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

MEMORANDUM

DATE: October 1, 2001

TO : CLD  
Through: *[Signature]* Todd A. Stevenson, Acting Secretary, OS  
FROM : Martha A. Kosh, OS  
SUBJECT: Petition CP 01-01 Petition for Product Registration Cards

ATTACHED ARE COMMENTS ON THE CA 01-5

<u>COMMENT</u>	<u>DATE</u>	<u>SIGNED BY</u>	<u>AFFILIATION</u>
CA 01-5-1	9/18/01	Wendy Wieland	Kellwood Company <a href="mailto:KELLWOOD@kellwood.com">KELLWOOD@kellwood.com</a>
CA 01-5-2	9/19/01	John Tegner Director of Corp Communications	Wolverine World Wide, Inc. 9341 Courtland Dr, NE Rockford, MI 49341
CA 01-5-3	9/20/01	Michael Gans President & CEO	Kent, Inc. 1333 Broadway Suite 1107 New York, NY 10018
CA 01-5-4	9/20/01	Edward Kittredge Chairman & CEO	Gerber Children, Inc. 1333 Broadway Suite 700 New York, NY 10018
CA 01-5-5	9/20/01	Leonard Schwab Executive Vice President	Little Me P.O. Box 1742 Cumberland, MD 21501
CA 01-5-6	9/21/01	Kevin Angliss President, COO	Auburn Hosiery Mills, Inc. 1333 Boradway Suite 700 New York, NY 10018
CA 01-5-7	9/24/01	Thomas Meehan Vice President & Secretary	S. Godlberg & Co, Inc 20 East Broadway Hackensack, NH 07601

Petition CP 01-01 Petition for Product Registration Cards

CA 01-5-8	9/24/01	Aaron Locker Attorney	Locker Greenberg & Brainin, P.C. 420 Fifth Avenue New York, NY 10018
CA 01-5-9	9/25/01	E. Marla Felcher	325 Harvard Street Cambridge, MA 02139
CA 01-5-10	9/27/01	Kevin Carlisle Vice President/ General Manager Baby Products	Springs Industries, Inc. P.O. Box 70 Fort Mill, SC 29716
CA 01-5-11	9/27/01	Nancy Cowles Exec. Director	Kids In Danger 116 W. Illinois St. Suite 5E Chicago, IL 60610
CA 01-5-12	9/28/01	Steve Lamar	American Apparel & Footwear Association 1601 North Kent St Suite 1200 Arlington, VA 22209
CA 01-5-13	10/1/01	David Baker Barbara Parisi Counsel	Writing Instrument Manufacturers Assoc., Inc. 1920 N Street, NW Washington, DC 20036
CA 01-5-14	10/1/01	M. Hennessey President & CEO	Munro & Company, Inc. P.O. Box 1157 Hot Springs, AK 71902
CA 01-5-15	10/1/01	Vinson Scott Director, Government Relations	National Council of Chain Restaurants 325 7 <sup>th</sup> Street, NW Suite 1100 Washington, DC 20004
CA 01-5-16	10/1/01	Mary E. Fise General Counsel	Consumer Federation of America 1424 16 <sup>th</sup> St, NW Suite 604 Washington, DC 20036
CA 01-5-16a	10/1/01	Mary E. Fise On behalf of State & Local Consumer Organizations	Address same as above

Petition CP 01-01 Petition for Product Registration Cards

CA 01-5-17	10/1/01	Stephen Gold Exec. Director	National Association of Manufacturers CPSC Coalition 1331 Pennsylvania Ave NW, Suite 600 Washington, DC 20004
CA 01-5-18	10/1/01	Andrew Black President	Lego Systems, Inc. 555 Taylor Road P.O. Box 1600 Enfield, CT 06083
CA 01-5-19	10/1/01	Deborah Fanning Executive Vice President	The Art & Creative Materials Institute, Incorporated 1280 Main St, P.O. Box 479 Hanson, MA 02341
CA 01-5-20	10/1/01	Mark Rose Vice President Mfg.	The Children's Place 915 Secaucus road Secaucus, NJ 07094
CA 01-5-21	10/1/01	Rachael Weintraub Staff Attorney	U.S. Public Interest Research Group 218 D Street, SE Washington, DC 20003
CA 01-5-22	10/1/01	Michael Gale Vice President For Intern'l Trade and Government Relations	Warnaco, Inc. 801 Pennsylvania Ave, NW, Suite 640 Washington, Dc 20004
CA 01-5-23	10/1/01	R. David Pittle Sr Vice President & Tech. Director	Consumers Union 1666 Connecticut Ave, NW, Suite 310 Washington, DC 20009
CA 01-5-24	10/1/01	Brigid Klein Sr Counsel	Consumer Specialty Products Association 900 17 <sup>th</sup> St, NW Washington, DC 20006
CA 01-5-25	10/1/01	S. Lawrence Kocot Sr Vice President & General Counsel	National Association of Chain Drug Stores 413 North Lee Street P.O. Box 1417-D49 Alexandria, VA 22313

Petition CP 01-01 Petition for Product Registration Cards

CA 01-5-26	10/1/01	Mallory Duncan Sr Vice President & General Counsel	National Retail Federation 325 7 <sup>th</sup> St, NW Suite 1100 Washington, DC 20004
CA 01-5-27	10/1/01	Morrison Cain Sr Vice President	International Mass Retail Association 1700 North Moore St Suite 2250 Arlington, VA 22209
CA 01-5-28	10/2/01	Jack Walsh Exec Director	The Danny Foundation 1451 Danville Blvd Suite 202 Alamo, CA 94507
CA 01-5-29	10/2/01	Garry Myers CEO	Highlights for Children, Inc. 1800 Watermark Dr. Columbus, OH 43216

Stevenson, Todd A.

*Red Ring  
Unofficial*

**From:** Wendy.Wieland.KELLWOOD@kellwood.com  
**Sent:** Tuesday, September 18, 2001 12:04 PM  
**To:** cpsc-os@cpsc.gov  
**Subject:** Petition CP 01-01 Petition for Product Registration Cards

September 18, 2001

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

Regarding: PETITION CP 01-01 PETITION FOR PRODUCT REGISTRATION CARDS

On behalf of Kellwood Company, I am writing to express our strong opposition to the proposal of Consumer Federation of America to require a Consumer Registration Card for Products Intended for Children.

Kellwood Company is a manufacturer and marketer of apparel, including childrens' clothing and jackets.

We oppose this proposal simply because we do not believe it will accomplish what it intends. Instead it will have negligible impact in promoting safety or for providing for effective recalls while creating an enormous expense on the part of manufacturers, importers and retailers.

Product recalls for apparel and footwear are already effectively handled. Apparel and footwear companies do their utmost to ensure compliance with the pertinent regulations, including flammability, small parts, sharp edges, drawstrings and lead paint in components like buttons and zippers. In those rare occasions where a potentially unsafe or defective product does appear in the marketplace, manufacturers and retailers swiftly move to recall the product. Consumers currently receive recall information through newspapers, television and radio broadcasts. An obsolete card system is not likely to reach more persons than the news media.

Garments already carry a number of hang tags and other required labels that convey important consumer, safety, care and origin information as determined by Congress or federal agencies, including the CPSC. The addition of a product registration card to each garment would render the card itself less noticeable and possibly also interfere with the current safety markings, such as those for children's snug-fitting sleepwear. It is unlikely that customers would return product registration cards for clothing and footwear, primarily because of the perception of these products as short-lived or inexpensive. Even though the cards would be postage paid, the consumer is unlikely to take the time to complete these and may perceive a certain loss of privacy as a deterrent as well. The apparel industry generally does not use product registration cards. However, experience with similar programs, which often carry an inducement for the customer to return the requested information, yields extremely low return rates.

The proposal requires that the manufacturer retain the cards on file for 20 years or the useful life of the product, whichever is longer. Although some childrens' wear may be passed down as it is outgrown, there is no way to measure the useful life which would be expected to be much less than 20 years. However the program would require that cards be kept on file for 20 years for items that cannot reasonably be expected to exist for that long and for a tiny percentage of the actual sales of the garment. In our very mobile society it is doubtful that the information on the cards would be even be accurate after one or two years. Therefore, this proposes creating a 20-year recordkeeping program that would likely be useless.

In addition, this program would be extremely expensive:  
The product registration cards that are returned would be via pre-paid

postage on the card.

The costs of designing and printing the registration cards. Each apparel style would be required to have a new card. Because apparel is a "seasonal fashion item" the same garment may have several style numbers at one time and may change over production periods.

This costs of tagging each garment

The costs of preparing reports to the CPSC on the card return rates

The costs of developing and maintaining the record retention system

For the reasons stated, we feel that this costly and complicated program would render no improvement over current, more comprehensive methods of communicating with consumers. We strongly object to the proposal and urge the CPSC to dismiss the petition.

Sincerely,

KELLWOOD COMPANY

*Prod Reg Cards Comment 2*

September 19, 2001

Wolverine World Wide, Inc.  
9341 Courtland Dr. NE  
Rockford, MI 49341  
Tegnerjo@wwwinc.com

Office of the Secretary,  
Consumer Product Safety Commission,  
Washington, DC 20207.  
cpsc-os@cpsc.gov

RE: Petition CP 01-01 Petition for Product Registration Cards

Wolverine World Wide, Inc. would like to express strong opposition to the petition of the Consumer Federation of America to require a Consumer Registration Card for Products Intended for Children.

Wolverine World Wide, Inc. is a leading global marketer of branded casual, work, outdoor sport and uniform footwear. The Company's portfolio of owned and licensed brands includes: Bates Uniform Footwear, Caterpillar Footwear, Coleman Footgear, Harley-Davidson Footwear, Hush Puppies, HyTest Safety Footwear, Merrell Performance Footwear, Stanley Footgear and Wolverine Boots and Shoes.

In the year 2000, more than 36 million pairs of footwear bearing Company trademarks reached consumers in over 140 countries through a global network of Company-owned operations, independent distributors and licensees. The Company also operates a retail division that promotes Company brands, a world class tannery that produces Wolverine Performance Leathers and an Apparel and Accessories division focused on extending the equity of Company-owned brands through global distribution arrangements. Wolverine World Wide employs over 4,000 people around the globe, reported sales in excess of \$700 million for year 2000 and is publicly traded on the NYSE under the ticker symbol WWW.

Wolverine World Wide is a strong proponent of consumer safety and works rigorously to comply with all Federal and CPSC regulations regarding consumer product safety. We strongly oppose this petition because we believe it would have a negligible impact in promoting consumer safety or providing for more efficient recalls. We believe this petition fails any cost/benefit analysis by delivering marginal benefit to consumers at significant costs.

Product recalls at Wolverine World Wide would involve footwear, apparel or accessory items. We do not wish to require consumers to return personal information to us in the name of safety nor do we wish to manage this fast aging data, for 20 years as required by the petition. Cost effective, far reaching, communication mediums are readily available and inexpensive in the event we need to reach a group of our consumers immediately. The public is accustomed to listening for and responding to recall notices from television, radio, internet, and print media sources. We have examined our children's product businesses and developed the following cost/benefit analysis.

Consumers purchase approximately 2,000,000 children's items carrying a Wolverine World Wide trademark annually. We might hope for a strong 2% return of product registration cards or, 40,000 per year. The cost to implement and "card" each product, supply pre-paid postage, administer and store the cards would add roughly \$175,000 annually in expenses to these 2,000,000 purchases. At \$0.09 per item, we are unable to reach 98% of the consumers who purchased our products bearing registration cards. The registration cards will have provided almost no value. The cost per consumer we can notify, the 2% who returned their cards, is \$4.38 each. Half of the 2,000,000 children's items purchased carry an initial gross margin below \$4.38. This would leave us little choice but to no longer offer consumers these items, which are proven safe, in the name of safety.

Wolverine World Wide is a strong advocate of Consumer Product Safety, however the product registration card petition is not an effective way to improve consumer safety. We strongly object to this petition and urge the CPSC to dismiss it.

**Stevenson, Todd A.**

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**From:** tegnerjo@wwwinc.com  
**Sent:** Thursday, September 20, 2001 8:30 AM  
**To:** cpsc-os@cpsc.gov  
**Cc:** smithke@wwwinc.com; mundtto@wwwinc.com; zwiersji@wwwinc.com  
**Subject:** Petition CP 01-01 Petition for Product Registration Cards



CPSC Proposal.doc

Greetings,

Wolverine World Wide, Inc. of Rockford, Michigan respectfully submits this response to the Consumer Product Safety Commission Petition CP 01-01 Product Registration Cards.

Regards,

John C. Tegner  
Director of Corporate Communications  
Wolverine World Wide, Inc.  
tegnerto@wwwinc.com  
(616) 863 3940

<<CPSC Proposal.doc>>

# kent, inc.

1333 Broadway, Suite 1107, New York, NY 10018 Tel. 212-244-7874 Fax. 212-868-3049

**Michael J. Gans**  
President & CEO

September 20, 2001

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

**Re: Petition for Product Registration Cards**

Dear Secretary,

On behalf of Kent, Inc. I am writing to express strong opposition to the proposal of Consumer Federation of America to require a Consumer Registration Card for Products Intended for Children.

Our garments, infants and toddler sleepwear, already are in compliance with all current pertinent regulations including flammability, small parts, drawstrings etc. We already insert a GPU number on the sew-in label permanently affixed to the garment.

We are of the opinion that the insertion of a Product Registration Card would have negligible results and would not provide any impact on promoting safety. We are comfortable the products we produce are safe and the mechanism is already in place for any recall. Incurring significant additional expense would be counter-productive and could result in the ultimate demise of this company.

Kent, Inc. is one of this country's last domestic manufacturers of children's sleepwear. We currently employ approximately 200 individuals in Northern Maine.

Sincerely yours,



**Factory: U.S. Highway 1 South, Fort Kent, Maine 04743 Tel. 207-834-3100 Fax. 207-834-3998**

KENT INC.  
1333 BROADWAY SUITE 1107  
NEW YORK, N.Y. 10018  
PHONE (212) 244-7874  
FAX (212) 868-3049

FAX TRANSMITTAL

TO: office of the Secretary, Consumer Product Safety

FROM: Mike Oars

DATE: 9/20/01

NO. OF PAGES: 2 (including cover)

SUBJECT: Draft Response to CPSC on Product  
Registration cards

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**Gerber**

EDWARD KITTREDGE • CHAIRMAN AND C.E.O.

GERBER CHILDRENSWEAR, INC. • 1333 BROADWAY • SUITE 700 • NEW YORK, NY 10018  
PHONE: 212 - 268 - 5100 • FAX: 212 - 268 - 5122

*And new  
comment  
E*

**Via Fax (301) 504-0127 and Mail**

September 20, 2001

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

**Subject: Opposition to CPSC Proposed Product Registration Cards  
Petition CP 01-01 Petition for Product Registration Cards**

Dear Sir/Madam:

On behalf of Gerber Childrenswear, Inc., which consists of Gerber Childrenswear and Auburn Hosiery Mills, I am writing to express strong opposition to the proposal of Consumer Federation of America to require a Consumer Registration Card for products intended for children.

Our Gerber apparel division is a leading manufacturer of infants and toddlers apparel. Gerber Childrenswear and Auburn Hosiery in total sell over 150 million garments per year, ranging in price from \$1.00 to \$10.00 at retail. Some of our products such as bibs and diapers have a very short life while others have a longer life. The reasons for this are apparent in view of the fact that babies outgrow their clothing very quickly. If the CPSC proposal was adopted, the paperwork and record keeping costs would significantly increase the retail cost of our garments with very little marginal benefit to consumers.

Product recalls for apparel and footwear are already handled in an effective manner. First and foremost, apparel and footwear companies do their utmost to ensure compliance with the pertinent regulations, including flammability, small parts, sharp edges (primarily on shoes), drawstrings, and lead paint in components like buttons and zippers. In those rare occasions where a potentially unsafe clothing product or defect does appear in the marketplace, manufacturers and retailers swiftly take those steps necessary to recall the product at the various stages of the distribution chain.

Garments already carry a number of hang tags and other labels that convey important consumer, safety, care, and origin information that is deemed important by Congress or federal agencies, including the CPSC. The addition of a product registration card to each garment would interfere with these federal markings, including safety markings for children's snug fitting sleepwear, increasing the likelihood that none of these messages is read or understood at the point of purchase.

*Vertical stamp or text on the right margin, partially illegible.*

Consumers of clothing and footwear items are generally not interested in returning product registration cards for such products, primarily because of the perception that many of these products will be short lived or because they are relatively inexpensive. Even though the cards would be postage paid, consumers are still not likely to go through the hassle involved in filling out and returning such cards. Similarly, even though the cards would state that the information would be used only in the event of a recall, consumers are not likely to risk what many will no doubt perceive to be a loss of privacy to provide such information to the retailer or manufacturer.

The apparel and footwear industries generally do not use product registration cards. However, experience with similar exercises, which often carry an inducement for the consumer to return the requested information, yields extremely low return rates. Given the concerns noted in the preceding paragraph, we would expect this product registration scheme to achieve even lower return rates.

The proposal requires, for the small percentage of cards actually returned, that the manufacturer retain the cards on file for 20 years or the useful life of the product, whichever is longer. For many of our products, it is impossible to know when the useful life of the product ends. Many of the children's items our members produce and sell are durable enough to be passed down to siblings or other children. At the same time, other clothing and shoe items may be discarded after only one user. In addition, children's clothing and shoes that are involved in recall actions represent a very, very small fraction of the apparel and footwear sold for children each year. Consequently, firms will be maintaining information for decades relating to goods that will never be subject to a recall.

Even if consumers do return these cards at a reasonable rate, we are unsure how this will significantly improve recalls. Currently, consumers find out about recalls through a variety of information sources. Typically, they may see something in USA Today, hear the CPSC Chair speak about a product on The Today Show or local news, and examine whether the similar product they use is covered by the recall alert. Supplementing those sources with the product registration card system will not necessarily reach more consumers than these existing and relatively effective channels.

For example, over the minimum 20-year period, many of the address cards will become outdated as people move from one place to another. According to the U.S. Census, 16-17 percent of the U.S. population moves every year. Given the mobility of the U.S. population, over a 20-year period, the freshness of the information in the database will be greatly reduced.

In addition, many apparel and footwear items for children are purchased as gifts by relatives and friends or passed on through thrift shops, garage sales, and church bazaars. In each of these cases, the initial purchaser of the item is not the end user of the item so the effectiveness of the product registration database would be greatly diluted.

The CPSC should also exercise caution in weaning the public away from the traditional methods of recall alerts that it has worked so hard over the past few years to develop. Individuals who fill out a registration card may start to "tune out" existing types of recall alerts unless the company specifically notifies them (even if the recall covers the product they have purchased). Then, if the recall notice generated by the product registration database fails (because the data was lost, the card was never received, etc.), the consumer may never receive the information.

While it is unclear if there would be benefits, it is clear that there would be substantial costs associated with this program. These include:

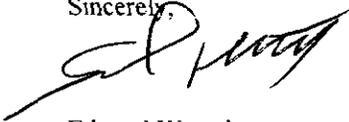
- .The costs of pre-paid postage of the product registration cards that are returned.
- .The costs of designing and printing the product registration cards. (Because the petition requires that each card carry the name and model number of the product purchased, a new set of cards would be required for each of the thousands of stock keeping units manufactured by each company. This would eliminate any possible economies of scale that might otherwise be achieved.).
- .The costs of logistics and tagging to ensure that each garment is sold with the correct tag.
- .The costs associated with reporting to the CPSC the return rates of the product registration cards.
- .The costs associated with developing and maintaining a record retention system for these cards.

Gerber Childrenswear, Inc. concludes that if this proposal is accepted by the CPSC, apparel and footwear companies would incur enormous costs to produce and distribute accurate product registration cards, the vast majority of which will end up in the trash ten minutes after the consumer has reached home. At the same time, apparel and footwear companies will be asked to maintain an accurate product registration database which would significantly increase the cost of apparel and footwear products to consumers with marginal, if any, effect. Common sense dictates that the time and labor involved in maintaining files on product registration cards for a firm such as Gerber Childrenswear, Inc. which sells over 150 million garments per year would not justify the substantially increased prices which consumers would be forced to pay.

We strongly object to this proposal and urge the CPSC to dismiss the petition.

Thank you in advance for your favorable consideration, and if you have any questions, please don't hesitate to contact me.

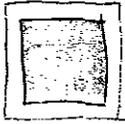
Sincerely,



Edward Kittredge

EK/tn

cc: Kevin Burke, President, American Apparel and Footwear Association



*Prod Registration Comment 5*

SEP 20 2001  
2001 09 20 10:31 AM

2001 SEP 25 A 10:31

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

September 20, 2001

RE: Petition CP- 01-01 Petition for Product Registration Cards

On behalf of **S. Schwab Company, Inc.** I am writing to express strong opposition to the proposal of the Consumer Federation of America to require a Consumer Registration Card for Products Intended for Children.

Our company manufactures and sells **Little Me and Ralph Lauren infants and children's sleepwear and playwear.**

We oppose this proposal for the simple reason that it would have a negligible impact in promoting safety or providing for more efficient recalls at enormous expense on the part of manufacturers, importers and retailers. We believe this proposal fails any cost/benefit analysis by delivering marginal benefit to consumers at significant costs.

Product recalls for apparel and footwear are already handled in a fairly effective manner. First and foremost, apparel and footwear companies do their utmost to ensure compliance with the pertinent regulations, including flammability, small parts, sharp edges (primarily on shoes), drawstrings, and lead paint in components like buttons and zippers. In those rare occasions where a potentially unsafe clothing product or defect does appear in the marketplace, manufacturers and retailers swiftly take those steps necessary to recall the product at the various stages of the distribution chain.

*Garments already carry a number of hang tags and other labels that convey important consumer, safety, care, and origin information that is deemed important by Congress or federal agencies, including the CPSC. The addition of a product registration card to each garment would interfere with these federal markings, including safety markings for children's snug fitting sleepwear, increasing the likelihood that none of these messages is read or understood at the point of purchase.*

Customers, especially for clothing and footwear items, are generally not interested in returning product registration cards for such products, primarily because of the perception that many of these products will be short lived or because they are relatively inexpensive. Even though the cards would be postage paid, customers are still not likely to go through the hassle involved in filling out and returning such cards. Similarly, even though the cards would state that the information would be used only in the event of a recall, customers are not likely to risk that many will no doubt perceive to be a loss of privacy to provide such information to the retailer or manufacturer.

LEONARD C. SCHWAB  
Executive Vice President  
Post Office Box 740  
Cumberland, Maryland 2150  
Tel: 301 729 4486  
Fax: 301 729 0265  
lsc@schwab.com

The apparel and footwear industries generally do not use product registration cards. However, experience with similar exercises, which often carry an inducement for the customer to return the requested information, yields extremely low return rates. Given the concerns noted in the preceding paragraph, we would expect this product registration scheme to achieve even lower return rates.

The proposal requires, for the small percentage of cards actually returned, that the manufacturer retain the cards on file for 20 years or the useful life of the product, whichever is longer. For many of our products, it is impossible to know when the useful life of the product ends. Many of the children's items our members produce and sell are durable enough to be passed down to siblings or other children. At the same time, other clothing and shoe items may be discarded after only one user. In addition, children's clothing and shoes that are involved in recall actions represent a very, very small fraction of the apparel and footwear sold for children each year. Consequently, firms will be maintaining information for decades relating to goods that will never be subject to a recall.

Even if consumers do return these cards at a reasonable rate, we are unsure how this will significantly improve recalls. Currently, consumers find out about recalls through a variety of information sources. Typically, they may see something in USA Today, hear the CPSC Chair speak about a product on The Today Show or local news, and examine whether the similar product they use is covered by the recall alert. Supplementing those sources with the product registration card system will not necessarily reach more consumers than these existing and relatively effective channels.

For example, over the minimum 20-year period, many of the address cards will become outdated as people move from one place to another. According to the U.S. Census, 16-18 percent of the U.S. population moves every year. Given the mobility of the U.S. population, over a 20-year period, the freshness of the information in the database will be greatly reduced.

In addition, many apparel and footwear items for children are purchased as gifts by relatives and friends or passed on through thrift shops, garage sales, and church bazaars. In each of these cases, the initial purchaser of the item is not the end user of the item so the effectiveness of the product registration database would be greatly diluted.

The CPSC should also exercise caution in weaning the public away from the traditional methods of recall alerts that it has worked so hard over the past few years to develop. Individuals who fill out a registration card may start to "tune out" existing types of recall alerts unless the company specifically notifies them (even if the recall covers the product they have purchased). Then, if the recall notice generated by the product registration database fails (because the data was lost, the card was never received, etc), the consumer may never receive the information.

*While it is unclear if there would be benefits, it is clear that there would be substantial costs associated with the program. These include:*

- The costs of pre-paid postage of the product registration cards that are returned;
- The costs of designing and printing the product registration cards. (Because the petition requires that each card carry the name and model number of the product purchased, a new set of cards would be required for each of the thousands of stock keeping units manufactured by each company. This

would eliminate any possible economies of scale that might otherwise be achieved.)

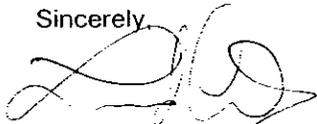
- The costs of logistics and tagging to ensure that each garment is sold with the correct tag.
- The costs associated with reporting to the CPSC the return rates of the product registration cards.
- The costs associated with developing and maintaining a record retention system for these cards.

In a years time we manufacture over 5,000 styles and approximately 20,000,000 pieces of merchandise. Considering the cost of production, cost of attachment and postage at an average of \$.25/card this would amount to approximately \$5,000,000. This cost would be passed on to the consumer; an unnecessary expense that is unwanted. In addition to this we would not be able to house 400,000,000 cards (20,000,000 X 20 years) in our current facilities.

Our conclusion is that, if this proposal is accepted by the CPSC, apparel and footwear companies would incur enormous costs to produce and distribute accurate product registration cards, the vast majority of which will end up in the trash ten minutes after the consumer has reached home. At the same time, they will be asked to maintain an accurate product registration database of a small subset of their customers with information that is mostly useless and which holds no benefit for improving consumer safety.

We strongly object to this proposal and urge the CPSC to dismiss this petition.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leonard C. Schwab', with a large, stylized flourish at the end.

Leonard C. Schwab  
Executive Vice President

**AUBURN HOSIERY MILLS, INC.**

1333 BROADWAY, SUITE 700, NEW YORK, NY 10018

TEL (212) 268-5100 FAX (212) 736-9039

E-MAIL: WILSOCKS@WORLDNET.ATT.NET

*Handwritten:* Fed Reg... 6

**Via Fax (301) 504-0127 and Mail**

September 21, 2001

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

*Handwritten:* 2001 SEP 25 AM 10:57  
6

**Subject: Opposition to CPSC Proposed Product Registration Cards  
Petition CP 01-01 Petition for Product Registration Cards**

Dear Sir/Madam:

On behalf of Auburn Hosiery Mills, Inc., which consists of our knitting plant in Adairville, KY, and our finishing plant in Auburn, KY, I am writing to express strong opposition to the proposal of Consumer Federation of America to require a Consumer Registration Card for products intended for children.

We are a leading manufacturer of children's hosiery. Auburn Hosiery sells over 10 million pairs per year, ranging in price from \$1.00 to \$3.00 at retail. If the CPSC proposal was adopted, the paperwork and record keeping costs would significantly increase the retail cost of our garments with very little marginal benefit to consumers.

Product recalls for apparel and footwear are already handled in an effective manner. First and foremost, apparel and footwear companies do their utmost to ensure compliance with the pertinent regulations, including flammability, small parts, sharp edges (primarily on shoes), drawstrings, and lead paint in components like buttons and zippers. In those rare occasions where a potentially unsafe clothing product or defect does appear in the marketplace, manufacturers and retailers swiftly take those steps necessary to recall the product at the various stages of the distribution chain.

Garments already carry a number of hang tags and other labels that convey important consumer, safety, care, and origin information that is deemed important by Congress or federal agencies, including the CPSC. The addition of a product registration card to each garment would interfere with these federal markings, including safety markings for children's snug fitting sleepwear, increasing the likelihood that none of these messages is read or understood at the point of purchase.

EXCLUSIVE LICENSEES OF THESE GREAT BRANDS



Consumers of clothing and footwear items are generally not interested in returning product registration cards for such products, primarily because of the perception that many of these products will be short lived or because they are relatively inexpensive. Even though the cards would be postage paid, consumers are still not likely to go through the hassle involved in filling out and returning such cards. Similarly, even though the cards would state that the information would be used only in the event of a recall, consumers are not likely to risk what many will no doubt perceive to be a loss of privacy to provide such information to the retailer or manufacturer.

The apparel and footwear industries generally do not use product registration cards. However, experience with similar exercises, which often carry an inducement for the consumer to return the requested information, yields extremely low return rates. Given the concerns noted in the preceding paragraph, we would expect this product registration scheme to achieve even lower return rates.

The proposal requires, for the small percentage of cards actually returned, that the manufacturer retain the cards on file for 20 years or the useful life of the product, whichever is longer. For many of our products, it is impossible to know when the useful life of the product ends. Many of the children's items our members produce and sell are durable enough to be passed down to siblings or other children. At the same time, other clothing and shoe items may be discarded after only one user. In addition, children's clothing and shoes that are involved in recall actions represent a very, very small fraction of the apparel and footwear sold for children each year. Consequently, firms will be maintaining information for decades relating to goods that will never be subject to a recall.

Even if consumers do return these cards at a reasonable rate, we are unsure how this will significantly improve recalls. Currently, consumers find out about recalls through a variety of information sources. Typically, they may see something in USA Today, hear the CPSC Chair speak about a product on The Today Show or local news, and examine whether the similar product they use is covered by the recall alert. Supplementing those sources with the product registration card system will not necessarily reach more consumers than these existing and relatively effective channels.

For example, over the minimum 20-year period, many of the address cards will become outdated as people move from one place to another. According to the U.S. Census, 16-17 percent of the U.S. population moves every year. Given the mobility of the U.S. population, over a 20-year period, the freshness of the information in the database will be greatly reduced.

In addition, many apparel and footwear items for children are purchased as gifts by relatives and friends or passed on through thrift shops, garage sales, and church bazaars. In each of these cases, the initial purchaser of the item is not the end user of the item so the effectiveness of the product registration database would be greatly diluted.

The CPSC should also exercise caution in weaning the public away from the traditional methods of recall alerts that it has worked so hard over the past few years to develop. Individuals who fill out a registration card may start to "tune out" existing types of recall alerts unless the company specifically notifies them (even if the recall covers the product they have purchased). Then, if the recall notice generated by the product registration database fails (because the data was lost, the card was never received, etc.), the consumer may never receive the information.

While it is unclear if there would be benefits, it is clear that there would be substantial costs associated with this program. These include:

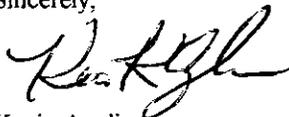
- The costs of pre-paid postage of the product registration cards that are returned.
- The costs of designing and printing the product registration cards. (Because the petition requires that each card carry the name and model number of the product purchased, a new set of cards would be required for each of the thousands of stock keeping units manufactured by each company. This would eliminate any possible economies of scale that might otherwise be achieved.)
- The costs of logistics and tagging to ensure that each garment is sold with the correct tag.
- The costs associated with reporting to the CPSC the return rates of the product registration cards.
- The costs associated with developing and maintaining a record retention system for these cards.

Auburn Hosiery Mills, Inc. concludes that if this proposal is accepted by the CPSC, apparel and footwear companies would incur enormous costs to produce and distribute accurate product registration cards, the vast majority of which will end up in the trash ten minutes after the consumer has reached home. At the same time, apparel and footwear companies will be asked to maintain an accurate product registration database which would significantly increase the cost of apparel and footwear products to consumers with marginal, if any, effect. Common sense dictates that the time and labor involved in maintaining files on product registration cards for a firm such as Auburn Hosiery Mills, Inc. which sells over 10 million garments per year would not justify the substantially increased prices which consumers would be forced to pay.

We strongly object to this proposal and urge the CPSC to dismiss the petition.

Thank you in advance for your favorable consideration, and if you have any questions, please do not hesitate to contact me.

Sincerely,



Kevin Angliss  
President, C.O.O.

KKA/sh

cc: Kevin Burke, President, American Apparel and Footwear Association  
Senator Mitch McConnell (Fax # 202-224-2499)  
Senator Jim Bunning (Fax # 202-228-1373)  
Congressman Ron Lewis (Fax # 202-226-2019)

*Handwritten:* RB, Card, 7

S. Goldberg & Co., Inc.  
20 East Broadway  
Hackensack, NJ 07601

201-342-1200

September 24, 2001

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

Re: **Petition CP 01-01 Petition for Product Registration Cards**

On behalf of S. Goldberg & Co., Inc., I am writing to express strong opposition to the proposal of Consumer Federation of America to require a Consumer Registration Card for Products Intended for Children.

S. Goldberg & Co., Inc. is a 105-year-old manufacturer, exporter and importer of children's footwear. We employ 450 workers in the NY Metropolitan area.

We oppose this proposal for the simple reason that it would have a negligible impact in promoting safety or providing for more efficient recalls at enormous expense on the part of manufacturers, importers and retailers. We believe this proposal fails any cost/benefit analysis by delivering marginal benefit to consumers at significant costs.

Product recalls for footwear are already handled in a fairly effective manner. First and foremost, footwear companies do their utmost to ensure compliance with the pertinent regulations, including small parts, sharp edges, laces, and lead paint in footwear components. In those rare occasions where a potentially unsafe footwear defect does appear in the marketplace, footwear manufacturers and retailers swiftly take those steps necessary to recall the product at the various stages of the distribution chain.

Footwear already carries number of hang tags and other labels that convey important consumer, safety, care, and origin information that is deemed important by Congress or federal agencies, including the CPSC. The addition of a product registration card to each pair of footwear would interfere with these federal markings, including safety markings, increasing the likelihood that none of these messages is read or understood at the point of purchase.

Customers, especially for footwear customers, are generally not interested in returning product registration cards for such products, primarily because of the perception that many of these products will be short lived or because they are relatively inexpensive. Even though the cards would be postage paid, customers are still not likely to go through the hassle involved in filling out and returning such cards. Similarly, even though the cards would state that the information would be used only in the event of a recall, customers are not likely to risk what many will no doubt perceive to be a loss of privacy to provide such information to the retailer or manufacturer.

The footwear industry generally does not use product registration cards. However, experience with similar exercises, which often carry an inducement for the customer to return the requested information, yields extremely low return rates. Given the concerns noted in the preceding paragraph, we would expect this product registration scheme to achieve even lower return rates.

The proposal requires, for the small percentage of cards actually returned, that the manufacturer retain the cards on file for 20 years or the useful life of the product, whichever is longer. Children's footwear rarely lasts more than one year primarily due to the rapid growth of a child's foot and is not passed down to siblings. In addition, children's footwear that is involved in recall actions represent a very, very small fraction of footwear sold for children each year. Consequently, firms will be maintaining information for decades relating to goods that will never be subject to a recall.

Even if consumers do return these cards at a reasonable rate, we are unsure how this will significantly improve recalls. Currently, consumers find out about recalls through a variety of information sources. Typically, they may see something in USA Today or hear the CPSC Chair speak about a product on The Today Show and examine whether the similar product they use is covered by the recall alert. Supplementing those sources with the product registration card system will not necessarily reach more consumers than these existing and relatively effective channels.

For example, over the minimum 20-year period, many of the address cards will become outdated as people move from one place to another. According to the U.S. Census, 16-17 percent of the U.S. population moves every year. Given the mobility of the U.S. population, over a 20-year period, the freshness of the information in the database will be greatly reduced.

The CPSC should also exercise caution in weaning the public away from the traditional methods of recall alerts that it has worked so hard over the past few years to develop. Individuals who fill out a registration card may start to "tune out" existing types of recall alerts unless the company specifically notifies them (even if the recall covers the product they have purchased). Then, if the recall notice generated by the product registration database fails (because the data was lost, the card was never received, etc), the consumer may never receive the information.

While it is unclear if there would be benefits, it is clear that there would be substantial costs associated with this program. These include:

- ✓ The costs of pre-paid postage of the product registration cards that are returned;
- ✓ The costs of designing and printing the product registration cards. (Because the petition requires that each card carry the name and model number of the product purchased, a new set of cards would be required for each of the thousands of stock keeping units manufactured by each company. This would eliminate any possible economies of scale that might otherwise be achieved.);
- ✓ The costs of logistics and tagging to ensure that each pair of footwear is sold with the correct tag;
- ✓ The costs associated with reporting to the CPSC the return rates of the product registration cards; and
- ✓ The costs associated with developing and maintaining a record retention system for these cards.

We manufacture no less than 1000 different styles of children's footwear each season or between 5 and 7 million pair per year. Our recall rate over the past 105 years is zero and our defect rate is less than 2/10 of 1%, in spite of a liberal "no questions asked" policy at the retail level.

Our conclusion is that, if this proposal is accepted by the CPSC, footwear companies would incur enormous costs to produce and distribute accurate product registration cards, the vast majority of which will end up in the trash ten minutes after the consumer has reached home. At the same time, they will be asked to maintain an accurate product registration database of a small subset of their customers with information that is mostly useless and which holds no benefit for improving consumer safety.

We strongly object to this proposal and urge the CPSC to dismiss the petition.

Sincerely,

S. Goldberg & Co., Inc.

Thomas P. Meehan  
Vice President & Secretary

**Stevenson, Todd A.**

---

**From:** Tom Meehan [tom@sgfootwear.com]  
**Sent:** Monday, September 24, 2001 3:37 PM  
**To:** cpsc-os@cpsc.gov  
**Subject:** Petition CP01-01 - Petition for Product Registration Cards



CPSC Registrat on  
Card.doc

Gentlemen,

Please find attached our opinion document concerning the CPSC proposal to require Product Registration Cards on all children's apparel and footwear.

Sincerely,  
S. Goldberg & Co., Inc.

Thomas P. Meehan  
Vice President & Secretary

*Product registration comments*

LOCKER GREENBERG & BRAININ, P.C.  
ATTORNEYS AT LAW

AARON LOCKER  
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DAVID N. BRAININ  
OF COUNSEL

September 24, 2001

Via Fax (301)504-0127 & Mail

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

**Re: Petition CP 01-01- Petition for Product Registration cards**

Gentlemen:

We represent Toy Industry Association, Inc. ("TIA") (formerly Toy Manufacturers of America, Inc.) a not-for-profit trade association composed of two hundred and fifty (250) manufacturers of toys and games whose aggregate sales at the retail level exceed \$25 billion annually. Members of TIA are global in character and manufacture and sell approximately 85% to 90% of all toys in the United States today and about 40% of all toys sold throughout the world.

We submit these comments in response and opposition to the petition of the Consumer Federation of America (CFA), which the Commission has docketed pursuant to the provisions of Section 16 (b) of the Consumer Product Safety Act (CPSA), 145 U.S.C. § 2065(b). The CFA petition asked the Commission to issue a rule that would require manufacturers (or distributors, retailers or importers) of products intended for children to provide a Consumer Safety Registration Card (CSRC) along with every product sold. More specifically, the CFA petition seeks a CSRC card which would:

1. collect only that information needed to contact the purchaser (name and address or e-mail address).
2. Be postage-paid by the manufacturer (or distributor, retailer, or importer).
3. Be pre-labeled by the manufacturer (or distributor, retailer, or importer) with the name and model number of the product purchased

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4. Contain a statement that the information collected will be used only in the event that the manufacturer needs to contact the purchaser to convey recall or other important safety information.

Section 16 (b) of the CPSA authorizes the Commission to require manufacturers, private labelers and distributors of consumer products to "establish and maintain such records, make such reports, and provide such information as the Commission may, by rule, reasonably require for the purposes of implementing this Act, or to determine compliance with rules or orders prescribed under this Act."

1. **The CFA Petition Seeks a Remedy Which the Commission May Not Reasonably Require for the Purpose of Implementing the CPSA.**

- A. **The CSRC Program Will Not Be Effective and Therefore Cannot Reasonably be Required**

Every year the Commission in the course of its implementation of the Transferred Acts and the Consumer Product Safety Act engages in mandatory or voluntary recalls affecting less than 300 products intended for use by children. It is not known by TIA how many products are made and intended for use by children by manufacturers who are not in the toy industry. In the toy industry alone, however, more than 125,000 different toy products are sold each year and more than 3.365 billion individual toys in prices ranging from less than \$1 to as much as \$300 or \$400 for complex electronic toys and games are sold annually. Billions of other juvenile products, sporting goods articles of clothing, shoes, items of personal care and adornment are probably sold in addition to the billions of individual toys sold by the toy industry.

When enacting the Consumer Product Safety Act, the Congress rejected the provisions of a Senate Bill (S 3419) which authorized the Commission to establish procedures to be followed by manufacturers or importers of a consumer product in securing and maintaining the names and

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addresses of the first purchasers (other than dealers or distributors) of consumer products for which safety standards had been promulgated.<sup>1</sup>

The rejected Senate bill would have required the Commission to consider the burden imposed upon the manufacturer or importer by requiring the maintenance of the names and addresses including the cost to consumers of the maintenance. The provisions of Section 9 (f) of the Consumer Product Safety Act currently require the Commission to undertake a cost-benefit

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<sup>1</sup>See Conference Report Page 54 [Note: Senate bill proposed giving jurisdiction over all consumer products to the Food and Drug Administration which has a single Commissioner].

"The Senate bill also authorized the Commissioner to establish, by order at any time, procedures to be followed by manufacturers, or importers of a consumer product required to conform to a consumer product safety standard, including procedures to be followed by distributors, dealers and consumers to assist manufacturers or importers in securing and maintaining the names and addresses of the first purchasers (other than dealers or distributors) of consumer products for which consumer product safety standards had been promulgated. These procedures were to be reasonable for the particular type or class of consumer products for which they were prescribed. In determining whether to require the maintenance of the names and addresses of the first purchasers, the Commissioner was to consider the severity of the injury that could have resulted if a consumer product had not been manufactured in compliance with an applicable consumer product safety standard, the likelihood that a particular type or class of consumer products would not have been manufactured in compliance with an applicable consumer product safety standard, and the burden imposed upon the manufacturer or importer by requiring the maintenance of the names and addresses of the first purchasers (including the cost to consumers of the maintenance).

"House - the House inspection and recordkeeping provisions did not contain any specific provisions similar to the above Senate provisions and its recordkeeping provision was applicable to every manufacturer, private labeler, or distributor of a consumer product, whether or not required to conform to a consumer product safety standard. However, the House amendment did authorize the Commission to require by rule manufacturers, private labelers, and distributors to establish and maintain such records as may be required to implement the Act.

"Conference substitute (§16) - The Senate recedes."

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analysis in the promulgation of consumer product safety rules under the Consumer Product Safety Act. More specifically, the Commission is required to make a finding and shall not promulgate a consumer product safety rule unless it finds and includes such finding in the rule that the benefits expected from the rule bear a reasonable relationship to its costs. [See CPSA Section 9 (f)(3)(E)]. As shown below, the staggering costs involved in the CSRC program would preclude the promulgation of a rule mandating the CSRC. Fairly accurate calculations of costs involved in maintaining a product warranty program provide a reasonable basis for estimating the costs involved in establishing a CSRC program. These are itemized as follows:

Cost of producing CSRC cards in bulk (between 100,000 and 1,000,000 at a time)	6 cents each
Postage charge per CSRC card - Qualified Business Reply Mail (QBRM) Bar Code - pre-sort first class rate	18 cents each
U.S. special handling postage per CSRC card QBRM Bar Code pre-sort first class rate	5 cents each
Handling, including insertion of cards in packages and retrieval of cards	10 cents each
Receipt, handling, storage and electronic database conversion of information contained on cards	15 cents each
Estimated cost per card of program to the toy industry	54 cents each

The annual cost alone for the 3.365 billion individual toys sold would be over \$1.8 billion. TIA is unable at this time to estimate the additional costs for other products intended for use by children which would be subject to the CSRC program but there is little doubt that it could double or triple the costs to be experienced by the toy industry. Arguably these costs will be reduced by 15 cents per card if not all consumers return the CSRC

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card. It is recognized that even when expensive warranty items are sold, the return rate for warranty cards often does not exceed 20%.<sup>2</sup> If this were true in the case of toys, would the CSRC program be truly effective if 20 % or less returned cards? Would it be cost-effective in any case? These costs would inevitably be passed on to consumers. As calculated above, CSRC costs for the toy industry could be more than 7% of toy industry sales annually.

Moreover, several additional problems reducing cost-effectiveness become apparent:

- i. Low rates of return, especially for lower-price items, based on experience with warranty cards. Low incentive for consumer to complete and mail cards.
- ii. Deterioration of mailing list (6-10 percent or more of households change addresses each year, depending on demographics; the rate is higher for households with young children).
- iii. Many product users are not original purchasers (e.g. products given as gifts or used products).
- iv. Many toys are sold without packages - adding packaging or attachment of CSRC cards would materially add to the costs of the program for these toys.
- v. Large-scale burden for many companies to implement such a program - administrative, data entry, and record keeping requirements for massive amounts of data generated from hundreds of thousands of products, with only a minute proportion ever likely to need retrieval for product recall purposes.
- vi. Extra costs that would arise from the incentives for buyers to improve buyer return rate (e.g., discounts, cash inducements).
- vii. The CSRC program is not feasible for lower cost items because (a) costs of a card program per unit, although identical across product lines, would represent a much higher fraction of the cost for low-price products; and (b) consumers have less incentive to register low-price products.

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<sup>2</sup>According to a survey by the Juvenile Products Manufacturers Association whose membership manufactures child restraint systems for use in motor vehicles, less than 12% of consumers register their child restraint systems with the manufacturer even though FMVSS 213, the federal standard for child restraint systems, requires manufacturers to instruct consumers to do so (See S5.6.2.2. All child restraint manufacturers currently provide registration cards enabling consumers to register their child restraint systems.

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**B. The CPSC May Not Reasonably Require Thousands of  
Unregulated Children's Product Manufacturers to Employ the  
CSRC Program Under Section 16(b) of the CPSA**

The Congress rejected a provision in the Senate Bill (S-3419) which would have authorized the Commission when promulgating a specific product safety rule to require manufacturers of the product to accumulate, assemble and maintain the names and addresses of first purchasers of the product. The rejected provisions directed the Commission to consider the burden imposed upon manufacturers or importers including the cost to consumers for the commencement and maintenance of such a program. The CSRC program urged by CFA seeks application to all children's products whether or not regulated. There are thousands of manufacturers of all kinds of products intended for use by children many of which are not regulated by a specific rule under the FHSA, the CPSA or the Transferred Acts. These include an infinite variety of sporting goods, clothing, children's accessories and shoes, books and stationery, writing implements, jewelry and items of personal adornment, and juvenile products, as well as toys. The promulgation of a CSRC rule applicable to all products of every kind or description which are intended for use by children whether or not regulated by rule under the Transferred Acts or the CPSA would be ineffective and unduly burdensome. As such, it may not reasonably be required for the purpose of implementing the Consumer Product Safety Act.

The implementation of a CSRC rule applied to non-regulated consumer products intended for use by children, in the opinion of TIA counsel, could not be used to interpret or help enforce Commission authority found elsewhere in the CPSA or the Transferred Acts. A rule that is not connected to a different enforceable rule, regulation or provision of the FHSA, the Transferred Acts, or CPSA and that is not reasonably required to implement the CPSA may not be promulgated by the CPSC. We have not located any authority permitting the Commission to impose obligations unconnected to any other CPSA or Transferred Acts provision which would permit the Commission to impose obligations on unregulated products. If any rule were to be considered by the Commission it must reasonably relate to different enforceable provisions of consumer product safety rules under the CPSA, rules classifying products as misbranded or banned hazardous substances under the FHSA or products regulated under the Transferred Acts

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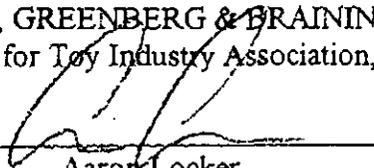
September 24, 2001  
Page Seven

Over the years the Commission has developed a variety of recall activities which can be undertaken by manufacturers to enhance recall effectiveness. There is no doubt that the Commission will continue to do so. These include but are not limited to, press releases, retail posters, video news releases, press conferences, and, in some cases, voluntary paid advertising directed to the recall of hazardous consumer products.

The CPSA does not authorize the Commission to promulgate abstract rules relating to unregulated products. The CFA petition launches the Commission toward creation of the infamous "Nanny State" and bears no reasonable relationship to those products regulated by the Commission under the CPSA, the FHSA or the Transferred Acts.

The CFA petition for a CSRC rule should be denied.

Very truly yours,  
LOCKER, GREENBERG & BRAININ, P.C.  
Attorneys for Toy Industry Association, Inc.

By:   
Aaron Locker

AL:dd

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**LOCKER GREENBERG & BRAININ, P.C.**  
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**FACSIMILE COVER PAGE**

**TO:** Office of the Secretary of CPSC

**FROM:** Aaron Locker

**DATE:** September 26, 2001

**FAX NO.:** (301)504-0127

**NO. OF PAGES (including cover): 8**

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**COMMENTS:**

E. Marla Felcher, Ph.D.  
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September 25, 2001

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

RECEIVED  
SEP 28 12 36 PM '01  
U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

**Comment on the Consumer Federation of America  
Petition Requesting a Rule Requiring Product Registration Cards  
For Products Intended for Children  
(66. Fed. Reg. 39737)**

**The CPSC's Thwarted Attempts to Improve Recall Response Rates**

(excerpt from **It's No Accident: How Corporations Sell Dangerous Baby Products**, E. Marla Felcher, Common Courage Press, 2001, pp. 91-98)

The recall notification method the CPSC most often urges companies to use is direct mail. What could be easier, the agency argues, than sending everyone who bought the product a letter? The problem is that most companies do not capture, store, and update customer name and address information for the purpose of recalls. For a number of reasons, maintaining consumer records is not a task most infant product manufacturers are willing to undertake.

In 1999, fed up with the high number of recalls and low consumer response rates, CPSC officials wondered if it was time for the government to *require* infant product manufacturers to keep track of their customers. The agency convened a one-day "Recall Effectiveness Forum" to discuss the problem.<sup>1</sup> Industry executives, consumer

advocates, and federal regulators gave prepared speeches and, in a forum that was at times quite lively, debated the pros and cons of tracking buyers of baby equipment.

CPSC officials championed the idea of Consumer Safety Awareness Cards – customer registration cards that would be packaged with frequently recalled infant products such as portable cribs, high chairs, and strollers. The idea was a simple one: Consumers would fill out their name, address, and phone number on the Safety Awareness Card, then return it to the manufacturer. The manufacturer would store the information and use it to notify consumers if the product was recalled. Registration cards would be a quick, direct way for manufacturers to reach their customers.

As soon as Chairman Brown and her Recall Compliance staff finished their opening remarks, objections to a new safety system began to fly. Manufacturers hated the idea. Rick Locker, a defense lawyer who represents the Juvenile Products Manufacturers of America, the Toy Manufacturers of America, and a host of individual manufacturers, argued: ". . . an old-style registration card, which requires consumers to actually take the card and to fill it out and to mail it back, is not necessarily or particularly going to be effective on a variety of product categories . . . it's like the old adage, 'you can lead a horse to water but you can't always make it drink.'"<sup>ii</sup> Throughout the day, Locker insisted that if manufacturers were to spend time and money on a safety card system, consumers would fail to do their part by filling out the cards. Other industry representatives echoed this prediction, until CPSC assistant executive director of compliance Alan Schoem silenced them. "Of course, this is all putting the responsibility on somebody other than the manufacturer of the product, and other than the retailer of the product," said Schoem, ". . . and what we may want to focus more on is the manufacturers' and retailers' responsibility to get recall notices out to the consumer, their customer who bought their product."<sup>iii</sup> Retailers, like manufacturers, are also hesitant to institute product registration. Why? The cost of collecting the information and sending

letters to owners during recalls would be "astronomical," explained Mallory Duncan, vice president and general counsel of the National Retail Federation. "This idea is not ready for prime time."<sup>iv</sup>

Product registration is not a new idea. In 1993, the National Highway Transportation Safety Administration (NHTSA) passed a law requiring manufacturers to include a registration card with new child car seats.<sup>v</sup> (Car seats are the only durable infant product not regulated by the CPSC.) After consumers return the cards, postage free, the manufacturer maintains their contact information for six years and notifies them in the event of a recall. The cost of this system to manufacturers is estimated to be between thirty cents and one dollar per unit.<sup>vi</sup>

The impetus for car seat registration came during the late 1980s, when NHTSA regulators realized that car seats were being recalled at a rate of 10-12 models per year, with consumer response rates as low as 20 percent. By comparison, each year the CPSC recalls about one hundred children's products (not including car seats), with consumer response rates stuck at 10-30 percent. Clearly, a strong case can be made for affixing product registration cards to other baby products.

Car seat registration was a hotly contested topic at the CPSC Recall Forum. The CPSC and consumer advocates argued that industry has an *obligation* to its customers to replicate the car-seat registration program for frequently recalled baby products. Industry representatives claimed consumers would be the weak link in such a program. Consumers, they insisted, would be suspicious of any card enclosed in a new product box, believing it to be just another marketing tool. NHTSA officials countered by revealing that 50 percent of new car-seat buyers registered their purchase. Industry representatives objected, claiming *their* numbers were closer to 20 percent. By the close of the Recall Forum, industry leaders had made their position clear: They are unlikely to institute product registration voluntarily, and if CPSC regulators push for mandatory

registration, they will ban together and put up a fight. Educating consumers on the importance of infant product registration, the manufacturers implied, is not *their* job.

"I'm having trouble finding what the downside is for manufacturers to gather this kind of information," said Sally Greenberg, a lawyer with Consumers Union, at the end of the day. "I've sat and listened patiently to manufacturers discuss this issue. But I would think, even from a product liability perspective, they would want to be able to say that they have this kind of information for purchasers of their products, they have contacted the consumers in the event of a recall, and they have really done their best to try to get that information out there."<sup>vii</sup>

When it comes to notifying the public of a product recall, the CPSC has its hands tied. By law, the agency can require a company to offer consumers a product repair, refund, or replacement – but there is no law stipulating how manufacturers must deliver this news, nor is there a requirement that the company demonstrate consumers actually hear it. As is always the case, if the CPSC thinks a manufacturer should be making a greater effort, and the manufacturer refuses to do so, the agency can sue. But to do so is a long, expensive process that the beleaguered agency can ill afford.<sup>viii</sup>

Frustrated with manufacturers' half-hearted efforts to publicize recalls, CPSC officials maintain they are doing the best they can. It's all a matter of tradeoffs, they say. When a manufacturer refuses to advertise a recall, the CPSC is forced to look for the next-best solution. If the company is unwilling to pay for advertising, but agrees to produce a video news release, the CPSC can either accept the plan, or launch an expensive lawsuit to force the company to cooperate. Reflecting on the agency's tough bind, one official said succinctly, "we trade away paid advertising."<sup>ix</sup>

"The reason [manufacturers] go into this is to make a profit," says Mary Ellen Fise, general counsel for the Consumer Federation of America. "In exchange, they have the responsibility not to injure or kill someone. Manufacturers have this enormous

responsibility, yet the CPSC can't force them to take it. The CPSC doesn't have the resources to litigate every case.”<sup>x</sup>

### **What the CPSC and Manufacturers Know about Recall Effectiveness**

There is no subject more likely to elicit excuses, finger-pointing, misleading statistics, and half-truths than the issue of recall effectiveness. The CPSC and manufacturers are equally guilty, and for good reason: Recall effectiveness is the bottom-line measure of how seriously they take infant safety. As CPSC Chairman Ann Brown has said, “The effectiveness of our recalls is really a life and death situation.”<sup>xi</sup> Each time consumer response to an infant product recall hovers between ten and thirty percent, everyone looks bad.

On the surface, figuring out whether a recall has been effective appears to be a simple calculation: Simply divide the number of people responding to a recall (by contacting the company for a product repair kit, refund, or replacement) by the number of units sold. But idiosyncrasies in the way consumers purchase and use infant products makes the calculation, known as a “completion rate” or “consumer response rate,” considerably more messy. Parents often throw away or store these products in an attic after infants outgrow them. Therefore, manufacturers argue, the completion rate should be the number of recalled products repaired, replaced, or refunded, divided by the number of products *still in circulation*, rather than the larger universe of products *sold*. The point is a valid one. But “circulation” data doesn't exist. While consumer goods marketers are adept at using sophisticated statistical models to predict product sales, they have yet to develop methods of estimating circulation rates of infant products. Manufacturers certainly have the ability to make these calculations. What's lacking is their motivation to do so.

After the fact emerged that the portable crib that killed Danny Keysar had been recalled five years before his death, a *Chicago Tribune* reporter asked Kolcraft and the

four other manufacturers that had recalled cribs with this faulty design for their consumer response rates.<sup>xii</sup> Both Kolcraft (11,600 cribs sold) and Century Products (212,000 cribs sold) claimed they didn't know how many consumers they had reached. Evenflo (1.2 million cribs sold) estimated its response rate to be 10 percent. Baby Trend's (100,000 cribs sold) rate was 17 percent. Draco (13,000 cribs sold) had gone out of business. More than one million of these deadly cribs are still unaccounted for.

The CPSC started to worry about low recall response rates in the 1970s, soon after initiating its first recall. In 1979, after CPSC commissioners voted to place the issue on their list of top priorities, Chairman Susan King created a Recall Effectiveness Task Force. Published in 1980, the Task Force's final report remains, to this day, the only comprehensive document on the topic.<sup>xiii</sup>

The bulk of the Task Force report describes the CPSC's efforts to gauge public awareness of hairdryer recalls. The agency recalled millions of hairdryers when it was revealed that they contained asbestos, a substance shown to be a serious health hazard. CPSC staff conducted telephone surveys of a randomly chosen national sample of adult consumers, as well as a sample of callers to the CPSC hotline. The study revealed the following:

- ◆ 85 percent of hairdryer owners were aware that the presence of asbestos in a hairdryer posed a health risk,
- ◆ 4.5 percent of consumers who owned the recalled hairdryers took advantage of a repair, refund, or replacement offer in response to a recall (the "completion rate"), and
- ◆ 32 percent of consumers stopped using their hairdryer when they found out it had been recalled.

This study quantified what CPSC regulators had suspected – that a sizable group of consumers continued to use recalled products even after news of a recall had

reached them. The study then posed the next logical question: *Why?* The agency discovered that "perceived seriousness" of the asbestos hazard played a key role in determining whether or not a consumer stopped using the recalled product. Apparently, the hairdryer recall notices didn't convince many consumers that the product posed a serious health risk. Given the flaccid language of present-day press releases, it is easy to understand why these consumers were unconcerned.

At about the same time Chairman King's Recall Effectiveness report was published, CPSC officials noticed that completion rates varied widely from one recall to the next.<sup>xiv</sup> Three product categories – televisions, major appliances, and lawn mowers – had completion rates of 70 percent, while the average completion rate for small electrical appliances was closer to 10 percent. The agency scrutinized 242 recalls to find out why. Their findings were unambiguous: Recalls involving *large numbers of relatively inexpensive products with a useful life of only a few years* – a category that includes almost all infant products – require "especially aggressive measures" to produce high completion rates. The most effective "aggressive measure": direct contact with product owners, either by mail, telephone, or personal visit.

Given these findings, it is not surprising that completion rates for infant products remain so low. Not only do manufacturers rarely undertake direct notification measures when a baby product is recalled, but as the Recall Effectiveness Forum demonstrated, they are quick to argue that these methods won't work.

In 1988, eight years after the CPSC's Task Force on Recall Effectiveness released its findings, economists Dennis Murphy and Paul Rubin published "Determinants of Recall Success" in the *Journal of Products Liability*.<sup>xv</sup> Using state-of-the-art statistical techniques, Murphy and Rubin identified the factors that determine whether or not a recall is effective. Like the CPSC, the economists found that recalls achieve the highest completion rates when:

- ◆ product owners are directly notified of the recall by mail,
- ◆ the manufacturer offers an in-home repair (the least burdensome remedy for consumers) and,
- ◆ the product is one that appeals to a well-defined group of consumers who tend to read the same specialized magazines and who are particularly anxious about the product's safety.

Like the CPSC's study, the implications of this research for infant product manufacturers couldn't be more clear: Simply tell consumers when a stroller, toddler bed, high chair, or portable crib is recalled – via direct mail and well-targeted ads in magazines such as *Parent*, *Child*, and *American Baby* – and completion rates will rise.

Such common-sense advice is not news to manufacturers, and it is not an accident that they choose to ignore it. Manufacturers like Hasbro could blanket the media with paid advertising when a product is recalled, but they don't. Instead, they wait until six babies have been killed by a single product, then issue a press release with the CPSC announcing a "Safe Child Reward." Manufacturers like Evenflo could use strong, clear language in recall press releases, but they don't. Instead, they choose to blame parents for product failures, and, in the case of its defective infant carrier, resist the CPSC's efforts to notify parents of the product's danger.<sup>xvi</sup> Manufacturers like Baby Trend could offer consumers a full refund when a product is recalled, but they don't. Instead, they wait until a child is killed, then offer parents a \$5 "free gift." The manufacturers' trade organization, JPMA, could urge its members to enclose product registration cards with their products, but it doesn't. Instead, their lawyer argues that registration cards are a bad idea because consumers will fail to return them. In sum, the infant product industry could spend as much effort getting recalled products out of circulation as it does getting them onto store shelves and into homes, but it doesn't.

Why? Because recalls are bad for business. For the manufacturers, concern for infant safety is a noble goal, but only to the extent that it contributes to the bottom line.

It is time for CPSC to pass a rule that requires manufacturers to enclose a product registration card in all products intended for children. Under the current system, manufacturers profit from the sale of these products, yet incur too few costs when a child is injured or killed.

Respectfully,



E. Marta Felcher, Ph.D.

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<sup>i</sup> Transcript, CPSC Recall Effectiveness Forum, March 23, 1999.

<sup>ii</sup> Ibid, pp. 25-26.

<sup>iii</sup> Ibid, p. 32. Alan Schoem is the brother of Marc Schoem, CPSC Director of Recalls and Compliance.

<sup>iv</sup> Jayne O'Donnell, "Tracking Buyers Critical to Product Recalls: Federal Policy Considered," *USA Today*, November 12, 1998, p. 6B.

<sup>v</sup> Transcript, CPSC Recall Effectiveness Forum, March 23, 1999, p. 49.

<sup>vi</sup> Ibid, p. (on cost).

<sup>vii</sup> Ibid, pp. 157-158.

<sup>viii</sup> Fise, August 10, 1999.

<sup>ix</sup> Anonymous CPSC regulator. Interview with author, July 19, 1999.

<sup>x</sup> Fise, August 10, 1999.

<sup>xi</sup> Transcript, CPSC Recall Effectiveness Forum, March 23, 1999, p. 5.

<sup>xii</sup> Jon Bigness, "Boy's Playpen Death Spurs Recall Efforts, Second-Hand Sales Also Targeted," *Chicago Tribune*, June 15, 1998.

<sup>xiii</sup> "Report of the Recall Effectiveness Task Force of the Consumer Product Safety Commission," August 25, 1980.

<sup>xiv</sup> Loren Lange, "Recall Effectiveness Study," Office of Strategic Planning, Consumer Product Safety Commission, May 1978. Also see: N. Craig Smith and John A. Quelch, "Managing Product Recalls," *Ethics in Business*. Homewood, Il.: Irwin, 1993, pp 359-385.

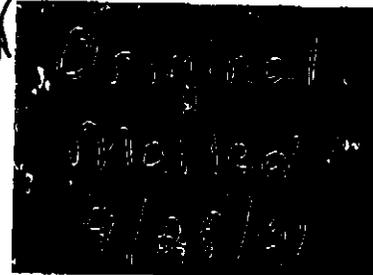
<sup>xv</sup> R. Dennis Murphy and Paul H. Rubin, "Determinants of Recall Success Rates," *Journal of Products Liability*, 11, 1988, pp 17-28.

<sup>xvi</sup> "Firm Resisted Seat Recall, U. S. Says," *Los Angeles Times*, March 6, 1998, p. D3. Sue Lindsay, "Playpen Maker Won't Recall Product in Death of Baby," *Denver Rocky Mountain News*, November 4, 1994, p. 28A.



Springs Industries, Inc.  
P.O. Box 70  
Fort Mill, SC 29716

*Prod  
Recall  
Comment*



September 27, 2001

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

Dear Office of the Secretary:

**Re: Petition CP 01-01 Petition for Product Registration Cards**

On behalf of Springs Industries, Inc., I am writing to express strong opposition to the proposal from the Consumer Federation of America to require a Consumer Registration Card for Products Intended for Children.

Springs Industries is a leading home furnishings company with annual sales of \$2.3 billion. In addition to our extensive product offerings in bedding, bath, rugs, and window products, we operate the Springs Baby Products Division. This division markets baby products including baby underwear, sleepwear and towels, as well as blankets and other home textile products to dress the crib and decorate the nursery.

Primarily, our baby bedding products are manufactured in our domestic facilities, and we import the apparel products. We adhere to high safety and product quality standards. We are involved with trade organizations, such as American Apparel Footwear Association and the Juvenile Products Manufacturing Association, to continue to ensure product safety.

We oppose this proposal because it would have a negligible impact in promoting safety and add undue expense for manufacturers, importers and retailers. We believe this proposal delivers marginal benefit to consumers at significant costs to them.

Product recalls for apparel are already handled in a fairly effective manner. First and foremost, apparel companies do their utmost to ensure compliance with the pertinent regulations, including flammability, drawstrings, and lead paint in components like snaps. In those rare occasions where a potentially unsafe clothing product or defect does appear in the marketplace, manufacturers and retailers swiftly take those steps necessary to recall the product at the various stages of the distribution chain.

Garments already carry a number of hang tags and other labels that convey important consumer, safety, care, and origin information that is deemed important by Congress or federal



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agencies, including the CPSC. The addition of a product registration card to each garment would interfere with these federal markings, including safety markings for children's snug fitting sleepwear, increasing the likelihood that none of these messages would be read or understood at the point of purchase.

Customers, especially for infant clothing, are generally not interested in returning product registration cards for such products, primarily because of the perception that many of these products will be short lived or because they are relatively inexpensive. Even though the cards would be postage paid, customers are still not likely to go through the hassle involved in filling out and returning such cards. Similarly, even though the cards would state that the information would be used only in the event of a recall, customers are not likely to risk what many will perceive to be a loss of privacy to provide such information to the retailer or manufacturer.

In addition, experience with similar exercises, which often carry an inducement for the consumer to return the requested information, yields extremely low return rates, typically less than 5%.

The proposal requires, for the small percentage of cards actually returned, that the manufacturer retain the cards on file for 20 years or the useful life of the product, whichever is longer. The estimated life of the product is a maximum of one year, as the newborn child will soon outgrow our size-specific garments. If handed down, it is highly unlikely that any registration cards would accompany those garments. The typical avenues for hand-me-downs—flea markets, yard sales, church bazaars, and Goodwill—cannot readily accommodate registration cards. Consequently, firms will be maintaining information for decades relating to goods that will never be subject to a recall.

Even if consumers do return these cards at a reasonable rate, we are unsure how this will significantly improve recalls. Currently, consumers find out about recalls through a variety of information sources. Typically, they may see something in USA Today, hear the CPSC Chair speak about a product on The Today Show or local news, and examine whether the similar product they use is covered by the recall alert. Supplementing those sources with the product registration card system will not necessarily reach more consumers than these existing and relatively effective channels.

For example, over the minimum 20-year period, many of the address cards will become outdated as people move from one place to another. According to the U.S. Census, 16-17 percent of the U.S. population moves every year. Given the mobility of the U.S. population, over a 20-year period, the freshness of the information in the database will be greatly reduced.

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The CPSC should also exercise caution in weaning the public away from the traditional methods of recall alerts that it has worked so hard over the past few years to develop. Individuals who fill out a registration card may start to "tune out" existing types of recall alerts unless the company specifically notifies them (even if the recall covers the product they have purchased). Then, if the recall notice generated by the product registration database fails (because the data was lost, the card was never received, etc.), the consumer may never receive the information.

While it is unclear if there would be benefits, it is clear that there would be substantial costs associated with this program and could be as significant as doubling the cost of the product.

Our conclusion is that, if this proposal is accepted by the CPSC, companies would incur significant costs to produce and distribute accurate product registration cards, and a burdensome task and cost of maintaining a database over a twenty-year period—a database that will be quickly rendered useless due to minimal returns of cards, household moves, and the short lifespan of these products. The vast majority will simply throw these cards away upon opening the package. In the end, such an initiative would do very little to improve consumer safety.

We strongly object to this proposal and urge the CPSC to dismiss the petition.

Sincerely,



Kevin Carlisle  
Vice President/ General Manager  
Baby Products Division



KIDS IN DANGER<sup>SM</sup>

A nonprofit organization  
dedicated to protecting children by  
improving children's product safety

September 27, 2001

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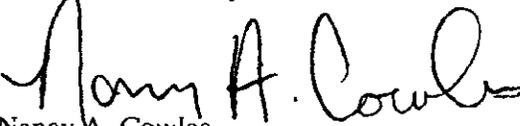
**Re: Comment on Petition CP 01-01 for Product Registration Cards**

Kids In Danger urges the US Consumer Product Safety Commission (CPSC) to draft rules to require Product Registration Cards for products intended for children. We believe that this one simple step will aid in developing a more effective recall process.

Currently, some companies have product registration cards, but clutter the cards with so much extraneous and intrusive marketing questions that many people do not return the cards.

We would ask that along with requiring the cards, that CPSC require that:

- The information on the cards is only used to forward safety information to purchasers.
- The cards should have postage paid by the manufacturer not the consumer. This will increase return rate of the card
- The information be retained for 20 years or the useful life of the product – whichever is longer.
- Information on the card should include the name and model number of the product.
- The rule should require manufacturers to report to CPSC on the return rate of the cards
- The rule should require the use of information from the cards to send letters about any recall.

  
Nancy A. Cowles  
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DON'T LEARN ABOUT RECALLS FROM YOUR BABY

*Product  
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Cards*

*Prod  
Regs  
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Comments 12*



**American Apparel & Footwear Association**  
**the fashion association**

BEFORE THE CONSUMER PRODUCT  
SAFETY COMMISSION

In re Petition Requesting Rule \*  
Requiring product registration \* Docket No. CP-01-01  
Cards for Products Intended \*  
for Children \*

**COMMENTS OF AMERICAN APPAREL AND  
FOOTWEAR ASSOCIATION**

The American Apparel and Footwear Association (“AAFA”) respectfully submits the following Comments in response to the Petition Requesting Rule Regarding product registration cards for Products Intended for Children (CP 01-01), filed by the Consumer Federation of America (“CFA”).

I. INTRODUCTION

AAFA opposes the issuance of the requested rule, especially as applied to products such as children’s apparel and footwear. The rule would be inappropriate for such products for several reasons. First, the Commission’s own previous studies of recall effectiveness suggest that children’s apparel and footwear are poor choices for mandatory

product registration cards because their relatively low cost and perceived shorter product life spans would lead consumers to use the cards far less often than they might for other kinds of products. Second, children's apparel and footwear typically do not pose inherent risks of danger to children. As a result, the recall remedy for these products is a far less important method of preventing accidents than it is for more inherently dangerous products. Third, the rule would impose significant costs on consumers and manufacturers. These costs would not be limited to financial costs passed on to customers of children's products. For example, a potentially significant cost would be the risk that, by failing to limit its focus to inherently dangerous and often unregulated products, the rule would desensitize consumers to the importance of returning registration cards, or heeding other recall warnings, for products that pose higher risks of injury. This would dilute the rule's effectiveness in preventing accidents due to unsafe products.

The Petition contains no reliable data suggesting that such product registration cards would prove effective. As such, it fails to demonstrate--at least with respect to children's apparel and footwear--that the requested rule "is reasonably necessary to eliminate or reduce the risk of injury." 16 C.F.R. Section 1051.9. In addition, AAFA submits that there is a serious question as to whether Section 16(b) of the Consumer Product Safety Act even authorizes the Commission to issue such a rule when Section 16(b) states nowhere that product registration cards may be required.

For these reasons, AAFA believes that the Commission should refrain from beginning a rulemaking based upon the Petition. At a minimum, if the Commission does begin a rulemaking, it should expressly exclude products such as children's apparel and

footwear from the rulemaking, and should proceed only for those children's products that impose an inherent risk of danger to children and that are not currently subject to required pre-distribution safety testing.

## II. IMPOSING A REGISTRATION CARD REQUIREMENT ON CHILDREN'S APPAREL AND FOOTWEAR WOULD BE BAD POLICY.

### A. The Available Evidence Suggests That Mandatory Product Registration Cards Are Unlikely To Increase Recall Effectiveness Materially For Products Such As Children's Apparel And Footwear.

The available evidence suggests that product registration cards would probably not materially improve recall rates for products such as children's apparel and footwear. Several studies of factors influencing recall effectiveness have been conducted by the Commission and others at least as far back as 1978, including several ongoing studies involving manufacturers in a variety of industries. No clear link has been established between the use of product registration cards and improved recall effectiveness. Moreover, as discussed below, the available data suggest that relatively inexpensive products with perceived shorter product life spans – such as children's apparel and footwear – would be especially poor candidates for mandatory product registration cards.

#### 1. The CFA Petition Contains No Evidence Linking Product Registration Cards With Improved Recall Effectiveness.

##### a. The Petition Fails to Establish a Convincing Link

Without offering any new empirical data, the CFA Petition asks the Commission simply to *assume* that the use of product registration cards would facilitate direct-to-consumer recall notification and would therefore improve recall effectiveness across all categories of children's products. The Petition takes no account of the wide variety of

differing risks presented by different products. Instead, the Petition simply asserts that mandatory product registration cards for all children's products would "be very effective in enhancing recall participation." Pet. at 7. But instead of providing any evidence to support this assertion, the Petition relies upon several outdated secondary sources that merely discuss the potential advantages of direct notification of consumers, without providing any underlying evidence suggesting that product registration cards are a cost-effective means of increasing such notification. Pet. at 6, nn.12-13.

In fact, the secondary sources relied upon by the Petition confirm that the issue of recall effectiveness is not nearly as simple as the Petition would make it seem. Indeed, as one commentator notes, many consumers do not respond to recalls even when they learn about them.<sup>1</sup> Also, the sources the Petition relies upon make it clear that any effort to improve recall effectiveness must take careful note of distinctions between particular categories of products. For example, a 1982 OECD Report<sup>2</sup> suggests that direct notification of consumers tends to be more effective for "large, bulky, or expensive items." Id.<sup>3</sup> Similarly, the article by Richard J. Tobin,<sup>4</sup> notes that "the cost of an item and its relative longevity seem to be important" in influencing recall effectiveness.

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<sup>1</sup> Harland W. Warner, "Recall Effectiveness and the Communications Clutter," Public Relations Quarterly, Fall 1980 at 21-22.

<sup>2</sup> Recall Procedures for Unsafe Products Sold to the Public, Report by the Committee on Consumer Policy, Organization for Economic Cooperation and Development (1982) (hereinafter "OECD Report")

<sup>3</sup> The full quote reads as follows: "In circumstances in which all or most of the users of the defective products can be identified, such as in cases involving large, bulky, or expensive items, direct notification of consumers is preferable, although this does not necessarily preclude the use of the media." Id.

<sup>4</sup> "Recalls and the Remediation of Hazardous or Defective Consumer Products: The Experiences of the Consumer Product Safety Commission and the National Highway Traffic Safety Administration," 16 Journal of Consumer Affairs 277, 295 (1982)

The reason neither the Petition nor any of the secondary sources it relies upon is able to cite any data establishing a convincing link between product registration cards and recall effectiveness is because no such data exists. Neither the CPSC's 1978 Study nor its 1980 Study<sup>5</sup> established such a link. As discussed in more detail below, the results of several ongoing studies being conducted by manufacturers in a variety of product categories have likewise failed to establish a link and have achieved decidedly mixed results to date.

b. The Commission Staff's Recent Briefing Package Also Fails to Establish a Convincing Link.

The Briefing Package distributed to the Commission on June 19, 2001 likewise fails to link product registration cards with improved recall effectiveness. The Briefing Package includes a Draft ANPR requiring that manufacturers of countertop appliances and juvenile products include "Product Safety Owner Cards" and maintain records for consumers returning such cards. The Briefing Package then refers variously to "previous Commission research" and "anecdotal [sic] data," Briefing Package at 1, as support for the effectiveness of product registration cards. However, as the Briefing Package recognizes, one of the most important initiatives that may provide useful information in this regard – the NHTSA Child Safety Seat Registration Program – has not yet been completed and its results are not yet known. The Commission should not begin a rulemaking on product registration cards that would apply to children's apparel and footwear because the available data suggest the rule would have little impact on such products.

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<sup>5</sup> "Report of the Recall Effectiveness Task Force of the CPSC," (August 25, 1980)

Voluntary initiatives are either underway or being considered by Toro, Whirlpool Corporation, and Mattel, (manufacturers of garden machinery, swimming pools/spas, and toys, respectively). See Draft ANPR (included in Briefing Package) at 10-11.<sup>6</sup> In addition, a new internet company known as Brandstamp has begun offering on-line product registration service that gives on-line shoppers the option of submitting their contact information at the same time they purchase products in order to receive warranty information, recall notices, and exclusive offers from the product manufacturer. Briefing Package, Tab B at 6. Only the Toro and Whirlpools programs appear to have resulted in any reviewable data as yet, although their data apparently remains incomplete. Preliminary data exists for the Brandstamp service.

According to the Briefing Package, Tab B at 5, Toro's program consists of a system under which products such as tractors, lawnmowers, and snow-throwers, are sold with postage prepaid registration cards. Smaller products, such as electric trimmers and blowers, are sold with a non-postage prepaid registration card with a different format from the one used with the larger products. The return rate is 85% for an unidentified subset of product sales,<sup>7</sup> but that rate drops to 10%-20% for smaller products

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<sup>6</sup> AAFA is also aware of an independent task force that plans to report to the CPSC in October 2001 on whether a database of consumer purchase data could increase recall response rates without compromising consumers' privacy. AAFA does not know the details of this task force's study or whether it has reached any tentative conclusions. See "Recall Database Task Force Will Give Recommendations in October," 30 Product Safety Letter No. 32 at pp. 2-3 (Aug. 20, 2001).

<sup>7</sup> The Briefing Package identifies the types of establishments involved in the class of sales yielding this response rate as "specialty outdoor power products retailers." Draft ANPR at 10.