

November 27, 2017

The Honorable Ann Marie Buerkle, Acting Chairman  
The Honorable Robert Adler, Commissioner  
The Honorable Elliot Kaye, Commissioner  
The Honorable Marietta Robinson, Commissioner  
U.S. Consumer Product Safety Commission  
4330 East-West Highway  
Bethesda, MD 20814

Dear Acting Chairman Buerkle and Commissioners Adler, Kaye, and Robinson:

The American Academy of Pediatrics (AAP), North American Society for Pediatric Gastroenterology, Hepatology and Nutrition (NASPGHAN), Consumer Federation of America (CFA), Consumers Union (CU), Kids In Danger (KID), Public Citizen (PC), and the U.S. Public Interest Research Group (PIRG) write to applaud the U.S. Consumer Product Safety Commission's (CPSC) October 27, 2017, order to stop the sale of high-powered magnet sets, sold under the brand name Zen Magnets, on the basis that they represent a "substantial product hazard." These magnet sets are dangerous, and the CPSC's action to take them off the market was appropriate, given the harm they pose to children.<sup>i</sup>

In addition, to prevent the known harms associated with high-powered magnetic sets, we urge the CPSC to establish a safety standard for small rare-earth magnet sets without delay. A mandatory standard would prevent the widely recognized child harms from small magnets – up to and including death – *before* they occur, as opposed to a stop sale, which takes magnet sets out of commerce after they have already had an opportunity to enter the consumer marketplace.

High-powered magnet sets are composed of tiny high-powered magnet balls or cubes, often with 200 or more magnets to a set. When two or more magnets are swallowed, their attractive force (flux) allows them to find each other across or between different segments of the digestive system. For example, connections (fistulas) can develop between the stomach and the small intestine or between the small intestine and the colon, putting any person who swallows them at high risk for an abdominal catastrophe.

Our groups were thus glad to see the 2013 recalls of the dangerous products by CPSC<sup>ii</sup> and Health Canada,<sup>iii</sup> as well as the CPSC's 2014 safety standard that effectively banned the sale of small rare-earth magnet sets after children suffered critical injuries and even died due to ingesting these magnets.

Recent research shows that government efforts to limit dangerous high-powered magnet sets in the marketplace were working to protect children. Researchers set out to study the impact of Canada's recall by comparing data on magnet ingestions during the two years before the recall (2011 and 2012) to the two years after the recall (2014 and 2015).<sup>iv</sup> In the two early years, there were 22 multiple magnet ingestions, six operations to repair bowel, and nine endoscopic procedures. In the two years after the recall, there were five ingestions, one operation and four endoscopic procedures. "Government regulations are one of the strongest instruments in the

policy toolbox to effect change,” researchers wrote. “... Our study shows that in this particular case, the policy intervention appears to have quickly mitigated the threat of multiple magnet ingestions.”<sup>v</sup> It is unlikely that an education campaign alone could have had the same impact as a recall.

We were therefore deeply concerned by a decision by a panel of judges on the Tenth Circuit Court of Appeals to vacate and remand the CPSC magnet rule to ban these dangerous products. We urge the CPSC to issue and work quickly to finalize a safety standard to address the remand order of the Tenth Circuit, as sufficient data exists demonstrating the safety hazard that high-powered magnet sets pose. We cannot allow these life-threatening magnets to find their way back into the hands of children. Although the specific stop-sale cannot prevent harms in the same way that a broader CPSC rule can, we applaud the CPSC’s decision to stop the sale of Zen Magnets. Given that other brands of high-powered magnets in addition to Zen Magnets are still available for purchase at stores around the country, we urge the CPSC to order stop-sales of other sets immediately, pursuant to its authority to act on substantial product hazards, while also working toward a new rule.

Thank you for your leadership on this solvable child health matter.

Sincerely,

American Academy of Pediatrics  
Consumer Federation of America  
Consumers Union  
Kids In Danger  
North American Society for Pediatric Gastroenterology, Hepatology and Nutrition  
Public Citizen  
U.S. Public Interest Research Group

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<sup>i</sup> As of the date of this letter, we understand that the CPSC has agreed to stop enforcing the order until mid-January or until there is a ruling on a motion by Zen Magnets before the U.S. District Court in Colorado. *See* <https://www.law360.com/articles/985739/zen-magnets-can-resume-sales-for-now>

<sup>ii</sup> <https://www.cpsc.gov/Recalls/2013/high-powered-magnet-balls>.

<sup>iii</sup> <https://www.canada.ca/en/health-canada/services/consumer-product-safety/advisories-warnings-recalls/lettersnotices-information-industry/information-manufacturers-importers-distributors-retailers-products-containing-smallpowerful-magnets.html>.

<sup>iv</sup> [http://www.jpeds.com/article/S0022-3476\(17\)30187-7/fulltext](http://www.jpeds.com/article/S0022-3476(17)30187-7/fulltext).

<sup>v</sup> <http://www.aappublications.org/news/2017/04/21/Magnets042117>.