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February 25, 2008

The Honorable Nancy A. Nord
Chairman, Consumer Product Safety Commission (CPSC).
4330 East West Highway
Bethesda, MD 20814

Dear Chairman Nord:

I am writing to request details about public access to information regarding serious injuries, illnesses or deaths, or risks of serious injuries, illnesses or deaths, that could be caused by flawed, defective or unsafe products under the Commission's jurisdiction. I am concerned that there often exist unacceptably long delays between the time at which the Commission first becomes aware of such products and the time at which the unsuspecting public learns about them. This time-lag has led to avoidable injuries and deaths, and will continue to do so if not remedied.

Perhaps no more well-known example of this problem exists than the case of Magnetix toys. The CPSC first learned of intestinal injuries sustained by children who swallowed small powerful magnets in 2000. But it took about seven *years* – after numerous complaints, emergency surgeries and one death – for the CPSC to finally issue a broad recall of the products.

Another similar example is the Zenith Projection TV. According to reports, in April 1998, Zenith engineers discovered a flaw in projection TVs that caused coolant to leak onto the electronic circuitry, resulting in charring and smoking. In October of that same year, two children in Alaska died in a fire caused by this flaw. At that point, the company, agreed to a 'silent' recall to retailers and current owners of the TVs but did not agree to issue a press release with information regarding this defect even though it was aware of numerous incidents involving charring and smoking[1]. In 2003, the CPSC issued another recall of these TVs, and this time did inform the media, but stated in its press release that while it knew of 45 TVs that had burned, "no injuries were reported."

More recently, a report prepared by Public Citizen entitled 'Hazardous Waits' found that "In 46 cases since 2002 in which the CPSC entered into settlement agreements with companies to pay civil penalties for late reporting, the agency delayed an average of at least 209 days after learning of a hazard to share the information with the public".

According to the CPSC website, its mission is to protect "the public from unreasonable risks of serious injury or death from more than 15,000 types of consumer products under the

[1] These incidents are listed in court documents obtained by Rep. Markey.

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agency's jurisdiction." It seems to me that unreasonable delays in informing the public of potential product flaws or defects, especially when those flaws or defects have been known to cause or pose a risk of serious injury, illness or death, is completely inconsistent with that mission. So that I may better understand the extent to which the public is left in the dark about risks that products under the Commission's jurisdiction may pose, I ask for your prompt response to the following questions and requests for information.

1. Please provide the following information related to Zenith Projection TVs:
    a. For each year, from 1997-2007, please provide a list of reported incidents involving smoking, burning, or charring Zenith projection TVs. For each incident, please describe the circumstances, injuries or death, if any, property damage, if any, date and location.
    b. For each year, from 1997-2007, please provide the number of Zenith Projection TVs that have been repaired.

2. Why, in its 2003 press release regarding Zenith projection TVs, did the CPSC indicate that "no injuries were reported?"

3. For each year, from 1997-2007, please provide the number of "silent recalls" CPSC has issued, noting in each instance the date the recall was issued to retailers, the product(s) involved and the reason why the CPSC chose not to inform the public. Does the CPSC currently issue these types of "silent recalls"? If yes, why?

4. For each of the past 5 years, please provide a list of all reports of serious injury, illness or death, or risk of serious injury, illness or death, that were alleged to have been caused by unsafe, defective or flawed products that were received by the Commission. For each such report, please provide:
    a. The name and manufacturer of the product and model number where available.
    b. The date(s) the Commission received the report(s) regarding the product, as well as the source of the report (ie consumer, manufacturer, hospital, etc).
    c. The nature of the incident that caused the serious injury, illness or death, or the risk of the serious injury, illness or death.
    d. The date on which the public was made aware of the potential risk the product posed, and the manner in which the Commission made the public aware.
    e. Whether and on what date any enforcement or other regulatory action (ie investigation, recall, civil fine, etc) was undertaken by the Commission, and the outcome of such action.

Thank you very much for your attention to this important matter. Please provide your response no later than March 15, 2008. If you have any questions, please have your staff contact Dr. Michal Freedhoff of my staff at 202-225-2836.

Sincerely,

Edward J. Markey

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