CONSUMER ALERT
FOUNDED 1977

A Free-Market Consumer Group

July 21, 1997

Secretary
Consumer Product Safety Commission
Washington, DC 20207

Petition CP 97-1
Requesting Development of a Safety Standard for Escalators

Dear Sir or Madam:

Consumer Alert and the Competitive Enterprise Institute (CEI) hereby file comments on Petition CP 97-1, a petition requesting the Consumer Product Safety Commission to develop safety standards for escalators. Consumer Alert is a national, non-profit, non-partisan consumer group. CEI is a non-profit, non-partisan, public policy organization.

Consumer Alert and CEI urge CPSC to deny the petition. Federal regulation of escalators would not be in the best interest of consumers across the country, as the current system allows for necessary risk versus risk evaluation and rapid, consensus based implementation of new standards, both of which would be lost under CPSC regulation. Our objections to the petition are based on three main points.

CPSC Does Not Have Jurisdiction Over Escalators
First, although consumers do use escalators, they are not consumer products. Escalators are part of the building structures similar to stairs and elevators and should be regulated in the same manner. Regulation of escalator installation and maintenance falls under the jurisdiction of state and local governments; therefore, any proposed changes to escalator regulations should be done at the state and local level. An attempt by CPSC to regulate escalators would be a serious expansion of its authority.

Preferable Method to Solve Problems Already In Place
Second, the private standard setting group, American Society of Mechanical Engineers (ASME) already writes a safety code for escalators (ASME A17) to ensure the safety of their design. This code is revised every three years, and CPSC is given the opportunity to take part in the writing and amending of this code. The committee that writes the code works for a consensus among committee members to develop the best possible approach. This method is flexible, can adapt quickly to new concerns and thus is a far better alternative than one-size-fits-all federal regulations that often cause more harm than good. Giving CPSC any more authority over escalators would not benefit consumers and would be an unnecessary waste of tax dollars.

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The superiority of non-government, consensus based standards is clear. CPSC standards can take years to develop. Consider the amount of time it took to issue rules requiring manufacturers to achieve the nearly impossible task of making medicine bottles both child-resistant and senior-friendly -- over 12 years. In contrast, non-government standards writers can often develop a major standard in less than a year.

Regulating escalators at the state and local levels also allows for better evaluation of risk versus risk to solve problems with escalators. Mandating a costly solution to a minuscule risk may seem like a good idea if it prevents just one injury, but it may divert resources from larger risks, causing more injuries than it prevents. It is highly unlikely that CPSC knows the best way for each mall and subway across the country to spend their safety dollars; therefore, CPSC should not force costly programs that may take funds away from other more pressing safety improvements. For example, federal regulations may increase the costs of owning and operating an escalator and may lead to an increased use of stairs in public places. Stairs, besides being far less convenient and efficient, pose a multitude of risks of their own.

Realizing the shortcomings of federal regulations, Congress directed CPSC in 1981 to defer to private standards whenever feasible. This is clearly an instance of it being not only feasible but preferable.

Escalators Are Not Unreasonably Dangerous

Finally, the evidence of escalators being "inherently dangerous" or "providing an unreasonable risk of injury" is clearly lacking. Although serious injuries do occasionally occur, escalators are generally safe.

What is not mentioned in the petition's citing of statistics is that escalators, which were originally used mainly in department stores for a relatively low volume of passengers, are now large-scale people-movers. Increasingly escalators move very large numbers of people at subway and train stations and airports. Because of such use, many escalators of today are much longer and higher. Comparing the number of escalators of yesterday with the number of escalators of today and their accident rates thus does not produce meaningful numbers. The huge increase in ridership would provide more insightful data.

Washington DC's Metro subway system features some of the steepest and heavily used escalators in the country. Even though these escalators do not meet the suggested regulations in the petition for development for a safety standard and have come under fire as being poorly inspected, their injury rate is small and getting smaller.

Metro reports usage of well over 500,000 trips per day and a total of 230 injuries on their escalators in 1996. A trip is defined as entering a metro station, taking the train, and exiting at another station. Entering a Metro at most stations consists of riding two separate escalators down to get to the level of the trains. Exiting a Metro also most commonly includes taking two escalator rides. Using this situation as the average, the likelihood of getting injured on a Metro escalator last year was 1 injury in more than three million escalator rides. Further, escalator

injuries on Metro are declining rapidly, without burdensome CPSC regulations. Injuries have fallen from 407 in 1993 to 230 last year with about the same amount of ridership.

In return for the small risk factor, riders of these escalators receive tremendous benefits. Without them, Metro would be obsolete for most riders. Elevators cannot move nearly as many people as escalators and climbing multiple sets of steep stairs would not only be incredibly difficult for many groups of people including children and the elderly, but may also be more dangerous. Escalators as they currently exist are excellent people-movers with relatively low risk factor.

The available injury data also have one significant flaw -- they fail to indicate the cause of the injuries. Currently available escalator injury data, including those gathered by CPSC, show all injuries reported that **involve** escalators. It is probable that many of the reported injuries resulted from misuse of the escalator or unsafe behavior on the escalator. Injuries in these circumstances are not evidence for federal regulations.

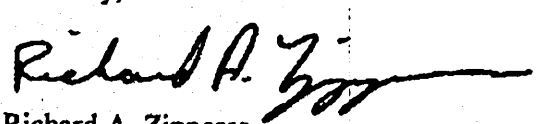
In 1978 when the last petition for CPSC regulation of escalators came before the Commission it was rejected on the basis that escalators were not "unreasonably dangerous." Since then numerous advancements have been made to improve the safety of escalators. Large numbers of people have found escalators to be safe, reliable, and efficient, thus increasing their usage. This increased usage may lead to more injuries in numbers but that does not mean that they are any less safe. Clearly, if escalators were not "unreasonably dangerous" in 1978 they are not "unreasonably dangerous" now.

Conclusion

In summary, Consumer Alert and CEI believe that not only does CPSC not have the authority to regulate escalators, it has no reason to do so. Consumers are riding escalators in increasingly large numbers and in areas such as Washington, DC the accident is small and decreasing. To ensure continuing improvements in safety, escalators already have a multitude of regulators, from state and local governments to private standards setting groups. These groups have done an admirable job in improving the safety of escalators and should be allowed to continue to do so without the heavy hand of the federal government forcing them into impractical one-size-fits-all "solutions" that may not properly consider all of the risks involved. The interests of consumers will not be served by unwarranted federal regulations of escalators that fail to properly consider the risks involved.

Thank you in advance for your careful consideration of Consumer Alert and CEI's comments.

Sincerely,



Richard A. Zipperer
Policy Analyst - Consumer Alert

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FAIRFAX STATION, VIRGINIA 22039-1236

July 15, 1997

Office of the Secretary
Consumer Product Safety Commission
Washington, DC 20207

Subj: Petition CP 97-1

Gentlemen:

The purpose of this letter is to comment on Petition CP 97-1, which is a request for regulation of escalator step to side wall clearances.

During a career dedicated to design, fabrication, installation, operation and maintenance of mechanical equipment, and as a parent, the interests of public safety are paramount. One can only empathize with the frustrations and heartaches of the petitioners during the ordeal of their experience.

There are, however, several subjective inconsistencies in the petition. Please consider the following points in your deliberations:

1. Based on a CPSC presentation to the American Society of Mechanical Engineers A 17 Committee meeting in June, 1996, statistical projections of anticipated accidents were included. I believe this same information is the basis for the petitioners' count of 5900 accidents annually. If that figure is indeed a projection AND is based on a relatively small sample, I have concern with its validity in establishing a "factual" basis for noting a 5000% increase over five years.

2. Under the ASME International organization, there exists a consensus standard entitled The Safety Code for Elevators and Escalators (A 17.1). Balance of representation on that committee is controlled by Society policy, specifically to prevent any interest category from being represented by more than one third of the voting members. If this is the target of the statement, "The escalator industry has shown itself to be a poor watch dog..." I would take issue and ask for an objective look at the standard and the ASME/ANSI controls under which it is promulgated.

3. Several after market safety devices are touted as panacea. There appears to be mixed reaction in the market. I have not found sufficient data to accept the position that such devices are as fully effective as advertising would claim.

In summary, the members of A 17.1 Committee are deeply concerned with public safety, and continue to strive for quality improvement in both design and installation standards. Life cycle maintenance over time is a critical factor, and may well be the focal issue this petition addresses. Unfortunately, it is difficult if not impossible to remedy by legislation.

I would ask serious consideration on the part of CPSC to support the consensus standard effort by active involvement with and support of the ASME A 17.1 Committee rather than attempt to address resolution of concerns by additional regulatory legislation.

Sincerely,

James W. Coaker

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Schindler Elevator Corporation

James L. Cocca
PRESIDENT

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July 21, 1997

Sadye E. Dunn
Office of the Secretary
Consumer Product Safety Commission
Washington, D.C. 20207

Re: Petition CP97-1 Regarding Development of a Safety Standard for Escalators

Dear Secretary Dunn:

On behalf of Schindler Elevator Corporation, I respectfully submit the following comments to the Consumer Product Safety Commission in response to its May 19, 1997 Notice regarding the referenced Petition. These comments are intended to complement those submitted by the National Elevator Industry, Inc., known as NEII, of which Schindler is a member. Schindler endorses and reiterates the points set forth in the NEII Comments, which compel the denial or, at the least, the deferral of this Petition. Our intention is to lend additional clarity to the more practical reasons for continuing the cooperative approach fashioned by NEII and the CPSC. Frankly, it is also intended to provide the CPSC with a balanced view of Schindler and its specific approach to escalator safety.

As one of the leading suppliers of escalators in the world, the safety of its escalators is paramount to everyone at Schindler. Schindler's history of investment in R&D, its continual improvements in new escalator design and the overall enhancement of mature equipment, as well as our extensive training and educational programs, underscore our acknowledged and proven commitment to escalator safety.

While accidents on escalators are rare given the estimated 180 million "rides" taken on them daily, an accident such as the one that occurred to the Petitioner's son on mature equipment is naturally one too many for them, as well as for Schindler and its safety-conscious employees. Despite the genuine concerns of the Petitioner and the CPSC, the CPSC's consideration of this Petition would be misplaced and may ultimately detract from escalator safety. The last thing that the riding public needs is to have the CPSC

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Schindler

attempt to mandate a solution of the moment on a product over which it has no jurisdiction and which Schindler has dramatically and steadily improved in safety and integrity.

It must be noted at the outset that despite the CPSC's clear lack of jurisdiction over escalators (See NEII Comments), Schindler and fellow manufacturers under the aegis of NEII, voluntarily stepped forward to embrace the CPSC and its challenge to further advance escalator safety. While Schindler simply could have relied on this solid legal principle and declined the CPSC's invitation of a year ago, our commitment to help ensure safe ridership was again demonstrated through our active participation. Furthermore, Schindler chose to commit the necessary financial and engineering resources to support the independent study being conducted with Arthur D. Little, Inc. for the development of a voluntary performance standard.

As noted in the NEII Comments, while there is an irrefutable lack of CPSC jurisdiction over the escalator product, Schindler and the industry nonetheless remain prepared to cooperate with the CPSC on this matter of obvious mutual interest. This cooperative effort is a natural complement to Schindler's ongoing commitment to the improvement of safety for the riding public and our children. This Schindler commitment is reflected in many ways and has yielded tangible results. Schindler has achieved ISO 9001 certification, an internationally recognized system of quality management standards, the first and only escalator company in the United States to achieve this accreditation. This certification covers our engineering, manufacturing and field service operations. The strength of Schindler's quality system was recently reaffirmed by Quality New Jersey's (QNJ) presentation of its prestigious Quality Partner Award. QNJ, a private/public partnership with New Jersey State Department of commerce and Economic Development, is dedicated to Total Quality Management in New Jersey. Criteria for this award are the same as those employed by the Malcolm Baldrige National Quality Award.

As a key part of its quality process, Schindler has formed teams at each of its offices throughout the United States dedicated to improving equipment safety and reliability through a variety of means. These teams, with headquarters support, have had a significant impact on overall escalator safety, resulting in the product liability claims rate being reduced significantly since 1990. In addition, Schindler representatives participate on national code committees and all Schindler equipment meets national ANSI and ASME safety codes. Schindler also develops and offers for sale equipment upgrades that bring existing, mature equipment up to the latest code requirements.

Though arguably among the world's safest forms of transportation, what remains true of escalators is true of all forms of transportation: even at their safest operation, some element of risk remains. The manufacturers, owners, service providers, inspectors and passengers must all take responsibility for safety. Schindler has made a concerted effort to assist both equipment owners and the riding public to better understand safety issues through extensive education programs and awareness campaigns. Among other things, Schindler has developed a Safety Education Program consisting of an informative video and booklet dealing with safe ridership and proper equipment use. Schindler has distributed tens of thousands of copies of these educational videos and booklets in both English and Spanish versions. Schindler is a founding member of the Elevator and Escalator Safety Foundation, which is dedicated to educating the public about the safe and proper way to ride escalators and elevators. Of particular note is the Foundation's "Safe-T-Rider" program for children, which has been presented to over 1,000,000 children, parents and teachers throughout the nation since it was launched in 1991. Schindler provides both financial and extensive non-financial support to the Foundation, and has donated our highly regarded *"Ups & Downs"* safety video for the Foundations use. This Schindler film has become the backbone of "A Safe Ride", the Foundation's recently released videotape promoting safety and educating passengers regarding proper escalator usage.

The CPSC could be on the verge of doing more harm than good by attempting to mandate solutions, thereby interfering with Schindler's research and development efforts that have brought steady gains in our escalator safety. We, with the cooperation of our customers, have been able to reduce entrapments between the escalator step and skirt by approximately 75 percent from 1990 to 1996. This was done largely as the result of research and analysis revealing the impact of timely treatments of silicon, an anti-friction coating.

We have also recently developed a unique side-guidance system that maintains a minimal gap between the steps and side skirt, and a handrail motion detector that sets off an alarm to alert riders if it senses any problems in synchronization. We have also made emergency stop buttons more prominent, and installed high-tech switches that can detect problems with steps. These are just a few examples of how Schindler continuously uses new knowledge and experience to advance escalator safety.

The sensibility of allowing the current "voluntary" approach with the CPSC to continue is therefore overwhelming. The Petition, despite its sincere intentions, cannot be heard by the CPSC. It simply has no jurisdiction or authority to do so. But, as I have noted throughout this commentary, there are far more important reasons for declining than mere legal and regulatory proscriptions.

Simply put, the voluntary approach is the only way of effectively achieving the additional success we all strive for in escalator safety. On behalf of Schindler, thank you for your consideration.

Very truly yours,

James L. Cocca

James L. Cocca
President

1997 JUL 23 A 11:49

CLAIRE ADAMSON,

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16 July 1997.

US Consumer Products Safety Commission,
4330 East West Highway, Bethesda, MD 20814-4408

Petition CP 97-1 Requesting Development of a Safety Standard for Escalators.

Attention: Sadye Dunn, Secretary, Consumer Product Safety Commission.

Our daughter, Thea VanRossum, at the age of 2 in September 1989, had 4 of her fingers cut off in the side of an escalator step. We instituted legal proceedings, and her case was heard in March of this year. Since we are awaiting the judgement for her case. On the advise of my attorney, I cannot comment.

We nevertheless feel that safety is of importance in the construction, maintenance, and use of escalators, and should be of particular priorty when children are concerned.

Yours sincerely,

Claire Adamson

Claire Adamson.