United States
CONSUMER PRODUCT SAFETY COMMISSION
Washington, D.C. 20207

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Comments Processed.

MEMORANDUM

DATE: 3/8/99

TO : CRC

Through: Sadye E. Dunn, Secretary, OS

FROM : Martha A. Kosh, OS

SUBJECT: Identification of Purchasers of Certain Products

COMMENT	DATE	SIGNED BY	AFFILIATION
1	2/24/99	Carol P. Nelson Ph.D.	Independent Safety Consulting 13713 Valley Dr Rockville, MD 20850
2	2/26/99	Marla Felcher Ph.D.	1564 Massachusetts Ave Cambridge, MA 02138
3	3/3/99	James Goldberg	Goldberg & Associates, PLLC Suite 700 888 16th St, NW Washington, DC 20006
4	3/4/99	Linda Ginzel & Boaz Keysar	Kids In Danger P.O. Box 146608 Chicago, IL 60614
5	3/5/99	Sarah Whitaker Director, Government Relations	National Retail Federation Liberty Place 325 7th St, NW, Suite 1000 Washington, DC 20004

Carol Pollack-Nelson, Ph.D.
Independent Safety Consulting
13713 Valley Drive
Rockville, Maryland 20850-5412
(301) 340-2912 (phone & fax)

February 24, 1999

Ms. Rockelle Hammond
Office of the Secretary
U.S. Consumer Product Safety Commission
Washington, DC 20207

Re: Public Forum

Dear Rocky:

Enclosed please find a copy of my comments pertaining to the Public Forum on Purchaser Identification. I am presenting my comments fairly thoroughly here, because I am not certain I will be in town during the forum. If the trial I am involved in settles, I will attend. I will let you know as soon as possible if that is the case.

If you have any questions or comments regarding the attached, please contact me at your convenience. Hope to see you soon.

Most sincerely,

Carol

Carol Pollack-Nelson, Ph.D.

Carol Pollack-Nelson, Ph.D.
Independent Safety Consulting
13713 Valley Drive
Rockville, Maryland 20850-5412
(301) 340-2912 (phone & fax)

February 18, 1999

Ms. Rockelle Hammond
Office of the Secretary
Washington, DC 20207

Re: Public Forum on Purchaser Identification

Dear Ms. Hammond:

I am writing regarding the Commission's upcoming public forum exploring how to enhance recall effectiveness. I am an independent consultant in the field of Human Factors Psychology.

While some consumer products have a very short life, other more costly and durable items are likely to be held onto for many years, passed around family and friends or resold. Such items include power tools and appliances, as well as larger baby items such as cribs, strollers, portable play yards, swings, etc. For these types of products, it is most important that a manufacturer have effective methods for communicating critical safety information to product owners.

The following are suggestions for increasing recall effectiveness.

1. Instant Rebate

One method that is likely to increase warranty card completion is to offer an instant rebate - e.g., a percentage or dollars off the purchase - at the time of purchase. A visible and detachable warranty card affixed to the outside of the product should be filled out by the consumer and ready to hand the cashier at the time of purchase.

Rebate information should be prominently displayed to attract the consumers' eye, and also make it easy for the cashier to implement the discount. The warranty card should clearly state that the information will be used for recall purposes only, rather than for marketing.

This strategy requires the cooperation of retailers. Discussion with retailers will help manufacturers determine exactly

This approach has benefits to both consumers and manufacturers. Consumers - particularly those with small children - often are overwhelmed once they get home with chores, children, and paperwork. They may simply forget about or misplace a warranty card. Filling the card out in the store avoids this problem. Furthermore, offering an instant rebate closely ties the behavior with the reward, and is therefore likely to be more effective than delayed rewards. The advantage for manufacturers is that they do not have to deal with administrative hassles or postage associated with a mail-in rebate.

2. **Reward for Warranty Card Return**

Another method for increasing the likelihood that a consumer will return their warranty card is to offer a reward. For example, for children's products, they might offer a free book or toy from the manufacturer's toy line. Some manufacturers offer a rebate on a subsequent purchase; however, this approach benefits the manufacturer and may not be seen by the consumer as an unencumbered reward.

3. **Notification of Recall - Pediatrician's Offices**

The complement to obtaining consumer information at the time of purchase is to disperse recall information later in the product's life, as necessary. Where and how should this information be presented? Obvious placements include children's magazines and websites. Additionally, I would strongly recommend that the Commission establish a monthly newsletter of important recalls for distribution to pediatricians' offices.

Research studies have found that many parents do not recognize and appreciate hazards to children in their home. Additional studies have determined that parents, including those in low income families, typically turn to the pediatricians' offices and health care workers as places to receive safety information. Parents are a captive audience in the pediatrician's office, particularly while waiting to be seen. This is an excellent venue for conveying safety information.

To be effective, such an effort requires coordination and cooperation with pediatricians' staff. It also requires having the necessary materials on hand. Such a program should include: (1) supplying pediatricians' offices with newsletters; (2) requesting that nursing staff hand the newsletter to the parent and ask them to review it while waiting for the physician, and (3) having a pad of paper and pen available to parents to jot down pertinent information.

4. **Recall Information - Day Care Providers**

A monthly newsletter of recalls, such as the one discussed above, should also be provided to each state, which should then pass this information on to licensed day care providers and schools (particularly preschools). It is my understanding that the CPSC currently provides recall information to the states. However, it appears that, in some cases, the information may be stopping there.

Each state should have the name and address of licensed day care providers. Legislation is needed that would require each state to provide recall information to the day care providers, perhaps on a monthly basis in the form of a newsletter. Furthermore, day care providers should be required to post this information in a conspicuous location so that: (1) parents can check to ensure that their provider does not have or use recalled products; and (2) parents can check the list for themselves to determine if they own any recalled products.

In addition, there should also be a telephone hotline established with updated recall information available, as many day care providers and consumers are not on-line or are unaware of the CPSC website. Day care providers should be encouraged to call in to the hotline on a weekly basis, to stay up-to-date with (urgent) recalls, rather than to wait until the end of the month when the newsletter would be circulated. The hotline should also be available to parents.

I thank you for consideration of my comments and applaud the Commission's efforts to increase recall effectiveness.

Respectfully submitted,

Carol Pollack-Nelson

Carol Pollack-Nelson, Ph.D.

FAX TO:

Name: CPSC: "Purchaser Identification"
FAX: (301)504-0127
PAGES: 3

FAX FROM:

Marla Felcher
1564 Massachusetts Ave.
Cambridge, MA 02138
PH: (617)441-9714
FX: (617)576-2983
Email: mfelcher@hbs.edu

MESSAGE:

Please submit this letter as a "written comment" for the CPSC Identification of Purchasers of Certain Products Public Forum, to be held March 23, 1999.

Please contact me if you need further information.

Marla Felcher

E. MARLA FELCHER
1564 MASSACHUSETTS AVENUE
CAMBRIDGE, MA 02138

February 26, 1999

Purchaser Identification
Office of the Secretary
Consumer Product Safety Commission
4330 East-West Highway
Bethesda, MD 20814

Dear Consumer Product Safety Commission,

I applaud your efforts to improve the effectiveness of product recalls. I am writing as a consumer, although I have worked as a marketing professional for the past 20 years, in market research for Gillette and Talbots, and as a consultant to corporations such as M&M Mars, American Express, J. Crew, Burlington Industries, and Ben & Jerry's. I was an Assistant Professor of Integrated Marketing Communications at Northwestern University, and most recently, a Senior Lecturer of Marketing at the Kellogg Graduate School of Management. In light of my professional background, it is shocking how little I knew about the CPSC, the infant products industry and the recall process, until a recalled product took the life of my friends' child. My colleagues at Northwestern and at the leading business schools throughout the country are equally in the dark. How can we hope to educate people about the extent of this problem when, as teachers, we know so little? The goal of this letter is to suggest a way to work towards a solution.

My offer is this: I will work with the CPSC, manufacturers, students -- whoever you deem needs to be included, to put together the **Recalled Product Purchaser Identification Competition**, to be held in M.B.A. schools throughout the country. Every M.B.A. program teaches marketing, required courses such as Marketing Management and Market Research, as well as related electives on Consumer Behavior, Corporate Social Responsibility and Business Ethics. M.B.A. students are the business leaders of tomorrow, the people we need to educate about the intersection of commerce, government and safety. This is a market the CPSC needs to tap.

The goal of the **Recalled Product Purchaser Identification Competition** will be to give M.B.A. students and their faculty sponsors the incentive to work on this complex problem. The problem needs a creative solution, and it just may be that people working outside of "the system" may be able to generate the most creative ones. There are multiple ways to carry out such a competition, which I will leave up to you, although I am more than willing to help generate ideas. A key issue will be to provide an incentive big enough for the students to want to enter – M.B.A. students are very busy, and they have many demands on their time. I don't think the prize needs to be monetary (although that never hurts) – it could be something they value, like access to high-level business leaders and politicians. A trip to Washington to present the winning plan to the competition's sponsors may be an ideal prize. What better way for the CPSC, Hasbro, Evenflo, Toys 'R Us, and others in the business of selling infant products and toys, to enhance their image as organizations who care about safety, than sponsoring a competition such as this?

I look forward to attending the Public Forum in March, and will be happy to speak with you then. This letter is being submitted in place of an oral presentation.

Thank you for your consideration of this idea.

Sincerely,

Marla Felcher, Ph.D.

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March 3, 1999

Ms. Sadye E. Dunn
Secretary
Consumer Product Safety Commission
Room 502
4330 East-West Highway
Bethesda, MD 20814

Re: Identification of Purchasers of Certain Products

Dear Ms. Dunn:

This letter is submitted on behalf of the North American Retail Dealers Association (NARDA)in response to the Commission's notice of a public forum on increased efforts to identify purchasers of consumer products through product registration, warranty cards or other means. By way of background, NARDA is a trade association comprised of some 3,200 companies that sell and service a wide range of consumer electronics products, home appliances, furniture and similar merchandise.

While NARDA and its members are supportive of the statutory requirement that consumers be made aware of "substantial product hazards" [15 U.S.C. §2064], NARDA strongly urges the Commission not to require manufacturers to ascertain and maintain information concerning the identities of purchasers of their products. While NARDA believes that the Commission lacks the specific statutory authority to impose such a requirement, the association also believes that such a requirement would be poor public policy that would exacerbate the already-growing competitiveness between retailers and manufacturers.

One of the most valuable pieces of information that any seller maintains is the identity of its customers. If a manufacturer distributes its products through retail dealers, it would not ordinarily learn the names of the retailer's customers. As more manufacturers establish a presence on the internet, they are enticed by the success of such purely electronic retailers as amazon.com or valueamerica.com to begin their own remote selling directly to consumers, thus competing with their own retail distribution network.

While NARDA members are extremely concerned by such direct selling to consumers, it is, after all, the nature of the competitive marketplace. Sellers, whether they be manufacturers or retailers, are free to secure information on their customers (and especially the ultimate consumer) for use in future marketing.

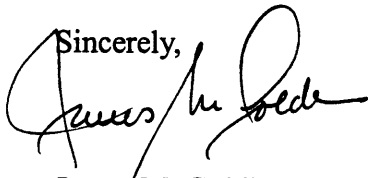
However, for the government to require manufacturers to obtain this information is, we submit, fundamentally unfair to retailers, and particularly small retailers, who take great pains to compete with their "superstore" counterparts and direct selling manufacturers by creatively using the tools at their disposal, one of which is customer information.

NARDA has no problem with the current practice of many manufacturers to enclose a product registration/warranty card with a consumer product. It is, however, important to note that the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act clearly states, in §104(b), that a manufacturer cannot condition warranty coverage on any consumer duty other than notification of a product failure. In simple terms, the act states that a warranty cannot be conditioned on the return of a product registration/warranty card. FTC interpretations over the years have held that mandatory return of a product warranty card is "unreasonable."

Similarly, NARDA believes that, although well-intentioned, it would be unreasonable, unfair and anti-competitive for the CPSC to require manufacturers to collect and maintain information on the ultimate purchaser of their products. NARDA's opinion on this subject would not be changed through attempts to narrow the scope of products to be covered.

Although this letter is submitted in lieu of an appearance at the March 23 public forum, this issue is an important one for NARDA and its members and we would welcome the opportunity to engage in additional dialog with the Commission and its staff in the future.

Sincerely,



James M. Goldberg

KIDS IN DANGER℠

A nonprofit organization for the protection of young children from dangerous juvenile products

Ms. Rockelle Hammond
Office of the Secretary
Washington, DC 20207

March 4, 1999

Dear Ms. Hammond:

We are pleased that the CPSC will convene a public forum to explore how recall effectiveness could be enhanced. We are submitting these comments in order to contribute to this discussion.

I. Focus on User Identification vs. Purchaser Identification

For juvenile products, the focus on "purchaser" identification is too restrictive. This is especially true given the high cost of some long-lasting pieces of juvenile equipment such as cribs, strollers and high chairs. As we know, these items are often used for a short period of time by the original purchaser before being passed along to another user. Therefore, we suggest a broader focus on "user" identification.

Consider the possibility that manufacturers would put a non removable label on the product itself (i.e., not on the packaging) urging the current user to call their toll-free number to register with their company so as to be notified should there be a safety recall. In this way, every user can call the company to register. An education campaign associated with such an approach would help to ensure that the public understood the importance of recall notification.

II. Grade Recalls for Severity of Risk and Make This Information Public

Given the volume of children's products that are recalled by the CPSC each year, it is important that parents and other caregivers be given clear and unambiguous information about the severity of risk. We suggest that some variation of the hazard priority system that currently allows the Commission to rank defective products be made public. That is, each recalled product should be identified as to its level of severity ranging from deadly-high risk to moderately-low risk. At a minimum, this information should be included in all CPSC recall press releases.

III. Set Targets for Recall Retrieval Rates

We understand that it is the current practice of the Commission to set performance standards related to the behaviors required of manufacturers. For example, the CPSC may require notification of a recall in leading parent magazines for x period of time, point of purchase posters, a bounty, a toll-free number, etc. Instead, we suggest that the CPSC establish performance requirements for recall retrieval rates. That is, a certain level of recall effectiveness (i.e., minimal threshold) must be achieved by manufacturers for the return (or

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repair) of their recalled products. This target retrieval rate could be a function of a variety of factors such as: product cost, estimated life and hazard consequences.

IV. Compile a Comprehensive Listing of Recalled Children's Products

The first thing that parents and caregivers often ask is "How can I get a list of recalled products?" For car seats, we refer them to the current version of the National Highway Traffic Safety Administration's Child Seat Safety Recall Campaign Listing (since January 1988). For all other children's products, parents and caregivers are required to compile the CPSC recall information themselves. A comprehensive listing of all recalled children's products should be made available to the public.

At Kids In Danger we are committed to protecting children from dangerous juvenile products and improving recall effectiveness is central to our mission. We hope that these comments are helpful and look forward to a continuing and productive dialog.

Sincerely,

Linda Ginzel and Boaz Keysar

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PO Box 146608, Chicago, IL 60614-6608

NATIONAL RETAIL FEDERATION
325 7TH STREET, N.W., SUITE 1000 WASHINGTON, D.C., (202) 783-7971

Facsimile Cover Sheet

To: Ann Brown
Company: CPSC
Phone:
Fax: 301-504-0127

From: Sarah Whitaker
Company: Director, Government Relations
Phone: 202-626-8109
Fax: 202-626-8197

Date: 03/05/99
Pages including this cover page: 4

Comments:

NATIONAL RETAIL FEDERATION

March 5, 1999

The Honorable Ann Brown
Office of the Secretary
Consumer Product Safety Commission
Washington, D.C. 20207

Re: Purchaser Identification

Dear Secretary Brown:

The Consumer Product Safety Commission is seeking comments on whether manufacturers should be required to determine and maintain records of purchaser identity for certain consumer products in order to facilitate recalls. The National Retail Federation appreciates the opportunity to provide comments on this issue.

As background, The National Retail Federation (NRF) is the world's largest retail trade association with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalogue, Internet, and independent stores. NRF members represent an industry that encompasses more than 1.4 million U.S. retail establishments, employs more than 21 million people – about 1 in 5 American workers – and registered 1998 sales of $2.7 trillion. NRF's international members operate stores in more than 50 nations. In it's role as the retail industry's umbrella group, NRF also represents 32 national and 50 state associations in the U.S. as well as 36 national associations representing retailers abroad.

While NRF commends the CPSC in its efforts to enhance the safety of American consumers, the retail industry opposes any new regulations that would require *retailers* to collect purchaser information by way of product registration, warranty cards, or other means for the purpose of providing manufacturers with lists of retailers' customers.

The World's Largest Retail Trade Association

◆

Liberty Place, 325 7th Street NW, Suite 1000
Washington, DC 20004
202.783.7971 Fax: 202.737.2849
www.nrf.com

This is a manufacturer issue, not a retailer issue. Retailers are merely conduits and should not be burdened with the time, expense, and paperwork that would be required in collecting this type of information. Furthermore, 99.9 percent of the time this information will not prove to be useful. The huge cost associated with it will provide no benefit for retailers.

Retailers make significant efforts to provide customers with a pleasant environment to shop in and encourage return visits. The retail industry is consistently looking for ways to shorten the amount of time spent at a checkout counter. Consumers already resist efforts by retailers who request telephone numbers at the point of purchase. Further resistance to requiring additional personal information can be expected. Collection of purchaser information will also increase the amount of time consumers spend at checkouts, further eroding consumer participation or interest.

Beyond that, it is harmful to retailers, and in many cases will not work. New requirements requiring collection of purchaser information do not address the lack of ability to locate the secondary market. While the initial purchaser may ultimately provide information, it may not be the purchaser who is the end user of the product. It is nearly impossible to directly contact the user when the initial purchaser has purchased the product as a gift, or has later resold the product.

Moreover, the cost of gathering information would be high. Any increase in costs associated with gathering purchaser information would invariably be passed on to the customer. To the extent retailers currently choose to spend money to collect information about their customers, any information collected is proprietary.

Manufacturers are becoming increasingly competitive, and are competing with retailers by going directly to the consumer via direct sales or over the internet. Providing customer information directly to the manufacturers, even for the purpose of product recalls, could give manufacturers an unfair competitive advantage. There is no effective way of ensuring that lists provided to the manufacturers are used only for product recalls and not as competitive marketing instruments.

In conclusion, the National Retail Federation opposes any efforts by the Consumer Product Safety Commission to require retailers to collect purchaser

information at the point of sale for the purpose of recall notifications. Such a requirement would create privacy issues and unnecessary burden for consumers when shopping in a retail establishment. It would also give manufacturers an unfair competitive advantage in marketing directly to retailer's customers.

Please contact me should you have any questions.

Sincerely,

Sarah P. Whitaker
Director, Government Relations