



**Statement of  
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**Before the**

**House Energy and Commerce Committee**

**Subcommittee on Commerce, Manufacturing and  
Trade**

**Legislative Hearing: “Discussion Draft of H.R.  
\_\_\_\_\_, a bill that would revise the Consumer  
Product Safety Improvement Act.”**

**April 7, 2011**

Good morning, Chairman Bono Mack, Ranking Member Butterfield, and Members of the Subcommittee on Commerce, Manufacturing, and Trade. My name is Robert J. Howell, and I am the Assistant Executive Director for the Office of Hazard Identification and Reduction at the U.S. Consumer Product Safety Commission (“CPSC”).

I appreciate the opportunity to testify before you this morning regarding certain technical aspects of the discussion draft of legislation that would revise the Consumer Product Safety Improvement Act (CPSIA). The testimony that I will give this morning represents my personal views.<sup>1</sup>

In my role at CPSC, I oversee the technical work of the agency within the Office of Hazard Reduction’s directorates for Engineering Sciences, Epidemiology, Economic Analysis, Health Sciences and Laboratory Sciences. My office is responsible for the collection and analysis of death and injury data associated with consumer products, the evaluation of consumer products for potential safety hazards and regulatory compliance, and the development of technical solutions to product safety concerns.

In addition to these responsibilities, I served as Acting Director of CPSC’s Office of Compliance and Field Operations from July 2010 through February 2011. Prior to joining CPSC in 2006, I served as Vice-President of Manufacturing and Operations for a multinational corporation, with responsibility for the management of global manufacturing and logistics.

## **I. Past Commission Statements on Possible CPSIA Changes**

On January 15, 2010, the five members of the CPSC issued a Report to Congress regarding possible improvements to the CPSIA.<sup>2</sup> In suggesting those improvements, the Commissioners noted that the recommendations were focused on maintaining the “safety and welfare of consumers while minimizing administrative burdens on the agency, or significant market disruptions, caused by the implementations of specific provisions of the CPSIA.”

Specifically, the Commission listed the following recommendations for improvement of the statute:

- 1) that the Commission “needs additional flexibility within [section 101(b)] to grant exclusions from the lead content limits in order to address certain products, including those singled out by the Conferees;”

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<sup>1</sup> The testimony has not been reviewed or approved by the Commission and may not necessarily reflect the views of the Commission.

<sup>2</sup> A copy of the January 15, 2010, “U.S. Consumer Product Safety Commission Report to Congress Pursuant to the Statement of Managers Accompanying P.L. 111-117,” is available at: <http://www.cpsc.gov/ABOUT/Cpsia/cpsiareport01152010.pdf>.

- 2) that “Congress may, with some limitations, choose to consider granting an exclusion for ordinary children’s books and other children’s paper-based printed materials;”
- 3) “the Commission believes that a prospective application of the 100 ppm lead limits would be helpful for our continued implementation of the law;” and
- 4) that the “Commission remains committed to working with Congress to explore other ways to address the concerns of low volume manufacturers” with regard to the testing and certification requirements in section 102 of the CPSIA.

## **II. Staff Comments on the Discussion Draft**

In general, the CPSIA has improved the health and safety of consumers, particularly children. In addition, industry has made substantial progress over the past two and a half years adapting to the requirements of the law.

For example, the children’s product industry has made significant progress in reducing the levels of lead since enactment of the CPSIA. In a recent Commission hearing on the technological feasibility of reducing the lead limits to 100 ppm, a representative of SGS, a global inspection, verification, testing, and certification company, presented a statistical analysis of lead content testing data (89,273 data points) collected primarily from its Shenzhen laboratory that specializes in the testing of children’s toys and other children’s products.<sup>3</sup>

In its analysis, SGS found that 96.29 percent of metal components tested at or below 100 ppm lead. Of those components exceeding 100 ppm, 2.22 percent tested greater than 600 ppm lead, 0.8 percent tested between 300 ppm and 600 ppm for lead, and 0.69 percent tested between 100 ppm and 300 ppm for lead. The analysis also determined that 97.46 percent of glass and ceramic components tested at or below 100 ppm lead. Of those components exceeding 100 ppm, 1.39 percent tested greater than 600 ppm lead, 0.81 percent tested between 300 ppm and 600 ppm for lead, and 0.34 percent tested between 100 ppm and 300 ppm for lead. Concerning plastic components, SGS found that 99.4 percent of plastic components tested at or below 100 ppm lead. Of those components exceeding 100 ppm, 0.37 percent tested greater than 600 ppm lead, 0.17 percent tested between 300 ppm and 600 ppm for lead, and 0.06 percent tested between 100 ppm and 300 ppm for lead.

However, there are certain provisions of the CPSIA, such as the current exceptions to the section 101 lead limits, that can be improved in such a way as to reduce the burden on the regulated community while maintaining an appropriate level of safety for America’s consumers. I personally believe this balance is necessary to ensure efficient and effective

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<sup>3</sup> A copy of the presentations and written comments from the February 16, 2011, Public Hearing, including the SGS presentation, can be found at <http://www.cpsc.gov/library/foia/foia11/pubcom/lead100pres.pdf>.

implementation of the CPSIA from the perspective of both the regulated community and the regulators.

There are several approaches that could allow the CPSC to address the unintended consequences of certain regulatory requirements in the CPSIA. For example, the Commission has heard from a number of Members of Congress that they did not intend to cover all-terrain vehicles (ATVs) under the provisions in section 101. Accordingly, Congress could permit the Commission to exempt certain products, like ATVs, from the lead limits. This would allow the CPSC to weigh the risk of possible lead exposure to a child riding a youth-sized ATV against the risk to the child from riding a larger and more powerful adult ATV.

Assuming that the exceptions would be made on a notice and comment basis, the underlying analysis and support for any exceptions would be public, allowing for transparency and accountability for all stakeholders involved in the process. Finally, allowing the Commission to regulate on a timetable influenced by the seriousness of the actual risks will allow for better priority setting that will permit Commission resources to be put towards the most serious health risks.

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Madame Chairman, thank you again for the opportunity to testify regarding certain technical aspects of the discussion draft.

I would be happy to answer any questions at this time.