



UNITED STATES
CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

STATEMENT OF THE HONORABLE THOMAS H. MOORE
ON THE VOTE TO REAFFIRM THE RETAILER COMPLIANCE DATE FOR THE
NEW MANDATORY SAFETY STANDARDS FOR FULL-SIZE AND NON-FULL-SIZE
CRIBS AND TO GRANT ADDITIONAL TIME FOR COMPLIANCE WITH THOSE
STANDARDS TO COMPANIES WHO PROVIDE SHORT-TERM CRIB RENTALS

June 16, 2011

In July of last year, the Commission issued proposed rules on full-size and non-full-size cribs. The proposed compliance date for manufacturers and retailers was six months after the date of publication of the final rules in the *Federal Register*. Six months is the typical amount of time the Commission gives companies to come into compliance unless any of the affected parties make a case during the comment period for a longer or a shorter compliance period. Neither the manufacturers nor the retailers raised concerns about the compliance date and when the rule became final in December of last year, it contained the six-month compliance date.

We expect companies to comply with the Commission's rules. Each affected party must plan accordingly. In this case it appears that the vast majority of retailers did plan and are ready to comply by the June 28th date. In a rule of this magnitude, it is expected that there will be some market disruption and that some companies will experience economic loss. We have heard from a few retailers who have noncomplying cribs left in inventory and want to continue selling them. There is little that we know about the noncomplying cribs these retailers want to sell or about the reasons the retailers find themselves with noncompliant inventory. However, there is much that we don't know. When were these cribs made? Who made them and where? Who tested them and when? What standard were they tested to? When were they ordered? Did the quantity ordered take into account the looming effective date of the new crib standards? Were retailers buying imported noncomplying cribs at fire sale prices to try to make a profit before they had to start buying more expensive cribs that met the new standards? Will retrofit kits be available to bring the cribs into compliance? We simply do not know.

Moreover, we have heard from retailers who have taken steps (often at significant financial cost) to eliminate noncomplying cribs from their inventory and are anxiously awaiting June 28th so they can begin selling cribs that fully comply with the new standards. The Commission should not visit further economic harm on these retailers. They did what was expected of them and many have already suffered financially to accomplish that. The Commission should not risk visiting further economic harm on these retailers by granting certain of their competitors the ability to sell noncomplying cribs at reduced prices after June 28th.

Congress felt so strongly about the need for infants to be in the safest cribs that can be made that it took the extraordinary step of prohibiting the sale of cribs that did not meet the mandatory crib standard after the compliance date in the standard. Normally, the Commission's rules only apply prospectively to products made after a standard becomes effective, but in this

instance there can be no selling of new noncomplying cribs after the compliance date, even if they were compliant with the voluntary standards in effect when they were manufactured. Congress also had us bypass the normal rulemaking process, which can be very time-consuming and which would have required the Commission to do a cost/benefit analysis. These congressionally-dictated changes to the normal rulemaking process, in and of themselves, should give us tremendous pause in allowing cribs that do not meet the new mandatory crib standards to continue to be sold. In any event, I do not believe that the record supports an across-the-board change to the compliance date that would apply to all retailers and our staff is not recommending such a result.

Staff has, however, recommended that we grant relief to the short-term rental companies who typically provide non-full-size, folding cribs to travelers. It does appear more logical to group them with the hotels and motels and other places of public accommodation that were granted extra time to replace their existing crib inventory in the final rule given that they are similarly situated. In fact these rental companies often supply the cribs for some of these hotels and motels. These are not new cribs that are being put into the stream of commerce to be used in homes for years, perhaps even for decades. These are existing cribs that will **all** have to be replaced with new compliant cribs by the end of next year.

For all of these reasons I have voted not to extend the compliance date for retailers, but have voted to extend the compliance date for short-term crib rental companies.