RETAIL INDUSTRY LEADERS ASSOCIATION
Educate. Innovate. Advocate.

1700 NORTH MOORE STREET
SUITE 2250
ARLINGTON, VA 22209
T (703) 841-2300 F (703) 841-1184
WWW.RILA.ORG

January 11, 2010

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

Re: Reasonable Testing Programs, Docket CPSC-2009-0095

Dear Secretary Stevenson:

The Retail Industry Leaders Association (RILA) appreciates this opportunity to provide comments on the Consumer Product Safety Commission's (CSPC) guidance that has been issued on the tenets of a reasonable testing program, as permitted by Section 14 of the Consumer Product Safety Improvement Act (CPSIA). RILA is encouraged by the CPSC's information gathering process that has been laid out in the public notices, including the CPSC-sponsored workshops on December 10-11, 2009. RILA believes that it is critical for the successful implementation of the CPSIA that the CPSC establish a framework for reasonable testing programs that is workable and flexible. We welcome the CPSC's recognition that a one-size-fits-all approach will not work for reasonable testing programs.

By way of background, RILA promotes consumer choice and economic freedom through public policy and industry operational excellence. Our members include the largest and fastest growing companies in the retail industry--retailers, product manufacturers, and service suppliers--which together account for more than $1.5 trillion in annual sales. RILA members provide millions of jobs and operate more than 100,000 stores, manufacturing facilities and distribution centers domestically and abroad.

Developing reasonable testing programs for the estimated 15,000 consumer products under the CPSC's purview is a daunting task. Although testing is an important component of any quality assurance program, testing alone cannot assure product safety. Safety must be designed and built into products as they are made. With this in mind, RILA views the "reasonable testing program" concept in the CPSIA in a more holistic light. The CPSC should consider reasonable testing programs as "reasonable quality assurance programs" that rely on a flexible menu of several quality assurance elements, such as random sampling, component testing, product testing, a factory audit, product inspections, risk assessments, and remedial action plans.

I. Definitions

In its published guidance and during the CPSC workshops on December 10 and 11, 2009, the CPSC loosely used several terms whose definitions should be clarified:

Production run—the CPSC has used the terms production run, production lot, and shipment interchangeably. These terms are not interchangeable. RILA recommends that a "production run" be defined as a designated production event producing the same type of product with a specific design, using the same equipment and process on a continuing basis. RILA believes the CPSC should not require new testing simply because there is a new production run or production lot. Rather, new testing should be required whenever there is a material change in the product. A new production lot or production run would not necessarily constitute a material change.

Material Change—Section 102(b) of the CPSIA requires re-testing whenever there is "a material change in the product's design or manufacturing process, including the sourcing of component parts." RILA believes that a material change is a change in the performance or composition of the product or material that could affect compliance with a safety standard. For example, if a supplier changes from metal buttons to unpainted wooden buttons, the new buttons would not require retesting for lead content since wood does not have lead in it. Conversely, if the supplier changes from wood buttons to metal buttons, the new metal buttons would require testing for lead.

As another example, if a manufacturer making injection-molded baby bottles switches from polycarbonate plastic to polypropylene or polyethylene plastic, the product should be tested not only for chemical changes (including for potential contaminants from the change in manufacturing process), but also for mechanical hazards (*e.g.*, sharp edges and shatter resistance). Conversely, merely changing the order or personnel on the assembly line would not likely introduce new elements sufficient to be considered material.

Random—During the December workshops, CPSC staff suggested that random samples should be collected based upon statistical sampling. The CPSIA does not require statistical sampling (nor statistical random sampling) and the CPSC should not interpret the statute in such an overly specific and technical fashion. Instead, the CPSC should look to a more traditional dictionary definition of random that requires manufacturers and importers to select samples from production or finished in a manner that avoids the risk of using a "golden sample" for testing. For example, the Merriam-Webster dictionary defines random as "lacking a definite plan, purpose, or pattern." RILA recommends that "random" be understood as a sampling program in which a retailer or designated third party selects the samples from production or finished goods without input from the manufacturing facility or vendor. We believe samples selected in this manner will be sufficiently random to meet the intent of the statute. As RILA noted during our participation in the December 10-11 workshops, a requirement to conduct statistical sampling would be a significant departure from what even the most sophisticated retailers with the best safety records currently do with their testing programs. The impact is not limited to costs, which are ultimately borne by consumers, but also on testing volume and lab capacity to handle such a substantial increase in testing volume.

Product specifications—Product specifications could be interpreted as a requirement to list detailed specifications for a given product. Such a requirement would not be practicable for retailers. Retailers are not manufacturers and cannot be experts in how to

produce the tens of thousands products that they carry on their shelves. Even when a retailer is an importer or private labeler, the retailer does not always provide detailed requirements to their vendors on how a product should be made. Instead they rely on the vendor's expertise to determine how best to make the product. Indeed, some product specifications are proprietary and vendors would not want to share that information with retailers. RILA recommends that a product specification be defined as a documented set of requirements for a product, including safety standards applicable for that product or product category." Businesses should also be able to apply standards to a particular product without conclusively establishing that the product falls within a particular category (e.g. certain key chains tested to the ATSM toy standard although they are not toys). Documentation of the product should be permitted in a variety of formats provided by either retailer or vendor, including a purchase order with a description of a product or an approved product sample or picture of a sample.

II. CPSC Proposed Five Elements of a Reasonable Testing Program

The CPSC has identified **five elements of a reasonable testing program**, regardless of the quantity of product manufactured or the size of the importer or manufacturer. The five elements are:

- **Product specifications** that describe the consumer product and list the safety rules, standards, etc., with which the product must comply. The product specification should include a complete description of the product and any other information, including, but not limited to, a bill of materials, parts listing, raw material selection and sourcing, and/or model names or numbers of items necessary to describe the product and differentiate it from other products.
- **Certification tests** which are performed on samples of the manufacturer's consumer product to demonstrate that the product is capable of passing the tests prescribed by the standard.
- A **production testing plan** which describes the tests that must be performed and the testing intervals to provide reasonable assurance that the products as produced meet all applicable safety rules.
- A **remedial action plan** which must be employed whenever samples of the consumer product or results from any other tests used to assess compliance yield unacceptable or failing test results.
- **Documentation of the reasonable testing program** and how it was implemented.

As a practical matter, RILA believes the CPSC should clarify the difference between the requirements for a "production testing plan" and "documentation of a reasonable testing program.

While RILA does not disagree that any of these five elements may be components of some reasonable testing programs, the CPSC should not dictate that all reasonable testing programs must contain these five elements. Instead, the reasonable testing rule should include more options and be flexible enough for all businesses to develop a reasonable testing program for their situation. RILA believes that an acceptable reasonable testing program should be any

program that results in an acceptable confidence level that a product complies with applicable standards. The severity of potential harm should set the confidence level.

RILA appreciates the magnitude of the CPSC's task to draft a reasonable testing rule that is flexible enough to cover the tens of thousands of different consumer products under its purview, while also providing meaningful guidance for industry. RILA members expect that what may be a reasonable testing program for one type of product and one type of producer may not be applicable to another. As we have stated earlier in these comments, RILA believes there are several criteria that help to define what should be a reasonable testing program for a particular product and producer:

- the level of complexity in the materials,
- the complexity of the design of the product,
- the means of manufacture and the volume of the manufacturing program,
- the complexity of the applicable regulatory requirements,
- the risks associated with use of the particular product, and
- other supply chain controls.

Each of these criteria may each dictate differences in what constitutes a reasonable testing program. For example, a complex electronic toy manufactured for multiple retailers across the country would require a substantially different testing program than a hand puppet constructed by a home craft business available in a specialty store or online. RILA believes it would be impossible for the CPSC to provide comprehensive quantitative guidelines as a part of its reasonable testing rule.

Specifically, the rule should consider a menu approach with several options for businesses to choose from—including the five elements suggested by the CPSC, and also other possibilities such as component testing, risk assessment, and factory certification.

A Menu of Elements For A Reasonable Testing Program: The CPSC should identify several elements that manufacturers and importers may choose from, and then provide a few examples of various combinations of those elements that the CPSC would recognize as a reasonable testing program for the particular product set forth in the example. If the CPSC chooses to identify a few examples of reasonable testing programs, RILA respectfully requests that the CPSC provide examples of complex products that raise gray areas such as dolls that may come with a variety of different outfits and accessories.

RILA has compiled a list of elements that could be used to construct a reasonable testing program. This list is not exhaustive, but it illustrates RILA's belief that a certification that a finished product is safe and compliant may be derived from a variety of quality assurance processes and methods. Using the criteria identified above, manufacturers and importers should be able to pick and choose from the menu below, combining the elements that best address the risks associated with a particular product and reflect their business model (small businesses, seasonal product, etc.) to reach a reasonable testing program for that product/manufacturer.

- Factory Audit
- Sample Approval Process
- Product Standards & Protocols
- Production Planning (Pre –production review meetings, etc.)
- Product inspections conducted by retailer employees or third party
- Certification of product by accredited body
- Certification of materials by accredited body
- Certification of manufacturer's facility by accredited body
- Risk assessment plans
- Documented product specifications
- Product Testing by an accredited lab
    - Pre-Production Product Testing by Factory (showing the factory can achieve spec/ standards/ requirements/ protocols etc. prior to production with production quality materials)
    - Production Product Testing
        1. Entire product
        2. Component
- Corrective Action and Preventative Action Systems (Remedial Action Plans)
- Documented Quality Plans
- Supplier Management/Certification Programs
- Documented & Demonstrated Process Control Plans
- Monitoring of Customer Satisfaction and Complaints
- Product Validation
- Certification of Manufacture's Quality System by accredited body (ISO 9000)

Certification Testing: RILA understands this element to mean the test or tests which support the issuance of a compliance certificate. However, RILA members have raised concerns that by "certification tests" the CPSC may mean pre-production testing. Pre-production testing goes beyond the CPSIA requirements and should be voluntary. RILA believes it is important to point out that pre-production testing does not necessarily provide any additional protection for the end consumer. Instead, pre-production testing protects the retailer or the manufacturer by identifying any safety problems earlier in the production cycle. When a retailer is about to purchase a significant volume of products, it can make business sense to ensure that samples are first tested to ensure they meet certain standards before the item is mass-produced.

Pre-production testing should be permitted, but it does not work for all companies and all products. For example, pre-production testing may not work for seasonal products because purchasing decisions are made far in advance of actual production (e.g., retailers are already making purchasing decisions for Christmas 2010). Pre-production samples may not be reflective of the final product, and could be done at completely different factories than the final production. Pre-production testing can be redundant and irrelevant if a company relies on other means such as component testing, factory certifications, or production testing. For some products and companies, pre-production testing could mean doubling, tripling, or even quadrupling testing costs with little to no product safety gain.

III. Testing Frequency and Volume

The CPSC should not prescribe testing frequency or volume. Instead, as RILA advocated during the December 10-11 workshops on reasonable testing programs, testing frequency and volume should be based on several criteria:

a. the level of complexity in the materials,
b. the complexity of the design of the product itself,
c. the means of manufacture and the volume of the manufacturing program,
d. the complexity of the applicable regulatory requirements, and
e. the risks associated with use of the particular product.
f. other supply chain controls

Nevertheless, RILA agrees that there should be a basic minimum that applies to all manufacturers and importers, and we agree with the CPSC suggestion for minimally testing products once a year or once every 10,000 products, whichever frequency is less. These tests should be random, as we have discussed in Section I and should be pulled from a production run or from finished goods resulting from a production run. For large volume manufacturers, 10,000 products may be produced in a matter of hours or days. For example, RILA understands that more than a million pencils can be made in a single day at a single manufacturing site. Re-testing does not increase consumer safety if there has not been a material change in production.

Further, there are seasonal items that retailers may have in a "buy back" status until the next year's season. For example, if too many artificial Christmas trees were purchased this year, a retailer may ask the vendor to hold the remaining trees until next year. These trees have already been tested and the testing data from this year should still be acceptable next year unless the requirements have changed. Re-testing should not be required simply because the Christmas trees from this season are stored in a warehouse for nine months.

IV. Imported Products Purchased from a U.S. Business Entity

The CPSIA does not make a distinction between a manufacturer and an importer. As the CPSC seeks to develop effective testing requirements, the agency should consider a scenario where a large manufacturer with a U.S. business presence produces identical products (either domestically or abroad) for multiple retailers. In this scenario, the CPSC should allow one reasonable testing program developed by the manufacturer, rather than requiring individual importers to create redundant testing programs for the same production run. This would reduce the financial burden on manufacturers by eliminating the redundant testing requirements imposed by each importer, as well as ease test lab capacity constraints from testing different samples from a single production run for each importer.

Put another way- RILA believes it is unnecessarily duplicative to have each importer issue a General Conformity Certificate (GCC) for what is essentially identical product. Instead, as the CPSC allows with component certifications in its interim enforcement policy on component testing, the manufacturer should issue a GCC for the finished product, upon which the importer could rely in issuing their own GCCs for the finished product. Often, these U.S. companies are

using overseas production, and the supply chain models of the individual retailers may make it more efficient for the retailer to directly import some portion of that product, while the manufacturer is also importing the same product. With this in mind, multiple GCCs and multiple testing programs fails to achieve any additional safety benefit that is meaningful under the regulation. In these situations, the fact that the retailer happens to take title to the product at an overseas location is irrelevant to the compliance of the product – for which the U.S. company should be fully responsible. In addition, the CPSC has jurisdiction over the entity responsible for the presence of that product in the U.S. – the manufacturer itself.

For example, if a manufacturer creates a toy that will be sold by multiple retailers, the manufacturer can submit sufficient samples for one round of applicable testing and obtain a certification that can be submitted to each of the retailers, instead of sending samples for multiple rounds of the same testing to obtain certificates for each retailer (if the retailer is also the importer). Moreover, if any retailers wish to include requirements for quality or performance tests beyond those designated by the CPSC, manufacturers would save significantly by not repeating the core tests and only adding the specific retailer electives.

If a product is customized for one or multiple retailers in such a way that there is a material change in the products design or manufacturing process (as described in the statute itself), each variation should be considered a different product that either requires separate samples of each variation to be sent to the test labs for testing and certification, or requires component testing for the variation in the product.

By contrast, where retailers are importing product from companies without a business entity in the United States, RILA agrees that the retailer must undertake the responsibilities of the manufacturer in order to give the agency jurisdiction over an entity in the United States. These are the circumstances under which we believe the agency must provide additional clarification regarding what level of diligence can reasonably and effectively be exercised by the retailers/importers.

V. Sampling Programs and Sample Size

As noted above, RILA believes that the CPSC should not mandate a statistical interpretation of the CPSIA requirement for a "random sample." Instead, entities should be able to retrieve samples of finished product testing at random directly from the production line in accordance with the sampling program consistent with the reasonable testing program developed for that product. The quantity of samples and the frequency of such sampling will vary depending upon the criteria we outlined earlier.

For example, based on these criteria, we agree with the CPSC staff's suggestion that a product subject to a consumer product safety rule, where the potential harm is lethal, should be tested more frequently than a product where the potential risk is some lesser degree of harm.

RILA believes the complexity and number of variables associated with the hazards should inform the sampling program. For example, a latex balloon would not warrant testing as often as

complex action figures with small parts that potentially separate after use and abuse even though the potential severity of injuries may be similar.

Each of the considerations above may dictate differences in what constitutes a reasonable testing program for a specific product. Given the variety of possible scenarios based upon these factors, RILA believes that the CPSC should not dictate by rule a required frequency of testing.

RILA understands that the statute requires that any time there is a material change to a product or the source of the product or component changes, the product should be submitted for applicable testing prior to being introduced into the stream of commerce.

RILA contends it would be reasonable, in most cases, to allow manufacturers to test only portion of the product that changed, rather than have the entire product retested.

Representative Sample— CPSC staff has suggested that testing must be done on a "representative sample" of the product. If this representative sample is based on a statistical representation of a large volume product, the impact of multiplying the number of units tested will be especially large for some product sectors like apparel, where most products, including adult apparel, come under at least one regulation. Based upon member company input, RILA provides the following example of the expected increase in testing costs if statistical sampling were required.

APPAREL COMPANY TESTING COSTS	
2009 Average Testing Cost Per Product - All Ages	$579
2009 Total Testing Spend	$26 M
Incremental Additional Regulatory Testing Cost* per Unit If Statistical Sampling Required	
Kids/Baby	$119
Adult	$32

* Based on testing for flammability-general apparel, total lead content, lead in surface coating, construction safety review, small parts

TESTING COSTS WITH STATISTICAL SAMPLING				
Sampling Plan	*S2*		*S3*	
Typical Lot Size Sample Size	Lot size: 1201 - 35,000 8 units	Percent Increase to AVG Cost	Lot size: 3201 – 35,000 20 units	Percent Increase
Cost per Product with Statistical Sampling[#]				
Kids/Baby	$1,531	164%	$2959	411%
Adult	$835	44%	$1219	111%
Average	$1,183	104%	$2089	261%
Total Spend with Statistical Sampling	$52 M	100%	$91 M	250%

[#]The incremental cost for regulatory testing per unit if statistical sampling were mandated is based on current lab costs in Asia for existing regulatory requirements: flammability of wearing apparel applies to both adult and children. For children only: total lead content as in trim or decoration, lead in surface coating, construction safety review, and small parts.

The text of CPSIA does not define "reasonable testing program" or what conformity means for children's product testing, other than to state that the latter must be tested periodically or when there is a material change, and there must be testing of "random samples to ensure continued compliance." The statute allows a lot of flexibility to design reasonable testing programs based on risk rather than blindly on order quantities and mandated frequencies. There is no requirement in the statute that the CPSC issue an inflexible rule that every product subject to a regulation should be subject to statistical testing. Further, there is no evidence that statistical sampling and the resulting multiplication of testing is necessary to create an acceptable level of safety.

Sample Size: The CPSC should recognize that in finished product, in some instances it may be impossible to obtain a sufficient and untainted sample for testing based on the quantity of the material needed to complete a test. For example, doll's eyes are painted, but the quantity of paint present is so miniscule that it cannot be reliably retrieved from the finished doll to conduct a testing of the surface coating. While we recognize the CPSC interim enforcement policy on component testing recognizes the paint example, retailers have had requests from testing labs in the past year for 2,700 pairs of shoes or 1,700 blankets to collect a sufficient quantity of surface coating to test for lead. CPSC's recognition of component testing is only one solution to this issue.

As an additional solution, RILA believes the CPSC should consider setting a maximum sample size for testing. For example, the CPSC has set an internal maximum sample size of 13 units. The CPSC should determine that if an insufficient volume of material is provided by a maximum sample size, the CPSC should determine that there is not a risk from such material, and the material does not need to be tested. If 2,700 pairs of shoes are required to determine whether there is a risk of lead in the surface coating of a shoe, RILA contends there is not a risk of lead exposure from that pair of shoes.

VI. Need for Greater Consistency Among CPSC-Certified Testing Laboratories

Retailers have experienced significant inconsistencies among CPSC-certified testing laboratories. For example, test labs may employ different test protocols for an identical product, or they may implement the same test protocol in different ways. Test methods can vary greatly depending on how prescriptive they are, therefore labs will use different equipment, sample set-up, execution processes, etc.

Such inconsistencies create very difficult positions for retailers, particularly when two different tests on an identical product result in two different results. Through its lab accreditation process and through follow up, the CPSC should work with labs to create greater harmonization among CPSC-certified labs to avoid these inconsistencies. The CPSC should also conduct more diligence with its certified labs such as conducting blind correlation studies and lab audits.

VII. Component Testing and Material Changes

RILA appreciates the CPSC's issuance of the Interim Enforcement Policy on Component Testing and Certification of Children's Products and Other Consumer Products as a means to guide compliance as we await a final rule relating to the incorporation of component testing in a reasonable testing program. RILA believes that the guidance appropriately addresses some of the concerns identified at the workshop held in December – and may currently acknowledge some of RILA's comments in support of component testing, set forth below. However, because of the interim nature of the enforcement policy, RILA strongly re-emphasizes our support for component testing as one possible part of a reasonable testing program.

Because modern manufacturing practices often include making component parts for multiple different products, we believe that component testing in certain circumstances should be allowed as part of a reasonable testing program. Component testing is essential to run some cost-effective testing programs. The number of tests needed to achieve any meaningful level of confidence when testing only final product may be so large for some product scenarios as to render the system unworkable. For example, it is cost prohibitive to obtain and break down hundreds of finished jewelry products to get sufficient sample weight for surface coating tests. The only reasonable approach is to test at the component stage and document their use in the finished product. RILA believes that manufacturers, importers and retailers should be able to rely upon a testing-based certification as to the content and compliance of the materials or components provided by the raw materials or components' supplier (similar to the Flammable Fabrics Act). In this way, before production of the finished product begins, the raw material or component is validated as compliant prior to production.

There are three significant reasons that RILA supports component testing:

1) It is redundant to re-test identical components applied to multiple sizes, colors or even styles of a product. (Example: small white cuff buttons on shirts).
2) The more complex a product is (i.e. the more components in the product) the more costly it becomes to test samples of the finished product, particularly when the samples are destroyed in the testing process.
3) Component testing allows manufacturers to identify and correct errors at the component level, which is a more productive approach than waiting until the finished product is completed before testing is allowed to commence.

As an example, a manufacturer who makes six colors of the same style button-down shirt should be permitted to submit enough samples of each color shirt for testing of the fabric, but then send a bag of buttons to the test lab for testing of the buttons, instead of having to send extra shirts to have enough button samples for testing. In addition, if the manufacturer decides to change the component on the final product, we advocate that the manufacturer should only have to submit the new component for testing, unless it is time to have the entire finished product tested as part of the reasonable testing program. If the component is changed in composition, sourcing, or size, but the application process of the component remains the same, the manufacturer should be

required to only submit the component for testing. If the aforementioned shirt manufacturer changes the colors of the buttons on its shirts, then only the buttons should be submitted for testing.

Component testing is especially efficient in situations where component suppliers manufacture products for multiple customers with similar products; the component could be tested once by the component supplier, rather than having multiple finished product manufacturers testing the same component on each of their products.

Component testing is well suited to chemical testing and a limited number of physical properties such as strength, and some performance criteria like impact strength so that a button doesn't shatter. We agree that other physical/mechanical safety tests, such as attachment strength to assess a small parts choking hazard, cannot properly be done at the component stage.

Component testing would be ideal for parts that require chemical testing, so long as the product will not undergo further changes prior to inclusion in the final product (e.g., heat-bonding or chemical adhesion to the final product, etc.). For components that contain small amounts of surface coating, typically a test lab would have to request hundreds of finished product samples to conduct chemical or analytical testing for the surface coating. By allowing component testing, manufacturers could use a spray sampling method, in which they apply enough of the surface coating to the component or finished product substrate for a test lab to extract the amount they need for chemical testing without having to submit hundreds of finished goods that will not be saleable after testing is complete, therefore eliminating a source of lost revenue for some manufacturers.

One concern with component testing is that the components tested will not be the same as used in the actual product, either intentionally or not. The solution is process controls and internal and external auditing. A reasonable testing program that relies on component testing must also maintain appropriate documentation for those components to ensure that: (1) the components being tested are "identical in all material respects" to the components being used on the finished product, and (2) the components tested were the components actually included in the final product. Once a component has successfully passed all applicable testing, documentation could be submitted to the finished product manufacturers to show that the components being provided are compliant with all applicable regulations.

VIII. Factory Certifications, BRC Global Standard for Consumer Product Manufacturing

As the CPSC is aware, RILA has partnered with the British Retail Consortium (BRC) to develop a Global Standard for Consumer Product Manufacturing. RILA asks the CPSC to consider that factory certifications such as those that will occur under the Global Standard for Consumer Product Manufacturing can be an important component of some reasonable testing programs.

The BRC Global Standard for Consumer Product Manufacturing is a manufacturing facility standard prescribing capability and competency requirements for achieving product safety, quality, and compliance, validated by a scored factory site audit. The Standard is designed to

assist consumer product manufacturers to adopt good manufacturing practices, quality management systems, and safe packaging materials to meet their customers' quality requirements.

While improving product safety, the Global Standard will also help to reduce costs and redundancy throughout supply chains. Currently, manufacturing sites experience a large number of audits from retailers who require that suppliers meet their own individual standard of safety. The Global Standard is intended to reduce this redundancy and create a uniform guideline that is acceptable to many retailers.

RILA does not expect or request the CPSC to require the BRC Global Standard (or any factory certification) to be a mandatory component of reasonable testing programs. We recognize this model would not work for all manufacturers and retailers, or even all suppliers of RILA members. Suppliers and the products they make vary greatly, and an analysis of risk, visibility, and the size of a factory will help to guide when and how companies choose to employ the BRC Global Standard (or any factory certification). However, as noted above, RILA believes that factory audits should be another option on a menu of elements of a reasonable testing program.

As an example, the CPSC has indicated and RILA agrees that different requirements might be applicable to importers that are distinct from domestic manufacturers. Importers face many unique challenges, including visibility into the safety and quality processes that exist within foreign suppliers. A factory evaluation is one approach that can address some of these challenges.

At the same time, RILA also believes that retailers and manufacturers can and will develop solid reasonable testing programs that do not include a factory audit. The important point is that, as the CPSC develops its guidance for a reasonable testing program, it should recognize the important role that factory audits can have, and not issue requirements that would undermine the benefits of factory audits. RILA would like the CPSC to clarify whether factory audits could play a role in or be substituted for some element of the five basic elements that the CPSC has identified should be a part of all reasonable testing programs.

IX. Conclusion

RILA members place the highest priority on ensuring the safety of their customers and the products sold to them. We look forward to working with the CPSC to help define a comprehensive reasonable testing program to continue our commitment to safety.

RILA appreciates the CPSC's effort to design a thorough but flexible rule on reasonable testing programs, and we hope you find this input to be constructive. Given all the variables that must be considered when designing a reasonable testing program, RILA believes that the CPSC should provide guidance on a menu of choices that may be combined to create a reasonable testing program based on the specific risks associated with a product, but the agency should not prescribe exactly how a company has to comply.

If you have any questions, please do not hesitate to contact me at (703)-600-2046 or stephanie.lester@rila.org.

Sincerely,

Stephanie Lester
Vice President, International Trade