



**Comments of Nancy A. Cowles
Executive Director, Kids In Danger**

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

**Comments of Nancy A. Cowles, Executive Director, Kids In Danger
To the U.S. Consumer Product Safety Commission on “Agenda and Priorities FY 2021 and FY 2022**

Thank you for the opportunity to submit comments on the U.S. Consumer Product Safety Commission’s (CPSC) agenda and priorities for FY 2021 and FY 2022. 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.

Here are KID’s recommendations for agenda and priorities in the coming years:

COVID-19 and Product Safety

As with almost everything else, COVID-19 has and will continue to have a profound effect on product safety. All CPSC staff is working remotely, testing in the lab has been halted and CPSC personnel are not at the ports. It is unclear what impact it is having on incident investigations or field investigations of dangerous products. Recalling companies are unable to respond to requests for repair kits, refunds or replacement products, increasing the likelihood at least some of those recalled products will remain in use.

With remote working and schooling accompanied by social distancing and quarantines, it is also inevitable that children are more likely to be injured with common household hazards including tipping furniture, ingestion hazards such as magnets, laundry packets, and button cell batteries, as well as window cords, falls from windows, small parts, and more. We urge the CPSC to both find ways to gauge and evaluate injury rates in a timely manner as well as develop plans to mitigate these risks with education, stronger enforcement and strengthened standards.

Adequate Funding to Fulfill Mandate

There is one point all stakeholders agree upon – the CPSC does not have adequate resources to fulfill its mandate of protecting consumers from unreasonable risk of harm. To oversee imports at our ports, follow up on reports of harm, develop and enforce strong standards, conduct robust recall activities and reach consumers with important safety information, we would urge the CPSC to request and Congress to grant a budget of no less than \$350 million. We believe that for too long this agency has

been forced to compromise on the safety of consumers, especially children, based on funding. Fully funding the agency will pay off in the long run in reduced health care costs and lost income from preventable injuries.

Danny's Law and Durable Infant and Toddler Product Standards

Through the implementation of the Consumer Product Safety Improvement Act (CPSIA) and Danny's Law or Section 104, the CPSC has successfully developed strong mandatory standards for 23 types of durable infant and toddler products.

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. Because ASTM standards are such a key part of the Section 104 process, we also urge the CPSC to fully vest the staff attending meetings to give strong guidance based on their research and data on the approach that will be most protective of children, including voting on key ballots.

There are three open rule development processes— Expansion Gates and Expandable Enclosures, Crib Bumpers/Liners, and Infant Sleep Products. We applaud the efforts that the CPSC has taken to strengthen these standards to protect children and encourage work to continue to publish final rules soon.

The Notice of Proposed Rulemaking (NPR) on Infant Sleep Products, expanding the previous proposed standard addressing infant inclined sleep products to include all infant sleep products not currently covered by another standard is a step KID has urged for many years. Any product intended for infant sleep should not be sold without meeting a mandatory standard. Parents assume that all infant products are tested to a strong standard and yet new sleep products enter the market continuously without any standard. Having a standard in place that eliminates many hazards such as inclines over 10° is a great step forward for safety. We hope that the CPSC will prioritize eliminating unsafe infant sleep products such as inclined sleep products and recalling any that remain in homes or on the market. In addition, guidance should be added to the CPSC's Small Business Guidance webpage to discourage small companies from entering this market, unaware of the research that has found this type of product unsafe. Currently, when a user selects "infant inclined sleep product" as the type of product in the Regulatory Robot, the information refers to the ASTM standard and says a mandatory standard is coming soon. There is no word at all of the danger that these products pose.

KID has also been urging a ban on padded crib bumper pads for over a decade. We believe the current NPR adopted unanimously by the Commission provides a pathway to eliminating padded crib bumpers that pose a suffocation risk from the market. KID will submit comments on the NPR separately. While work is being done to look at appropriate airflow tests and other details, we urge CPSC staff to continue to review injury and death data both for padded bumpers and mesh liners to assure the final rule will protect against all known hazards of these products. A standard that doesn't fully address the risk and gives a false sense of safety to parents is more dangerous than no standard.

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 are safe. This will require the CPSC to evaluate new products as they enter the marketplace or preferably, develop standards that would apply before new untested products could be sold.

Product Registration

As part of the 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. Almost all stakeholders agree that direct notification is key to effective recalls. While the CPSIA requires the card and online site at a minimum, we ask the CPSC to work with stakeholders to innovate new and more effective forms of registering, or using existing lists of product owners such as those held by retailers, company loyalty programs, and other data to reach consumers directly. It has been over 10 years since this requirement was implemented. KID and Parents Against Tip-overs recently conducted a survey and found that 46% of respondents said they would be more likely to fill out a product registration card if it were emailed to them and another 34% said they would be more inclined to register their product if it could be done at the time of purchase. In the coming year, the CPSC should evaluate data from recalls conducted since that implementation to determine its effectiveness and barriers to direct notification. This would include data on registration cards returned/online registrations, efforts to use the data during recalls and any obstacles, results of various types of recall participant responses and efforts by companies to increase registration numbers. The resulting research should be publicly available to encourage others to develop new approaches as well.

Recalls

Since 2001, KID has been reporting on children's product recalls annually. Last month, we released our report on 2019 recalls. We found that children's product recalls have seen a downward trend over the past ten years.¹ Although the number of recalls in 2019 is slightly higher than in 2018, the number of recalls is still lower than every other year that KID has collected data. Our research found that 2019 had the highest number of reported deaths associated with recalled products in the 19 years KID has analyzed data. Thirty-seven of the 38 reported deaths were due to recalled infant inclined sleep products – the Fisher-Price Rock 'n Play and Kids II rocking sleeper. The CPSC only posted 52% of children's product recalls on its Facebook page, 59% on Twitter, and a mere 5% on Instagram. KID recommends that the CPSC post all recalls on social media in order to increase recall effectiveness.

The goal of a recall is to remove unsafe products from consumer use.

Innovation is needed in the area of recall effectiveness. Right now, 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. The CPSC should work with stakeholders to build on past efforts and keep moving the needle towards effective recalls.

¹ <https://kidsindanger.org/wp-content/uploads/2020/03/Seeking-Safety-2020.pdf>

Some Monthly Corrective Action Plan Reports are aggregated and posted on the CPSC website, but posting is voluntary and only a fraction of recalls are included. It provides little insight into recall effectiveness. Since our testimony last year, only two children's products have been added to this database (last updated 3/30/20) despite 70 children's product recalls in that time.

SaferProducts.gov

One of the most innovative new tools required by the CPSIA is a product database for consumers' incident reporting. **SaferProducts.gov** has great potential to educate consumers on hazards and recalls as well as provide vital information to the CPSC and manufacturers about product hazards. We have seen new links on the CPSC website on each page to both report and review incidents. More should be done to analyze the data on the site and share the resulting reports with the public. Last fall, I participated in a panel at the International Consumer Product Health and Safety Organization's International Conference in Dublin, Ireland. One of the presenters, Samuel Cromie, Assistant Professor of Psychology at Trinity College, presented on Key Elements of a Reporting System. He spoke of the need to make it intuitive, responsive and engaging. The information was intended both for companies and regulators. I urge the CPSC to work with such experts to improve the interface of SaferProducts.gov as well as how it is presented to consumers to increase both the number and quality of incident reports.

Section 6(b)

Section 6(b) restricts the CPSC's ability to warn the public about product hazards and keeps consumers in the dark about dangerous products they have in their homes and use daily with their families. After last year's data breach, there was a resulting focus on securing information from release. Now, a year later, the CPSC should turn its efforts to finding new ways to be transparent and share injury data and other public health information with the public.

The shadow of the provision, amplified by the data breach, is much larger than the Act itself. Businesses use the cover of 6(b) to withhold already public information and for information the act was never intended to cover. We urge the CPSC, while waiting for Congress to repeal the provision, to look closely at the way Section 6(b) is implemented at the agency – from the FOIA office to the communications or compliance divisions and bring it more in line with the law itself. This can weaken its negative impact on public safety.

Freedom of Information Act (FOIA) Office

KID uses the FOIA process frequently. We request monthly progress reports on all children's product recalls, about a year after the recall. We request information, as we did on the IKEA recall and infant inclined sleep product in-depth investigations, when we believe information that could enhance public safety is contained in CPSC documents.

Most reports are heavily redacted, again even of publicly available information such as counting social media posts of a recall. Our ability to protect families is compromised by the CPSC's inability to efficiently and effectively fill a request for information. We urge the CPSC to prioritize this office for innovative updates.

Furniture Tip-overs

The CPSC's work on a rule addressing the stability of clothing storage units must continue despite the slowdown of testing during the COVID-19 pandemic. While the scope of the voluntary ASTM standard was broadened to include shorter units, nothing was done to ensure increased stability of the units. The ASTM committee has been dragging its heels for 20 years and the CPSC can ensure a strong standard that adequately protects children. We would ask that this continue to be a priority issue for the agency.

Ingestion Hazards

Parents are usually 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.

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.

Nancy A. Cowles
Executive Director
Kids In Danger
312.595.0649
116 W. Illinois, Ste 4E
Chicago, IL 60654