Protecting Children by Improving Children's Product Safety

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Testimony of Nancy A. Cowles
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Thank you, Chairman Bono Mack, Ranking Member Butterfield and Subcommittee members for this opportunity to testify before you today regarding the Consumer Product Safety Improvement Act and U.S. Consumer Product Safety Commission resources. I offer this testimony on behalf of Kids In Danger, Consumer Federation of America and Consumers Union.

KID is a nonprofit organization dedicated to protecting children by improving children's product safety. The organization was founded in 1998 by Linda Ginzel and Boaz Keysar, after the death of their son Danny Keysar in a poorly designed and inadequately tested portable crib. A portion of the Consumer Product Safety Improvement Act (CPSIA) is named after Danny. His parents and our entire organization are so moved that lasting improvements to safety of juvenile products will always be associated with his name. As Danny's mother, Linda Ginzel said when she testified before the House Subcommittee on Commerce, Trade and Consumer Protection in 2004, "improved children's product safety will be Danny's legacy."

Contrary to how it is often portrayed, CPSIA was not a slap-dash attempt to address new reports of lead-tainted products from China and bad press in the ***Chicago Tribune***. Many sections of the law were previously introduced bills, including the sections in the Danny Keysar Children's Product Safety Notification Act. These provisions include mandatory standards for durable infant and toddler goods, a ban on

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DON'T LEARN ABOUT RECALLS FROM YOUR BABY

selling recalled products or using unsafe cribs in child care, and product registration as well as internet toy labeling and lead limits. KID reported on the problems of lead in children's products back in 2004.[1] At that time we asked CPSC to establish a limit for lead content in children's products.

CPSIA Successes

Even with delays and incomplete implementation, CPSIA has already shown tremendous success in making children safer. I'd like to highlight a few of these areas:

Safer Infant Sleep Environments

Pervasive design flaws have caused the recall of more than 10 million cribs over the past four years. Recalls and corrective actions for cribs have been issued for non-compliance with safety standards and because of serious risks posed to babies. The CPSIA requirement for a strong mandatory crib standard gave CPSC the authority to persuade the voluntary standard setting body, the ASTM International Crib Subcommittee, to end a decade of inaction and strengthen the standard to address real world hazards that have killed dozens of children. The final CPSC crib standard incorporates provisions that replicate the everyday use of cribs, such as durability tests, mattress support tests, and tests for the effectiveness of hardware. The resulting CPSC standard is a successful result of the CPSIA. And I'm sure we can all agree that the crib, the only product intended for us to leave our babies in unattended, must be as safe as possible.

Product Registration for Juvenile Products

The CPSIA also requires that infant and toddler durable products, such as cribs, strollers and high chairs, include a product registration card in their

[1] ***Playing with Poison: Lead Poisoning Hazards of Children's Product Recalls, 1990-2004***. August 2004, Kids In Danger (Chicago).

packaging and provide an opportunity to register online. This gives manufacturers the information necessary to directly contact consumers in the event of a recall or other product safety issue. Too many consumers never hear about a recall of a product that they have in their home and as a result continue to use recalled products. This registration program will increase the number of consumers who hear about a recall. Today, most manufacturers have both online registration sites and include the cards. KID has evaluated 157 manufacturer web sites and found that almost all have online sites that consumers can use to register infant durable products. Children are safer because of this. Again, from her testimony in 2004, Linda Ginzel stated that she firmly believes that her beloved son Danny would be alive today if the Playskool Travel Lite had come with this simple registration card.

Mandatory Toy Standards

Despite the fact that conformity assessment bodies have not yet received accreditation to conduct full-scale testing to the mandatory toy standards, with the expectation of tighter enforcement down the road, some manufacturers are already adopting robust testing. With conformity assessment bodies receiving accreditation we anticipate more significant safety enhancements in the future.

Internet Toy Labeling

When consumers now purchase toys for children online, the same choking hazard warnings that appear on the toy packaging will appear online. With so much purchasing done online these days, this allows parents to see the warning before they buy a product. This new safety benefit is a result of the CPSIA.

Consumer Product Safety Incident Database

When the new publically available Consumer Product Safety Incident Database goes live in March, it will be a great new resource for the Commission, consumers, manufacturers and retailers. The database will help individual consumers research purchasing decisions as well as report when they have a safety problem with a product. For the Commission, Congress, consumer groups such as KID, CU, & CFA, manufacturers and retailers, it can help spot injury patterns and emerging hazards, allowing product design changes and recalls perhaps before an injury or death.

CPSC's Budget History

Before the CPSIA was passed, CPSC's ability to protect the public had been dramatically weakened. In 1972, when CPSC was created, the agency was appropriated $34.7 million (almost $176 million in today's dollars[2]) and 786 full time employees (FTEs). CPSC's staff suffered severe and repeated cuts during the last two decades, falling from a high of 978 employees in 1980 to just 401 in 2007--a loss of almost 60%.

Any changes to CPSC appropriations during the period from 2000 to 2008 were marginal at best and some years were actually a decrease, given the increase in CPSC's mandatory expenses. This allocation forced CPSC to cut back on its staff and limit its programmatic goals. CPSC's 2008 Performance Budget document, for example, painted a very bleak picture of the agency's work for the future. The budget document contained statements such as, "While the CPSC has thus far been successful at facing these new and evolving challenges with diminishing resources, the 2008 funding level will challenge the Commission's ability to maintain its existing level of standards development, enforcement, public information, and international activities. The 2008 Performance Budget document was replete with

[2] http://www.westegg.com/inflation

staffing cuts, limitations to programmatic goals and the absence of other goals and projects.

CPSC efforts to reduce product hazards to children and families were hindered by the forced reductions in FTEs. One of CPSC's hazard reduction strategic goals was to reduce the death rate from fires by 20 percent. However, CPSC was forced to cut 6 employees from its fire team. CPSC also had to cut 8 employees from its staff who work on children's and other hazards. Given the changing product safety market, this was incredibly limiting.

CPSIA's Direction of CPSC Resources

CPSIA prioritized issues at CPSC and infused CPSC with resources exactly where they had been lacking in the preceding years. The ***Chicago Tribune***[3] highlighted the flaws in the agency's operations – ignoring reports of injuries, a CPSC chairman who testified that he would take a dangerous toy away from his own children, but not have CPSC take any action to stop the sale of the known hazard, and an acting Chairman who denied any need for additional funding, even at the time her agency was unable to keep up with injury reports, data analysis and testing of hazardous products.

Through the CPSIA and the appropriations process, which provided for additional resources and staff, CPSC has taken a number of important steps to protect consumers: it has developed a strong team to address safe sleep for infants – perhaps our most vulnerable consumers; it has updated internal data management in preparation for the new Database launch; and it has lit a fire under sometimes lackluster industry standard-setting bodies that have resulted in stronger standards for many products. CPSC is a stronger, more effective agency today because of CPSIA. Most importantly, consumers, including children, are safer. While the deaths

[3] "Kids at Risk: Toys, Cribs, Car Seats, Lead - Chicagotribune.com." *Chicagotribune.com*. Chicago Tribune, Sept. 2007. Web. 14 Feb. 2011. <http://www.chicagotribune.com/news/chi-safety-child-hazards-main,0,7129923.special>.

and injuries averted may not make the front pages the same ways that the lives lost did, the CPSIA was a long-overdue overhaul of what the CPSC can do to protect our children from product hazards.

CPSC is intently focused on CPSIA implementation now, as it should be. As with the start of any new program or initiative, resources will be focused on that effort to get it off the ground. CPSIA implementation will have real safety results across all of CPSC's work. CPSC has at the same time also been addressing emerging hazards – Chinese drywall; unsafe sleep products such as sleep positioners that were not covered by CPSIA, cadmium, batteries and more. The agency is making up for lost time, and is restoring balance to its work on children's safety.

CPSIA Challenges

Much of the negative coverage of the CPSIA has come from implementation issues for testing for lead and other hazards. We support the Handmade Toy Alliance's call for clear rules for testing for micro-manufacturers of children's products, including component testing.

But no matter where they make their purchases, parents deserve to know the products they buy for their children are safe, whether it was made in someone's garage, a small workshop or a huge factory (or garage) in China. How do you know the wheels on your toy truck for a toddler don't come off unless you test it? How do you know that the bottle propping device that looks like a pillow tied around a baby's neck is safe unless it meets some standard for products for infants?

And perhaps most troubling – how can we be sure products don't contain lead if they or their components aren't tested for lead? Parents certainly can't ascertain the presence of lead. Over the years, the American Academy of Pediatrics has testified numerous times about the dangers of lead. It is a known neurotoxin whose effects are permanent and irreversible. The damage is cumulative, so even though the largest source is old housing stock and pollution, any other amount

added by a toy or school math mat adds to the damage. There are no parents who would choose a lead-laced toy over one without lead if they have that information.

The CPSIA uses a total lead measure for its requirements. There has been much talk about moving to an 'accessible' limit or using 'risk analysis' to lessen the testing requirements on business. But, as we are talking here today about the use of CPSC's limited resources, this type of product by product analysis of accessibility and risk would certainly tie up much of CPSC's time and resources. We know lead is dangerous, and we know it shouldn't be in children's products. The time spent on this further analysis serves no safety purpose.

Specifically for lead and in general for safety regulations, there has been talk about 'cost-benefit' analysis. KID urges Congress to carefully consider the 'benefit' side of that equation. For instance, AAP estimates that costs from lead-tainted jewelry recalled in 2007 and 2008 could top $209 million in lost income alone.

In conclusion, KID, CFA, and CU feel that the CPSIA is a strong safety measure for toys, nursery products, and other children's products. It allows parents to have confidence that the cribs and strollers they buy for their children won't strangle them or cut off the tips of their fingers. That the toys they buy are safe for their child – no parts will break off a rattle or split apart from a puzzle for a toddler, causing a choking hazard; a known neurotoxin such as lead will not taint toys or other products their children use regularly. And if they have safety concerns about a product in their home, they can report it to the CPSC online, or search for similar complaints from other consumers. CPSIA has effectively made all products safer, but especially the products we buy for our most vulnerable consumers.

Again, thank you for allowing us to testify here today. Our groups have been working to keep children safe for decades and we will continue that work into the future.

Kids In Danger is a nonprofit organization dedicated to protecting children by improving children's product safety. KID's mission is to promote the development of safer children's products, advocate for children and educate the general public about children's product safety. Learn more at www.KidsInDanger.org.

Consumer Federation of America (CFA) is an association of nearly 300 nonprofit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education. CFA's web site is www.consumerfed.org.

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