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Consumer Discussion: Consumer Participation in Developing Safety Standards

Submitted by: National Consumers League



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**APEC Toy Safety Initiative – Open Dialogue on
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Toy Safety Initiative

Open Dialogue on Toy Safety for All Stakeholders

Consumer Participation in Developing Safety Standards



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Who's Should Be At the Table in Setting Standards?

- Government
- Business (manufacturers, retailers, distributors, etc.)
- Consumers, NGOs and qualified participants

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Why Include Consumers in Setting Safety Standards?

1. Because decisions that are made in standards development invariably affect risk to consumers; thus they are most directly affected by decisions on standards
2. Because consumer participation lends credibility to the final result. Standards development and the final outcome needs “buy in” from consumers, which can only come from their participation in the process

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Why Include Consumers?

3. Because the marketplace doesn't handle externalities like safety well. Unsafe products can exist in the market for many decades without the market correcting safety hazards associated with the product

Example, the number of people sustaining serious injuries using All-Terrain Vehicles in the U.S. goes up each year, reaching 150,900 in 2007. Since 2001, there has been a 37% increase in serious injuries using ATVs. Yet, the number of ATVs in use grows each year

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What Do Consumers Bring to the Standards Setting Process?

- Unlike a manufacturer or retailer, consumers participants have no economic stake in the outcome of how a standard is determined. Consumers are not businesses - when it comes to deciding how a crib should be designed or how much lead is acceptable in a toy – consumers have no agenda beyond achieving the safest possible design for a reasonable cost
- When consumers are faced with the choice of saving a few dollars and taking risks with their children or family, they will always opt to pay more for a safer design. Consumers are far less likely to agree to safety tradeoffs that too often manufacturers have been willing make to save money
- Similarly, unlike government participants in standards setting, consumer participants are not subject to political pressures, perhaps to rush the process forward or come to a decision to satisfy Congress but that might compromise safety

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How Should Consumers Be Brought Into The Process?

- Need dedicated effort by standards bodies to identify and reach out to qualified consumer participants
- Staff at standards bodies must be specifically assigned the task of gathering and maintaining lists of qualified consumer representatives for different types of standards
- Appropriate consumer representatives can be found within:
 - consumer watchdog and advocacy organizations, NGOs like the the Union of Concerned Scientists, etc.
 - professional organizations, such as PTAs, nursing organizations, pediatric and engineering societies
 - Academics, active or retired
 - Local activists who have experience in the area being investigated
- There must be dedicated funds to compensate consumer representatives for their travel expenses and provide them a stipend for their time

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When Should Consumers Be Brought Into the Process?

- Safety standards for products must be written with consumer expertise at the table at the beginning of the process, not after the standards are written and then presented to consumer groups as a fait accompli
- Consumers' role from the beginning of the process is critical when it comes to setting the standard of the product's performance as well as the distribution chain's performance

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2008 Enactment of Landmark Product Safety Legislation in United States

- Congress acted in response to lack of enforcement of limits on lead in children's toys, death to pets from tainted imported food, resulting in recalls of millions of dangerous imported toys and other products
- Consumer Product Safety Improvement Act of 2008 (CPSIA) overhauled the consumer product safety laws in the U.S.

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2007 Toy Recalls



25,000,000



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Source: Donald Mays, Consumers Union

More than 95% of all recalled toys were made in China



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Source: Donald Mays, Consumers Union

Lead in Children's Products

- Millions of toys recalled for violation of lead paint standard
- Lead became a key component in some children's metal jewelry – million of items recalled
- No lead limits placed on children's vinyl products – toys, lunchboxes, etc.



Source: Donald Mays, Consumers Union

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Dangerous Imports Included

Toys – lead paint and GHB

Toothpaste – DEG substituted for glycerin

Tires – lacked adhesive strip

Tire Valves – lacked ozone protection

Seafood – contaminated with carcinogens

Drugs – heparin contamination cost many lives

Pet Food – adulterated with melamine

Infant Formula – adulterated with melamine

Source: Donald Mays, Consumers Union

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The Product Safety Crises Consumers (and Industry) at Risk

- ☹ Lost confidence in imports
- ☹ Lost confidence in government
- ☹ Lost confidence in venerable brand names

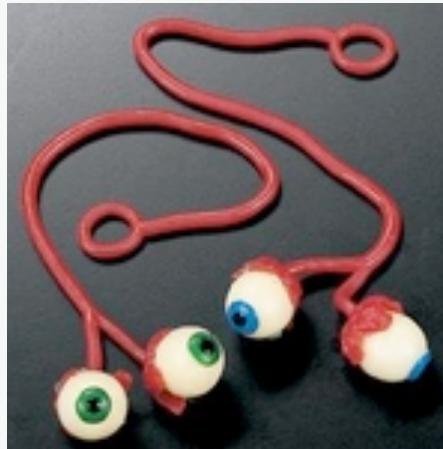
Source: Donald Mays, Consumers Union

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New Mandatory Toy Safety Standards

- Developed with full consumer participation
- Will achieve widespread compliance
- Will level the playing field
- Standards process helps address emerging hazards with input from consumer representatives



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The Consumer Product Safety Improvement Act of 2008 & Toy Safety

- Toys and other regulated products will be required to be tested and certified for safety before they are sold
- Essentially eliminates lead from all children's products
- Toxic phthalates will be banned from children's products
- Stricter penalties for wrong-doers

Source: Donald Mays, Consumers Union

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2008 CPSC Recalls

- 563 recalls, up 19% from '07
- 43,300,000 products
- 2/3 are children's products
- 97% are imported products

See the *Still Not Safe* report at:

www.ConsumersUnion.org

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Source: Donald Mays, Consumers Union

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Historic Collaboration Between TIA and ANSI with strong consumer participation

- In 2007, in response to the crisis created by the need to recall millions of toys, the Toy Industry Association (TIA) engaged ANSI to coordinate a public-private (consumer, government - manufacturer, retailer) partnership, the “Toy Safety Coordination Initiative (TSCI)”
- TSCI developed technical and international policy guidance regarding conformity assessment solutions for toy safety
- The resulting document was approved in principle by the TIA board of directors in early May 2008, thus creating the Toy Safety Certification Program (TSCP). Consumer participants from widely respected US consumer groups participated closely in the process of developing the document creating the TSCP. Not 100% consensus on all points, but full participation by consumers nonetheless

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TIA's Toy Safety Certification Program

- The objective of the TSCP is to provide a sustainable system to enhance both the reality and consumer confidence that toys sold in the U.S. market are safe
- Upon successful completion of applicable requirements, the product or packaging may bear a toy safety mark. This mark will be controlled by product certification bodies that are overseen by a single accreditation body (ANSI), authorized by TIA

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Consumer Participants Disagree with frequency of TSCI's Testing Protocol

- An area of disagreement remains: consumer groups don't believe the TSCI requirement for sampling and testing a toy factory's production **once a year** is frequent enough. While passing a test conducted once a year demonstrates that the factory can produce complying products, it does not demonstrate that the factory does produce complying products throughout the year
- In the end, for consumer representatives, it comes down to what works best for the consumer. At one point, Toys R Us, the major US and international toy retailer, announced it would require testing of each shipment sent to its stores, though apparently it has now decided it will test just twice a year
- We raise this because consumer organizations think testing every shipment would be the "gold standard," and that any company that chose to undertake that kind of testing frequency would be setting a standard of excellence against which other approaches could be measured and compared. And, of course, consumer organizations think that approach is a better way to go

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Consumer's Action Plan for Import Safety for Toys

1. Attach responsibility for safe products to each link in the supply chain
2. Bolster government safety agency resources
3. Develop third-party safety certification program for all products
4. Develop country-of-origin traceability program for products, ingredients, and components

Source: Donald Mays, Consumers Union

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Action Plan for Import Safety

5. Require safety bond on imports
6. Raise caps on civil penalties to meaningful levels; impose criminal penalties for repeat offenders
7. Give safety agencies mandatory recall authority
8. Require public disclosure and consumer input into safety investigations and reports of adverse events

Source: Donald Mays, Consumers Union

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