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Office of the Secretary
Consumer Product Safety Commission
Room 502
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**Comments of Consumers Union of U.S., Inc. and Consumer Federation of America
to the U.S. Consumer Product Safety Commission
on “Children’s Jewelry Containing Lead; Advance Notice of Proposed Rulemaking;
Request for Comments and Information”**

Introduction

Consumers Union (CU), publisher of *Consumer Reports*®, joined by Consumer Federation of America, (jointly “We”) submits the following comments in response to the U.S. Consumer Product Safety Commission’s (“CPSC” or “Commission”) above-referenced Advance Notice of Proposed Rulemaking (“ANPR”) on children’s jewelry containing lead.¹ The CPSC has published this Notice seeking comments and information on the health risks associated with lead in children’s jewelry, and potential regulatory options to address these risks, particularly a ban on products containing more than 0.06%, by weight (“0.06%”) lead under the Federal Hazardous Substances Act.

We strongly support the proposed ban as an important step forward in protecting children from the hazards of lead exposure, for many reasons, including: (i) the serious harm that can result from exposure to lead by children; (ii) the increasing presence on the U.S. market of lead in products intended for use by children; (iii) the difficulty of identifying unsafe products; and (iv) the inability of the recall system to locate and recapture, low-

¹ 72 Fed. Reg. 920 (January 9, 2007).

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cost, unbranded products. In addition, we strongly urge the CPSC to take stronger action to protect children from lead hazards in other products.

In the last three years, one child has died, and more than 20 recalls have been initiated due to the presence of lead in children's jewelry. Recalls also continue to be initiated for lead paint found on cribs and other products intended for use by children. Given the rising incidence of products, including children's jewelry, recalled due to the presence of lead, it is clear that the current approach of depending on compliance with voluntary standards is ineffective.

The effects of lead are often acute, severe and irreversible. It is our view that CPSC should be doing all it can to ensure that manufacturers find safer alternatives for lead in all consumer products, making children's products the first priority. Mandating the 0.06% limit on total lead in jewelry is the only effective option for children's jewelry, and stronger action is needed for other children's products as well. The EPA estimates that costs of screening and treatment of acute lead poisoning alone can exceed \$5,200 per child². Others estimate that the lifetime societal costs of lead poisoning exceed some \$40 billion dollars annually³. In evaluating the need for a ban on lead in jewelry, we therefore also urge the Commission to consider the substantial, avoidable burdens of lead toxicity on society as a whole, and the health care system in particular.

The nature of children's jewelry, like many children's toys, makes identifying and tracking products known to contain dangerous levels of lead very difficult. Toy jewelry is small, inexpensive, quickly dispersed throughout the marketplace, and is virtually impossible to track once it is sold. These products are not labeled, lack serial numbers, and there usually are few, if any, unique features that would enable consumers to distinguish dangerous products from others. Consumers also have no practical way to screen these products for lead. Screening tools available to enable consumers to detect lead, such as

² U.S. Environmental Protection Agency, March 31, 2006. Cost of Illness Handbook, Downloaded from http://www.epa.gov/oppt/coi/pubs/III_9.pdf on March 12, 2007.

³ Landrigan, P., C. Schechter, J. Lipton, et al., "Environmental Pollutants and Disease in American Children: Estimates of Morbidity, Mortality and Costs for Lead Poisoning, Asthma, Cancer and Developmental Disabilities," Environmental Health Perspectives, Volume 110, Number 7, July 2002.

the LeadCheck swabs, do not work on most toy jewelry. The safety of this product category has been so compromised that consumers can no longer be sure that any toy jewelry they purchase is safe.

Even when products are recalled, there is no guarantee that they will remain off store shelves. CU's investigation of the recall system, published in the November of 2004 issue of *Consumer Reports*⁴, found recalled products, including toy jewelry containing unsafe lead levels, being sold in Dollar Stores in the U.S. as well as in other countries. The increasing risks to children from the presence of these products on the market results from trends in the globalized economy that make it easier for hazardous materials and off-spec products to enter and remain in the U.S. marketplace and harder to keep unscrupulous facilities from continuing to supply unsafe products.

Without the serious consequences of a ban, manufacturers lack sufficient incentives to ensure that children's products do not contain lead. We strongly urge the CPSC to exercise its authority to initiate a ban in order to fulfill its responsibilities to protect our most vulnerable population.

CU's recent testing of certain consumer products has confirmed the presence of lead in holiday lights and vinyl lunchboxes.⁵ CU also found that lead can be transferred to unwrapped food stored on vinyl surfaces. Lead can accumulate from multiple sources to generate average body burdens that exceed 10 µg/dl -- the level identified by the CDC as cause for concern. Because not all sources can be easily eliminated and because no safe childhood exposure threshold has been established for lead, it is imperative that we eliminate as many avoidable sources as possible. There is simply no reason for manufacturers' continued use of this chemical in paints or plastics, and especially in products intended for use by children. For the reasons cited above, we believe that the CPSC's current guidance threshold for lead in consumer products -- lead levels that result in no more than 15 µg of ingested lead per day -- is ineffective and fails to advance

⁴ *Hazard in Aisle Five*, November 2004, *Consumer Reports*.

⁵ *Safety Alert: Boy's Death Linked to Lead Bracelet, but Hazards go Beyond Jewelry*, March 2006, *Consumer Reports*; and *Prevent Holiday Hazards*, December 2005, *Consumer Reports*.

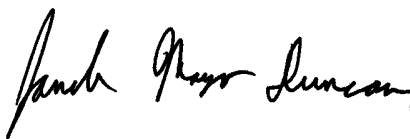
the federal government's stated goal of eliminating childhood lead poisoning by 2010. Instituting a ban and issuing stronger regulations for lead in consumer products is, therefore, a critical step in achieving this important goal.

Certain states, such as California, already have passed laws to limit the presence of lead in jewelry and other products. We strongly recommend that the CPSC develop this rulemaking in a manner that considers California Health and Safety Code §25214.1 *et seq.*, for toy jewelry, and the progress that approach has made through the stakeholder process. It is vital that state and federal governments move forward in a manner that promotes continued reductions in childhood lead exposure. CU and CFA also strongly urge that any regulatory proposals issued by the CPSC do not attempt to preempt stronger state laws or regulations -- either currently existing, or passed or promulgated in the future.

Conclusion

For the foregoing reasons, we strongly urge the Commission to move quickly to ban jewelry, intended for use by children, containing more than 0.06% lead. In addition we urge the CPSC to similarly ban, or substantively limit, lead in amounts exceeding 0.06% in other products intended for use by, or readily accessible to, children.

Respectfully submitted,



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