFA, CPSC and others to improve the effectiveness of the voluntary standard. Due to the inadequacy of the standard, we urge the CPSC to move forward, as quickly as possible, with the promulgation of a mandatory standard to address these critical safety issues.

Another serious issue has emerged regarding ATVs in this country. In March, CFA released a report, "ATVs on Roadways: A Safety Crisis." CFA evaluated laws from all fifty states and the District of Columbia and found that in spite of warnings from manufacturers, federal agencies, and consumer and safety advocates that ATVs are unsafe on roadways, for several years an increasing number of states have passed laws allowing ATVs on public roads.

The design of ATVs makes them incompatible with operation on roads. ATVs have high centers of gravity, and narrow wheel bases, which increase the likelihood of tipping when negotiating turns. The low pressure knobby tires on ATVs are explicitly designed for off road use and may not interact properly with road surfaces.

Data from the CPSC and from the National Highway Transportation Safety Administration's (NHTSA) Fatality Analysis Reporting System (FARS) documents that a majority of ATV deaths take place on roads.

- According to the CPSC's most recent complete data from 2007, as analyzed by the Insurance Institute for Highway Safety, 492 of 758 deaths, or 65% of ATV fatalities occurred on roads.
- According to CPSC's data, ATV on-road deaths have increased more than ATV off road deaths.
- According to NHTSA's FARS database, 74% of ATV deaths occur on paved roads.

In spite of the fact that a majority of ATV deaths occur on roads and that ATVs are incompatible with road use, CFA found that:

- 35 states, or 69% of states, allow ATVs on certain roads under certain conditions.
- Of these 35 states, 22 states, or 63%, have passed laws allowing or expanding ATV access on roads since 2004. Four states have passed such laws in 2013 alone.
- 31 of the 35 states, or 89%, that allow ATVs on roads delegate some or all of the decisions about ATV access to local jurisdictions with authority over those roads.
- While not a complete list, CFA is aware of at least 17 jurisdictions currently considering increasing ATV access to roads.

We urge the CPSC to prioritize this issue, to be a strong voice in opposing the operation of ATVs on roads, and to be a leader in educating consumers about the dangers of on road ATV

use. Additionally, the CPSC could improve ATV death data by including how many deaths occur on private versus public roads.

3. Furniture Tip Overs

According to the CPSC's most recent data, every two weeks, a child dies as a result of a piece of furniture, appliance or television falling on him or her. Further, each year, more than 43,200 children are injured as a result of a piece of furniture, appliance or television tipping over. Fifty-nine percent of those injuries occurred to children 18 years old and younger. Between 2000 and 2011, there were 349 tip-over related deaths. Eighty-four percent of those deaths involved children eight years old and younger. While the ASTM standard for furniture has recently been strengthened, it has not yet been published, and much more needs to be done to improve the standard. Further, increased efforts are necessary to bring all of the stakeholders together to collectively address this increasingly problematic, multifaceted and dangerous injury pattern. We applaud that CPSC has demonstrated an increased financial commitment to this issue and urge the CPSC to continue to work to decrease these tragic deaths and injuries.

4. Adult Bed Rails

In May of 2013, CFA, the National Consumer Voice for Quality Long-Term Care (Consumer Voice), bed rail activist Gloria Black, and 60 other organizations[i] filed a petition with the CPSC requesting a ban or an effective mandatory standard for adult portable bed rails. The petition also requested CPSC to recall dangerous bed rails and refund consumers.

CPSC has been aware of deaths and injuries involving bed rails since 1985. In an October 11, 2012 report from CPSC, "Adult Portable Bed Rail-Related Deaths, Injuries, and Potential Injuries: January 2003 to September 2012," CPSC documented that in that nine year period there were an estimated 36,900 visits to hospital emergency wards due to incidents related to both portable and non-portable bed rails. CPSC also reported 155 portable bed rail deaths for that same time period. These statistics represent only a fraction of the actual number of alleged bed rail related deaths. According to CPSC's 2012 report, these deaths and injuries most commonly occur when the victim is "caught, stuck, wedged, or trapped between the mattress/bed and the bed rail, between bed rail bars, between a commode and rail, between the floor and rail, or between the headboard and rail."

We urge CPSC to move forward with a ban, an effective mandatory standard, a recall of and refund for dangerous bed rails as well as a meaningful and effective voluntary standard.

5. Baby Bumpers

We urge CPSC to take strong action to ban baby bumpers. Last year, the state of Maryland took strong action to ban baby bumpers as has the city of Chicago. Last year, the CPSC voted unanimously to grant the petition of the Juvenile Products Manufacturers Association (JPMA) to begin rulemaking to address hazards that may be posed by bumpers. While JPMA had requested codification of an ineffective voluntary standard that simply supports the safety of one type of bumper, the CPSC indicated that it will not merely codify the existing voluntary standard but

will go much further and review the science, and evaluate testing procedures and performance standards that might lead to safe bumpers and then make a decision about what a mandatory standard or ban should include. We are encouraged that CPSC will evaluate the role that bumper pads have played in at least 48 bumper related infant deaths.

We urge CPSC to take quick action, consistent with the action taken by Maryland and Chicago to protect infants from hazards posed by bumper pads.

6. Laundry Pods

Highly concentrated single-load liquid laundry detergent packets pose a serious risk of injury to children when the product is placed in their mouths. "Some children who have put the product in their mouths have had excessive vomiting, wheezing and gasping. Some get very sleepy. Some have had breathing problems serious enough to need a ventilator to help them breathe. There have also been reports of corneal abrasions (scratches to the eyes) when the detergent gets into a child's eyes."[3] According to the National Poison Data System (NPDS), 4,468 kids aged 5 and younger were exposed to single-load laundry packets from Jan. 1, 2014, to May 31, 2014. Further, also according to NDPS, in 2013, poison centers received reports of 10,354 exposures to highly concentrated packets of laundry detergent by children 5 and younger.

While voluntary standards efforts are underway, we urge CPSC to prioritize this issue to ensure that the voluntary standard effectively addresses the hazards posed by laundry pods.

7. Button Cell Batteries

Button cell batteries pose serious and potentially fatal ingestion hazards to children. According to the National capital Poison Center, every year, more than more than 3,500 people ingest button batteries.[4] According to a study released two years ago in the American Academy of Pediatrics Journal,[5] *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.

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[3] Laundry Detergent Packets, American Association of Poison Control Centers http://www.aapcc.org/alerts/laundry-detergent-packets/

[4] National Poison Center, Swallowed a Button Battery? Battery in the Nose or Ear? http://www.poison.org/battery/

[5] Samantha J. Sharpe, BS,a,b Lynne M. Rochette, PhD,a and Gary A. Smith, MD, DrPHa,b,c, Pediatric Battery-Related Emergency Department Visits in the United States, 1990–2009, Pediatrics, Volume 129, Number 6, June 2012 http://pediatrics.aappublications.org/content/early/2012/05/09/peds.2011-0012

We urge CPSC to continue its work to strengthen the relevant voluntary standards to include a provision to securely enclose all button cell batteries[6] and also to work in support of design changes that would eliminate the serious health hazard, if ingested. While the CPSC has indicated that they are encouraged by recent efforts that have resulted in new safety warnings and packaging changes in the United States, we hope that those changes do successfully reduce button cell battery ingestions.

We applaud the CPSC and its counterparts from 12 other countries and jurisdictions for recently joining together to make button battery safety a global priority through an international information and awareness effort.

8. 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.[7] 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.

9. Upholstered Furniture

We applaud that CPSC continues 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,

> "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 fire retardant chemicals (FRs) in furniture filling materials, which have been associated with serious health impacts to humans, wildlife, and the environment."

In that 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 which will improve fire safety standards and will not lead to the use of potentially toxic fire retardant chemicals.

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[6] Id.

[7] CDC, Vital Signs: Unintentional Injury Deaths Among Persons Aged 0–19 Years — United States, 2000–2009 http://www.cdc.gov/mmwr/preview/mmwrhtml/mm61e0416a1.htm?s_cid=mm61e0416a1_w

10. Low Income Child Safety

Last year, CFA released a report demonstrating that children from low-income families are at greater risk for unintentional injuries and foodborne illnesses than children from higher-income families. Over two-fifths of children (44%) in the United States, according to the National Center for Children in Poverty, live in low-income families.

The report, *Child Poverty, Unintentional Injuries and Foodborne Illness: Are Low-Income Children at Greater Risk?*, drew from incomplete statistical information and dozens of academic studies, also concluded that, to more fully understand these risks, it is essential to begin collecting better data on the relationship of family income to product related unintentional injuries and deaths as well as to incidence of foodborne illness.

The report identified the following about unintentional injuries suffered by children:

- Unintentional injuries represent the leading cause of death and injury for children between the ages of one and fourteen. Each year, such injuries are responsible for about 5,000 child deaths, about 5 million child emergency room visits, and millions more unreported injuries.
- These injuries are suffered disproportionately by children from low-income families. In fact, several studies show that income is a better predictor of risk than either race or ethnicity.
- The death rates of several important types of unintentional injuries may be considerably higher for low-income children – at least double for deaths from motor-vehicle accidents, fires, and drownings – than for higher-income children, according to a study that reviewed child deaths reported in Maine.
- Non-fatal injury rates were also much higher for low-income children. One study found the highest rate among low-income children and the lowest rate among high-income children. Another study found that children receiving Medicaid had injury rates double those of the national average.
- Higher injury rates are related both to environmental factors – e.g., more hazardous streets, unsafe playgrounds, older and less safe houses and appliances – and to human factors – e.g., higher incidence of smoking, less income to afford safety precautions, less parental supervision in single-parent families, and less knowledge about product safety and prevention.

We urge the CPSC to consider including information indicating socio-economic status collected through the National Electronic Injury Surveillance System (NEISS). We look forward to working with the CPSC to explore how to better identify the correlation between unintentional injury and socioeconomic status as well as how to reduce deaths and injuries associated with consumer products that impact low-income children.

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 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 and toddler 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. We support CPSC's proposed Voluntary Recall Rule and urge CPSC to finalize this rule which will increase recall effectiveness.

2. Civil and Criminal 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 FY 2014, thus far, CPSC has collected 4 civil penalties, ranging from $725,000 to $3,100,000 and no criminal penalties. In FY 2013, the CPSC collected 7 civil penalties, ranging from $400,000 to $3,900,000; and one criminal penalty for $10,000. In FY 2012, CPSC collected 9 civil penalties, ranging from a consent decree, $214,000 to $1.5 million dollars; and zero criminal penalties. In FY 2011, CPSC collected 15 civil penalties, ranging from a consent decree for permanent injunctions, ranging from $40,000 to $960,000; and one criminal penalty for $16,000. In FY 2010, CPSC collected 7 civil penalties, ranging from $25,000 to $2.05 million; and no criminal penalties. In FY 2009, CPSC collected 37 civil penalties, ranging from $25,000 to $2.3 million; and no criminal penalties. Civil and criminal 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. Specifically, we support CPSC's expansion of the Import Surveillance pilot program to a full-scale national program over the next five years, beginning in Fiscal Year 2015. 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 CPSC's efforts to prioritize enforcement at both the ports of entry as well as the United Sates' domestic marketplace to ensure compliance with the CPSIA as well as other CPSC mandatory standards and regulations.

IV. 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.

[i] These groups include: Georgia Office of the Long-Term Care Ombudsman, Resident Councils of Washington, California Advocates for Nursing Home Reform, Ombudsman Services of San Mateo County, Inc., Delaware Office of the State Long-Term Care Ombudsman, Centralina Area Agency on Aging, Senior Care Cooperative , Regional Long-Term Care Ombudsman Program – Area Agency on Aging, PSA 3,Barren River Long-Term Care Ombudsman, Council on Aging - Orange County, District 9 Long-Term Care Ombudsman , San Francisco Long-Term Care Ombudsman Program, The Alliance for Better Long Term Care, Maryland Office of the State Long-Term Care Ombudsman, Center for Advocacy for the Rights and Interests of the Elderly (CARIE), Rainbow Connection Community, Michigan Campaign for Quality Care, King George County Social Services, Catherine Hunt Foundation, Inc., ABLE Ombudsman Program, Kansas Advocates for Better Care, Family Council of Ellicott City Health and Rehabilitation Center, NICHE (Nurses Improving Care for Healthsystem Elders), Detroit Area Agency on Aging, Indiana Association of Adult Day Services, Massachusetts Advocates for Nursing Home Reform, Our Mother's Voice, New York City Long Term Care Ombudsman Program, Kentuckians for Nursing Home Reform, Areawide Aging Agency, Ohio Office of the State LTC Ombudsman, Ombudsman Program, Alamo Area Agency on Aging, California Office of the State Long-Term Care Ombudsman, Terence Cardinal Cooke Health Care Center, Long Term Care Community Coalition, Nursing Home Victim Coalition, Inc, PA State LTC Ombudsman Office, NY Office of the State Long Term Care Ombudsman, New Hampshire Office of the Long Term Care Ombudsman, Levin & Perconti, Chicago, Bethany Village Senior Action, Snohomish County Long Term Care Ombudsman Program, DC Coalition on Long Term Care, Legal Assistance Foundation (LAF), Friends of Residents in Long Term Care, Our Mother's Voice (NC Chapter), Advocacy, Inc., California Long-Term Care Ombudsman Association, Montgomery County Long-Term Care Ombudsman Program, Long-Term Care Ombudsman Program, Central Ohio Area Agency on Aging, OWL – The Voice of Older and Midlife Women (national), PHI – Quality Care through Quality Jobs (national), National Association of States United for Aging and Disabilities (national), National Association of State Long-Term Care Ombudsman Programs (national), National Senior Citizens Law Center (national),Service Employees International Union (SEIU) (national), Direct Care Alliance (national), United Spinal Association (national), Center for Medicare Advocacy (national), National Research Center for Women and Families (national)