

April 7, 2015

Office of the Secretary
U.S. Consumer Product Safety Commission
4330 East-West Highway, Room 820
Bethesda, MD 20814

Re: Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates
(Docket No. CPSC-2014-0033)

The undersigned organizations provide these comments in response to the U.S. Consumer Product Safety Commission's ("Commission" or "CPSC") notice of proposed rulemaking on phthalates and phthalate alternatives pursuant to section 108(b) of the Consumer Product Safety Improvement Act of 2008 (CPSIA), 15 U.S.C. § 2057c. We represent manufacturers of consumer products, their suppliers, retailers and other key stakeholders that will be greatly impacted by the CPSC's pending action. Our collective members are committed to providing safe products and assert that the most effective product safety regime must be based on the highest quality information available.

The CPSIA established the Chronic Hazard Advisory Panel (CHAP) to study the effects of all phthalates and phthalate alternatives used in children's toys and child care articles. The law further directs the Commission to issue a final rule based on the panel's findings and recommendations. We are deeply concerned that the process and methods used by the Commission throughout the rulemaking process has been insufficient in ensuring the most objective and transparent science-based regulatory decision-making.

The CHAP report was not subject to an open public comment period in accordance with guidelines set forth in the Office of Management and Budget's (OMB) "Final Information Quality Bulletin for Peer Review," and was only subjected to a non-public peer review. The OMB bulletin establishes strict minimum requirements for the peer review of highly influential scientific assessments, including a requirement that an agency "make the draft scientific assessment available to the public for comment at the same time it is submitted for peer review . . . and sponsor a public meeting where oral presentations on scientific issues can be made to the peer reviewers by interested members of the public." The lack of transparency throughout the development of the CHAP report and its reliance on old data demonstrates a failure to comply with OMB's and the Commission's own guidelines for ensuring the quality, objectivity, utility and integrity of disseminated information. As defined by those guidelines, the CHAP report is based on "influential scientific, financial, or statistical information" and thus subject to a higher standard of transparency for data and methods. While the CPSC released peer reviewers' comments upon presentation of the final CHAP report to the public, the report was not made available for public scrutiny and review before its finalization.

The need for more rigorous peer review is essential because the CPSC's proposed rule is predicated on a precedent-setting cumulative risk assessment used by the CHAP as it developed its recommendations. When misapplied within the regulatory process, this cumulative risk assessment methodology could have broad implications across different agencies and numerous regulatory programs and for all manufacturers of industrial chemicals and consumer products. Further, the CPSC's information quality guidelines state that the Commission will apply "risk assessment practices . . . that are widely accepted among domestic and international public health agencies." Without adherence to established information quality and peer review

guidelines, the CPSC proposed rule if finalized would set an extremely concerning precedent for federal chemical assessment, especially one that will have a federal interagency impact.

We urge the Commission to commit to conducting its work on this regulation in an open and transparent manner in accordance with OMB and CPSC guidelines for information quality and peer review. As the Commission proceeds with a rulemaking based on the CHAP's report and recommendation, the agency must place the highest priority on ensuring that information, data and methodologies on which the regulation is based is sound and subject to public review and input. Thank you for your time and consideration.

Sincerely,

Alliance for Children's Product Safety
American Apparel & Footwear Association
American Chemistry Council
American Cleaning Institute
American Coatings Association
American Forest & Paper Association
American Fuel & Petrochemical Manufacturers
American Home Furnishings Alliance
American Wood Council
Baby Carrier Industry Alliance
Can Manufacturers Institute
Consumer Electronics Association
Fashion Jewelry and Accessories Trade Association
Flexible Packaging Association
Flexible Vinyl Alliance
INDA, Association of the Nonwoven Fabrics Industry
Industrial Environmental Association
International Association of Amusement Parks and Attractions
International Fragrance Association North America (IFRA North America)
International Sleep Products Association
Juvenile Products Manufacturers Association
National Association of Manufacturers
National Black Chamber of Commerce
National Retail Federation
Retail Industry Leaders Association
Society of Glass and Ceramic Decorated Products
Society of the Plastics Industry, Inc.
Specialty Graphic Imaging Association
Toy Industry Association
Upholstered Furniture Action Council
Vinyl Institute