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TESTIMONY OF
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SUBMITTED TO
SENATE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON FINANCIAL SERVICES
AND GENERAL GOVERNMENT

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Good morning, Mr. Chairman.

I am pleased to appear before you today in your capacity as Chairman of the Senate Appropriations Subcommittee on Financial Services and General Government and to discuss the missions and activities of the U.S. Consumer Product Safety Commission (CPSC), of which I am presently Acting Chairman.

We at the CPSC are proud to serve your constituents in Illinois and throughout America, and I can tell you that I have never before had the privilege to work with a more dedicated group of professionals than those at our agency. We truly do care about consumers and we work hard

every day to ensure that the public is protected from unsafe products and empowered with the knowledge they need to reduce the risk that they or their families will be injured by using consumer products. After all, we, our children, family and friends are consumers as well. We, too, have a vested and personal interest in the effectiveness of the CPSC.

As you know, the U.S. Consumer Product Safety Commission (CPSC) is an independent, bipartisan federal commission established by Congress and charged with protecting the public from unreasonable risks of injury and death associated with more than 15,000 types of consumer products under the agency's jurisdiction.

Since its inception in 1973, CPSC's work has contributed substantially to the decline in the rates of death and injury related to the use of consumer products. We estimate that overall, injury and death associated with the use of products under our jurisdiction have declined by approximately one-third since the agency began its work. These reductions include:

- A 45 percent reduction in consumer-related residential fire deaths;
- An 89 percent reduction in crib-related deaths;
- A 74 percent reduction in product-related electrocutions;
- A 47 percent reduction in consumer-related carbon monoxide deaths; and
- An 82 percent reduction in poisoning deaths of children from drugs and household chemicals.

These are absolute reductions. When the increase in U.S. population is considered, the rate of these, and many other categories of product-related injuries that we have targeted, declined even more substantially.

While we are proud of these and the agency's many other achievements over the years, there is still much work to be done. Ever more technologically complex products, like those utilizing nanomaterials, as well as an unprecedented surge of imports, especially from China, continue to present the agency with new challenges.

The CPSC maintains a total nationwide staff of just over 400, has an annual budget of just over \$60 million and has jurisdiction over 15,000 types of products, with hundreds of new products entering the marketplace virtually every week. Limited resources and ever-changing products hazards require that the agency continually reassess priorities and increase efficiencies.

Nevertheless, we do accomplish our missions, and I believe quite well.

The CPSC has three central missions:

1. To identify existing and emerging product hazards that create an unreasonable risk of injury and to address those hazards by developing mandatory safety standards and by initiating and contributing to dozens of consensus standards every year;

2. To conduct product recalls and to investigate and respond to product-related incidents;
and
3. To alert and educate consumers about product-related safety issues.

We carry out these three main missions by administering and enforcing the Consumer Product Safety Act, the Federal Hazardous Substances Act, the Flammable Fabrics Act, the Poison Prevention Packaging Act, and the Refrigerator Safety Act.

Before describing each of these three main missions of the CPSC, I would like to provide some insight into the process by which we pursue certain product safety issues.

Prioritization and Data Collection

As the comparison of our resources with the sheer number and scope of consumer products in the U.S. would indicate, by necessity we prioritize. Issues that were paramount yesterday may not be so tomorrow, and as new product incident patterns emerge, they may displace earlier priorities. I emphasize the word “patterns” because this concept is integral to understanding how we conduct our activities at the CPSC. We do not now have, and frankly, never have had the resources to fully investigate and examine every one of the hundreds of thousands of annual product incidents of which we become aware.

Instead, the agency looks for trends or patterns among product incidents to anticipate and respond to emerging hazards. To do otherwise would disperse our finite resources in a thousand directions at once, dramatically reducing our overall effectiveness for the American public.

Integral to our identification and response to product incident patterns is the collection and analysis of product incident information and data. The CPSC is a data-driven agency. To adequately understand a product hazard and then to respond to it within the bounds of our governing statutes, we must have good information.

One of the primary tools we use to collect this information is our widely acclaimed and utilized National Electronic Injury Surveillance System, or NEISS system. This system monitors 100 hospital emergency rooms nationwide and captures any product-related injuries that individuals report. From more than 360,000 such reports received annually, we develop statistical estimates of product-related injuries. (It is important to understand that these are product-related, but not necessarily product-caused injuries).

CPSC also collects injury data from a number of other sources, including through company and consumer reports to our website, www.cpsc.gov and via our consumer hotline, medical examiner and coroner reports, monitoring media outlets, and through various other means.

Manufacturers and retailers are also required by federal law to report to the CPSC when they become aware of defects in their products that could cause or that have caused injury. Many of these reports are examined and investigated by agency staff, culminating in “in-depth investigations,” which are in turn utilized to support regulatory, compliance (recall) and/or public education efforts.

Collectively, this information provides the basic data necessary to help guide our standards, compliance, and public information and education activities.

Standards Activities

With regard to regulatory action, it must be first understood that in the United States, there is a well-established system of voluntary – or what we prefer to call consensus – product safety standards. Under the guidance of respected groups like the American National Standards Institute, ASTM International, and Underwriters Laboratories, who work to bring all stakeholders, including consumers and consumer advocates, into the process, literally thousands of such standards have been written and are continuously being revised. CPSC staff over the last year participated in numerous consensus standards activities, including those covering magnets in toys.

There exists a strong preference in our statutes for deference to such consensus standards over the promulgation of mandatory CPSC-drafted regulations, when a consensus standard adequately addresses the product safety risk at issue. As a small agency, this consensus standards process allows the CPSC to leverage its resources and achieve much greater reach to affect the safety of many more products under our jurisdiction than would otherwise be possible with our limited resources.

However, in any case where a voluntary standard fails to adequately address a product hazard or where there is a lack of substantial compliance with an adequate standard, the Commission may promulgate mandatory product safety regulations. In fact, we currently have underway 14 different rulemakings, more than at any other time in our agency's history.

As I mentioned earlier, the agency is being challenged by a surge of imported products. Today, over half of our recalled products were manufactured in China alone. This growing number of imported products, including those that do not meet relevant mandatory and voluntary standards, has strained CPSC's resources and challenged us to find new ways to work to ensure the safety of products in the stream of commerce.

Imports

To address the issues presented by imported products, the CPSC has negotiated memoranda of understanding with a number of foreign countries. These agreements generally call for close consultation on product safety issues. Additionally, last month, I went to China along with a team from the CPSC to discuss with Chinese officials the need to improve the safety of consumer products imported from that country.

We proposed to the Chinese a number of activities that they might undertake, both independently and in cooperation with our agency, to address product safety issues in four key product areas: toys, electrical products, fireworks, and lighters. It is my hope that these discussions will lead to tangible and measurable results. We have also organized the second U.S.-Sino Product Safety Summit, to be held this September in Washington, to continue this important work.

But these are by no means the only things that we are doing to address imported product-related safety problems. Recognizing the continuous and significant increase in the number of imported consumer products entering the American marketplace, the CPSC established the Office of International Programs and Intergovernmental Affairs to provide a comprehensive and coordinated effort to ensure greater import compliance with recognized American safety standards.

Additionally, we undertake both routine and targeted surveillance and sampling of products at U.S. ports of entry, working in conjunction with the Bureau of Customs and Border Protection. The CPSC is determined to make certain that imports meet the same high safety standards that products manufactured in America must meet.

Compliance

Whether manufactured domestically or imported from overseas, once a consumer product is found to be unreasonably hazardous, the CPSC's primary avenue to remove it from the stream of commerce is through a product recall.

In fiscal year 2006, the CPSC announced 466 recalls of defective products, representing over 120 million individual products. This was an all-time record number of recalls for the CPSC and demonstrates our more efficient and effective use of available resources today than at any point in our history. Utilizing efficiencies gained through a number of information technology, as well as a number of significant management and organizational reforms, we truly are doing more with less.

While the agency has the authority to require a mandatory product recall, due to the lengthy and costly nature of the statutorily-directed legal proceedings that we must undertake in order to issue such a recall, the reality is that the overwhelming majority of the recalls we oversee are

voluntary on the part of the recalling firm. Voluntary recalls provide the quickest and most effective way of getting products off store shelves and out of consumers' hands. Compliance staff negotiates the details of each recall with the subject firm, after significant exchange of information between the firm and the CPSC.

Today, approximately half of our recalls take advantage of our innovative "Fast Track" recall program. Under this program the subject firm agrees to initiate a recall or other corrective action within 20 days after being contacted by the CPSC, generally in exchange for lack of a formal finding by the agency that a substantial product hazard exists. This program has been extremely successful at getting unsafe products off the market in a faster time frame that simply would not otherwise be possible if resorting to litigation were the norm.

Public Information and Education

CPSC's third important mission is to inform and educate the public about product hazards.

Recalls and other important safety information are disseminated through all forms of media to warn the public of specific product hazards and advise consumers on more general product use issues. Many of our safety campaigns are directed toward children.

For example, last year the CPSC conducted public outreach campaigns on back to school safety and on the hazards of inflatable pools. The 2006 Safe Swimming Campaign identified

inflatable pools as an emerging hazard. This year's Safe Swimming Campaign focuses on the fact that a drowning death is a silent death that does not usually involve a child thrashing in the water or calling for help. This campaign emphasizes that multiple barriers and constant supervision are required when children are near pools. In 2006 the CPSC also conducted an information and education campaign on the dangers of television and furniture tipovers to raise awareness of this risk.

Additionally, the agency maintains three websites that give consumers and others access to all manner of product safety information. Those sites are www.cpsc.gov, www.recalls.gov, and our newest website, www.atvsfety.gov, which is part of a very significant information and education campaign now underway to advise consumers about a number of ATV safety issues. Visits to CPSC's websites have grown rapidly over the past few years from 200,000 in 1997 to over 20 million last year.

In an effort to communicate with hard to reach populations, the CPSC initiated the Neighborhood Safety Network (NSN) which is a grassroots outreach program that provides timely lifesaving information to 5,000 organizations and individuals who in turn share our safety message with hard-to-target consumers. Among these groups are 222 from Illinois, including fire departments, child care centers, and clinics from around the state. These safety

messages are often directed toward children's safety, such as the poster that we produced and distributed through the NSN warning of in-home drowning hazards.

CPSC's outreach efforts include making our safety information available in Spanish, and in fact, CPSC maintains Spanish language links on our website. We are also active in signing up Hispanic groups to our Neighborhood Safety Network and reaching out through Spanish language media outlets such as Telemundo and Univision.

In 2006 the agency exceeded its goal on topics related to products that present children's hazards by generating 57 agency appearances on television around the country. Topics included ATV safety, pool drownings, furniture and television tipovers and helmet safety. Also in 2006 we provided almost two million safety alerts, fact sheets and other publications through our Web site. The greater-than-expected increase in hits on CPSC's Web publications reflects the increased use of the Internet since our overall Web hits increased from 13.7 million in 2005 to 20.3 million in 2006.

This increase underscores the critical importance of CPSC's Information Technology infrastructure and systems. In addition to our data systems, such as the NEISS system that I described earlier, CPSC's IT tools allow us to extend our public outreach well beyond where it could go ten, or even as little as five years ago. As the numbers and types and sources of

consumer products continue to grow at a time of limited resources for the federal government, maintenance and modernization of CPSC's IT infrastructure is more important than ever.

Magnetic Toys

This morning's hearing agenda also includes the subject of toys containing small magnets, a product hazard that the CPSC is aggressively working to address. In fact, today at CPSC headquarters in Maryland, the agency is conducting a long-planned, comprehensive forum to explore and develop new strategies to reduce magnetic toy ingestion hazards.

Following sessions on behavioral factors, incident data, magnet technology and medical issues, attendees will be updated on voluntary standards work and international efforts. The forum will then address design and technical issues for magnetic toys and discuss strategies to increase awareness of this hazard in the medical community and the public in general.

I am pleased to talk about this important subject with the Committee this morning within the constraints that we have previously discussed that are required by Section 6(b) of the Consumer Product Safety Act as well as the fact that the CPSC currently has active, open and ongoing investigations of incidents with regard to magnetic toys. I will note, however, that the agency has already initiated several major recalls of toys containing small magnets.

Reauthorization

Finally, Mr. Chairman, I would like to raise the issue of reauthorization of the CPSC and its governing statutes, particularly the Consumer Product Safety Act (CPSA). As you know, the last time the CPSA was updated by Congress was 1990. While I realize that you chair our relevant appropriations subcommittee, and that the Senate Commerce Committee has initial jurisdiction over our governing statutes, I thought it would be helpful to highlight to you some of the areas which I believe warrant attention by Congress generally.

Although the Commission's statutory authority is generally sufficient to deal with the vast majority of safety problems within our jurisdiction, I believe it is in the best interests of consumers to look to possible modernization of these statutes. In the long run, ensuring that the CPSC continues to maintain adequate statutory and resource tools not only will help address existing product safety issues, but also will enable us to continue to anticipate and understand emerging product safety hazards.

A thoughtful reauthorization could strengthen the agency's ability to deal with some of the most vexing consumer product safety problems and emerging hazards. For example, I believe that Section 6(b) of the CPSA serves a useful purpose in encouraging firms to report unfavorable information to the Commission by instilling trust that such information will not be unfairly or prematurely disclosed. However, the 30-day notice requirement to give firms the opportunity to

assure the accuracy of the information to be released to the public might be shortened, in recognition of the instantaneous nature of modern communications.

I would also suggest that Congress consider amending Section 19 of the Consumer Product Safety Act to make it unlawful for anyone knowingly to sell a product that has been recalled. This type of provision has been adopted here in Illinois and exists at the National Highway Traffic Safety Administration, for example, and would be a useful tool for the Commission to have in those rare instances in which such willful sales of recalled products occur.

We are discussing internally whether additional authorities are needed to deal with imports and we look forward to discussing this subject with our authorizers. You should also be aware that our authorities differ under the various acts we administer, sometimes leading to differing results. Harmonization between the various statutes should also be considered.

Mr. Chairman, the outstanding work of the CPSC over the years has earned the agency the respect and recognition that it deserves-- from the regulated industries, from advocacy groups and from the general public -- to accomplish its mission effectively and efficiently. Consumer safety is never a completed task but always an ongoing process of research, standards development, enforcement and public education. The CPSC staff is talented, resourceful and

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absolutely committed to what they do, and I am pleased and proud to serve the American people with them.

Thank you again for your interest in the work of the Consumer Product Safety Commission. I look forward to answering your questions.