

March 28, 2018

Office of the Secretary  
Consumer Product Safety Commission  
Room 502  
4330 East-West Highway  
Bethesda, Maryland 20814

Comments of Nancy Cowles, Executive Director  
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To the U.S Consumer Product Safety Commission on  
“Agenda and Priorities FY 2019 and FY 2020”

Thank you for the opportunity to submit comments on the CPSC’s agenda and priorities for FY 2019 and FY 2020. Kids In Danger (KID) is dedicated to protecting children by fighting for product safety. Our mission is to save lives by enhancing transparency and accountability through safer product development, better education and stronger advocacy for children.

KID has been presenting testimony at these hearings for many years. You can expect us to reiterate some of the same issues we have in past years – recall effectiveness, Danny’s Law, SaferProducts.gov and more. But if you leave today with a key message from KID it is this: Innovation, Regulation, and Transparency. You’ll hear these themes throughout my testimony

### First, **Mandatory Standards**

Through the implementation of the Consumer Product Safety Improvement Act (CPSIA) and Danny’s Law, the CPSC has successfully developed strong mandatory standards for 19 types of durable infant and toddler products –leaving just six from the list.

But this year is CPSIA’s 10 year anniversary – a decade after passage of this landmark legislation, consumers still have no assurance that booster seats, high chairs, gates, changing tables, inclined infant sleepers and stationary activity centers are tested for safety to a strong standard before they reach store shelves. And that is without even talking about products such as baby nests, crib hammocks and other potentially hazardous products that have entered the market and are not covered by any standard. Last year, I specifically mentioned the delay in the high chair standard -- there were then 11,000 emergency room visits for injuries associated with high chairs in that year’s annual Nursery report. This year, it is up to 13,000 injuries. While a strong standard won’t

eliminate all injuries, we have seen with other products that it makes a difference. It is coming up on three years since the NPR, time to take action and get a standard on the books.

We appreciate the amount of time, energy, research and knowledge that CPSC staff dedicate to this task. We urge the CPSC to continue to prioritize this work, giving staff the time, resources and support they need to develop strong standards that will reduce injuries and deaths from nursery products.

ASTM International, the voluntary standards organization, is responding to the CPSC's Notice of Proposed Rulemaking on crib bumper pads by looking at firmness, breathability and other measures, we still support a ban of padded crib bumper pads. The American Academy of Pediatrics has a strong recommendation against using crib bumper pads. One of the most common question posed to KID at our parent and caregiver trainings is why bumpers continue to be in stores and for sale online when they are unsafe. The amount of time and money going into designing a possible test method for these unnecessary products would be better spent joining Maryland, Ohio, the city of Chicago, and most state child care regulators in the country in banning the sale of padded bumper pads. A standard that doesn't fully address the risk and gives a false sense of safety to parents is more dangerous than no standard. As the state prohibitions on bumpers exclude mesh liners, the CPSC should review data to assure the public that these products are indeed not involved in suffocation deaths or near misses.

Further, we believe that the CPSC should seek to include in Section 104 rulemaking all durable infant and toddler products. Parents should have confidence that all the durable infant and toddler products – not just those that were commonplace when the bill was adopted -- are safe.

### **Product Registration**

As part of CPSIA, the Danny Keysar Child Product Safety Notification Act requires companies to provide prepaid product registration cards in a conspicuous location and a way to register online. The information gathered must only be used to notify the consumer in the event of a recall or safety notice. Direct notification is key to effective recalls and more should be done to encourage completion of registration by consumers, both for new products and ones they purchase on the secondhand market. While CPSIA requires the card and online site at a minimum, companies should be encouraged to innovate and add other methods such as scanning an icon or bar code on the actual product, or partnering with technology companies that have new methods to gather registrations. The CPSC should research and make public registration numbers, return ratios and recall impact.

### **SaferProducts.gov**

The CPSIA also charged the CPSC to create a product database for consumers incident reporting. **SaferProducts.gov** is the result of this mandate. According to recent data from the CPSC, there have been over 35,000 reports made to SaferProducts. Information from last year showed that an average of 800,000 visits to the site occur each year. It is an invaluable resource for safety, and should be marketed widely to increase its usefulness. It is discouraging but not surprising that the number of reports has dropped every year since 2012. We see little effort to publicize the database. Most of the company comments on the site appear to discourage use of the database and suggest reports to the company instead – where it will not be made public. The CPSC should prioritize using low-cost efforts to increase the database’s visibility and use as presented in the 2016 report by Consumer Federation of America and released with KID and other groups including efforts to add more reports to the public database.

### **Transparency**

The development of SaferProducts.gov was in part, a compromise on transparency in the Consumer Product Safety Improvement Act. Consumer advocates and others were calling then for a repeal of section 6(b) of the Consumer Product Safety Act. Section 6(b) restricts the CPSC’s ability to warn the public about product hazards and keeping consumers in the dark about dangerous products they have in their homes and use daily with their families. Parents should not have to wait until a full recall effort is complete before learning their child is sleeping in a deadly crib, playing with a lead-tainted toy, or riding in a stroller prone to losing a wheel.

KID’s most recent recall report, which evaluates recall effectiveness in 2016 by looking at ‘required’ Monthly Corrective Action Plan Reports received through FOIA requests, shows - nothing... Because of the over-use of Section 6(b) protection, many of the reports we received are basically blank – every drop of information is redacted. That includes already public information such as social media postings and the number of products in the recall. This is on top of many other reports that have many missing months or data fields, mathematical errors that prevent any real review or are simply never filed.

We urge the CPSC to require companies to comply with the CPSA, including Section 6(b) by not allowing it to become a blanket protection for any public accountability.

### **Recall Effectiveness**

A lot of work appears to go into announcing a recall. However, we must stop thinking that is the goal. Removing unsafe products from consumer use is the goal.

Innovation is needed in the area of recall effectiveness. What we – you – are doing now with recalls is not working. From what we can gather from sparse data, the effectiveness rate has not changed significantly since KID first started working on the issue in 1998 – despite mindboggling changes in communication channels and tracking possibilities.

Much of the burden from recalls falls on consumers – listening to the news, filling out forms, waiting for and installing repairs. However, consumers are not the ones responsible for recalled products. This imbalance of burden and responsibility should be corrected.

Benchmark requirements for notification measures such as using registration card data and social media, and outcome measures such as capture rate should be developed and enforced. Consumers deserve to know how effective companies are at retrieving dangerous products. KID recommends (again) an annual report to Congress on all open recalls with the current capture rate and action taken outlined. That simple step will encourage manufacturers to improve their own numbers in those reports. While efforts are underway to make the Monthly Corrective Action Plan Reports public – it carries a prohibitive caveat – if the company wants it to be public. Our research shows those companies that allow public posting will be few and far between – and not the ones that really need public scrutiny to do a better job.

We applaud the CPSC action to begin the mandatory recall process on Britax B.O.B. branded strollers involved in dozens of injuries. This is one of the tools in the CPSC’s arsenal to protect consumers that is used too rarely. While it may not lead to a recall for a period of time, it does give consumers information previously hidden through Section 6(b) that they can use to protect their families.

### **Safe Sleep Environments**

Among children’s product safety issues, a safe sleep environment is an overriding concern to KID. Suffocation – most of it in a sleeping environment – is the leading cause of unintentional death in infants. Danny Keysar died in a recalled portable crib. Whether they are bassinets, portable cribs, play yards, cribs, or some newly designed product or accessory, sleep products must meet the highest standards for safety. These products are intended to be safe for a child even without an adult in direct supervision. The number of sleep related deaths in infants is too high and is not showing signs of decreasing – it is a public health emergency.

The CPSC should continue their work to develop standards for all sleep products and make it a priority within the Small Business Ombudsman’s office to provide outreach and vital product safety information to companies producing these products.

## **Furniture Tip Overs**

In 2016, KID worked with Shane's Foundation to review data and testing results for furniture stability. This year, Consumer Reports has also released new report on this issue and the CPSC has done its own testing. Here is what we would hope the CPSC would focus on in 2019 and 2020.

- Continued CPSC participation and leadership in ASTM committee to push for a stronger standard, including an increase of the testing weight to 60 pounds.
- Recalls of products that do not meet the ASTM standard
- Strong education messages for furniture already in homes to be anchored
- Evaluation of the #AnchorIt campaign to see measurement of changes in behavior. It is troubling that incidents have increased during the time #AnchorIt was running.
- Working with IKEA and other recalling companies to do effective recalls.

## **Pacifiers**

Pacifiers are an integral part of baby care — a soothing product that is beneficial to infants. The American Academy of Pediatrics (AAP) has even suggested pacifiers may [reduce the risk of SIDS](#). Yet a look at SaferProducts.gov reports shows incident and injury reports that raise questions as to whether a review of pacifier safety standards is required.

## **Ingestion Hazards**

Parents are usually well aware of choking hazards. Ingestion hazards are less understood but present clear dangers. These include button cell batteries, laundry packets, small powerful magnets, liquid nicotine and certain polymer balls that expand with fluid. Serious internal injuries, poisoning and death can be the result. In addition, as wearable technology and smart products multiply, there could be emerging hazards we have yet to identify. The CPSC should encourage manufacturers to use technologies that eliminate or further ameliorate the ingestion risk of these hazards.

## **Window Coverings**

The CPSC has been working to reduce the strangulation risk inherent in window coverings for decades. With the new voluntary standard eliminating cords in stock items, it is showing progress. Now the CPSC must continue to work to cover all window treatments and enforce the voluntary standard or adopt a mandatory one.

## **Small Parts Hazards**

Choking on small parts of toys and other consumer products is one of the leading causes of death and injury for infants and toddlers. The current method for testing small parts, the small parts test fixture, is not optimally designed to prevent dangerous toys from being sold to consumers. In a

peer-reviewed report published in the International Journal of Pediatrics, KID found that a review of the size of the small parts test fixture is warranted to better protect children.

**Conclusion**

Again, thank you for the opportunity to provide comments. We look forward to working with the CPSC in addressing these concerns and others that may arise.