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**Comments of Consumer Reports to the  
Consumer Product Safety Commission on the Advance Notice of Proposed Rulemaking:  
“Clothing Storage Unit Tip Overs; Request for Comments and Information”  
Docket No. CPSC-2017-0044**

Consumer Reports (CR), an independent, nonprofit organization that works side by side with consumers for truth, transparency, and fairness in the marketplace,<sup>1</sup> welcomes the opportunity to comment on the above-mentioned advance notice of proposed rulemaking issued by the Consumer Product Safety Commission (CPSC). As a part of this notice, the Commission informed the public that it is contemplating developing a rule to address the risk of injury and death associated with clothing storage unit (CSU) furniture tipping over. In the following comments, we discuss CR’s recent research, testing, and analysis of the CSU tip-over hazard, and we recommend—on the basis of this work—that the Commission should develop a strong, mandatory safety standard through the rulemaking process that it has initiated.

The toll of furniture tip-over incidents on consumers, and especially young children, is severe. According to CPSC data, there have been 195 deaths related to CSU tip-overs between 2000-2016 reported to the agency.<sup>2</sup> In 2016 alone, there were an estimated 4,000 CSU tip-over emergency department-treated injuries to children under age 18, with 2,800 of them to children under age 6.<sup>3</sup> The extensive and preventable suffering behind these figures must be addressed. Given the CPSC’s goals of keeping consumers safe and achieving a nation free from unreasonable product safety risks,<sup>4</sup> the agency has a critical role to play in substantially reducing or eliminating these deaths and injuries.

On March 22, 2018, Consumer Reports published a major package of stories on *CR.org* about the dangers of furniture tip-over incidents to young children.<sup>5</sup> These stories were the

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<sup>1</sup> Founded in 1936, CR has the largest nonprofit educational and consumer product testing center in the world, and uses its dozens of labs, auto test center, and survey research center to rate thousands of products and services annually. CR’s premier magazine *Consumer Reports* has more than 3.6 million subscribers, and the award-winning CR.org has 2.9 million paying members and more than 15 million unique visitors monthly, on average.

<sup>2</sup> CPSC, “Clothing Storage Unit Tip Overs; Request for Comments and Information,” advance notice of proposed rulemaking, 82 Fed. Reg. 56752 *et seq.* (Nov. 30, 2017) (hereinafter “CPSC ANPR”).

<sup>3</sup> CPSC, “Staff Briefing Package, Advance Notice of Proposed Rulemaking: Clothing Storage Units,” Tab A (Nov. 15, 2017) (hereinafter “CPSC Staff Nov. 2017 Briefing Package”) at 31.

<sup>4</sup> CPSC, “2016-2020 Strategic Plan” (Apr. 29, 2016) at 6.

<sup>5</sup> CR, “Furniture Tip-Overs: A Hidden Hazard in Your Home” (Mar. 22, 2018) (online at: [www.consumerreports.org/furniture/furniture-tip-overs-hidden-hazard-in-your-home](http://www.consumerreports.org/furniture/furniture-tip-overs-hidden-hazard-in-your-home)); Consumers Union, “Current Standards for Furniture Tip-Overs Leave Too Many Children at Risk” (Mar. 22, 2018) (press release) (online at:

product of a year-long investigation into the potential that consumers may not be adequately protected from these incidents by current safety warnings, messages, and voluntary performance standards, especially given the continuing danger from the incidents reflected in CPSC fatality and injury data. Based on our investigation, and the results of the testing of 24 dressers representing a cross-section of the market, CR concluded that the primary safeguard in place today—the voluntary industry standard ASTM F2057-17, overseen by ASTM International<sup>6</sup>—is inadequate, and that it would be feasible for CSU manufacturers to meet a stronger standard that protects more children and covers more dressers. In these comments, CR calls on the CPSC to supplant the furniture industry’s inadequate voluntary standard with a strong, mandatory safety standard, and explains our reasons for doing so.

- I. Clothing Storage Units Tipping Over Presents an Unreasonable Risk of Injury
- II. CR Found Industry Standard ASTM F2057-17 Inadequate, and Found a Stronger Standard, Addressing 95% of Children Under Age 6, Necessary and Feasible
- III. To Address Unreasonable Risk of Injury and CR’s Findings, CPSC Should Develop a Mandatory Standard with a Test Weight of 60 Pounds and CSUs of All Heights

## **I. Clothing Storage Units Tipping Over Presents an Unreasonable Risk of Injury**

Consumer Reports, in 2006, first tested the propensity of furniture to tip over and potentially injure consumers. Since that time, clothing storage units (CSUs) have remained a major contributor to consumer product-related deaths and injuries, particularly among children. It is clear today that CSUs tipping over presents an unreasonable risk of injury to consumers, and in this section of our comments, we discuss why.

CR employs a rigorous, scientific approach in both research and testing. As such, CR reaches product safety conclusions based in part on high quality, public data provided by the CPSC, including death certificate data from state health departments and nationally reported injuries from emergency department visits. Recently, CR analyzed thousands of injury and fatality reports obtained from the CPSC through the Freedom of Information Act (FOIA). Our analysis of this information supports the overall findings of the Commission, as outlined in the advance notice of proposed rulemaking, as well as the findings of CPSC staff, as included in the briefing package for that notice. The risk to consumers from tip-over incidents is unacceptably high: every 17 minutes, someone in the U.S. is injured by furniture, an appliance, or a television tipping over. In particular, as noted previously, 195 deaths related to CSU tip-overs from 2000-2016 have been reported to the CPSC.<sup>7</sup>

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[consumersunion.org/news/consumer-reports-current-standards-for-furniture-tip-overs-leave-too-many-children-at-risk](https://www.consumersunion.org/news/consumer-reports-current-standards-for-furniture-tip-overs-leave-too-many-children-at-risk)); CR, “How to Anchor Furniture to Help Prevent Tip-Overs” (Mar. 22, 2018) (online at: [www.consumerreports.org/furniture/how-to-anchor-furniture-to-help-prevent-tip-overs](https://www.consumerreports.org/furniture/how-to-anchor-furniture-to-help-prevent-tip-overs)); CR, “TV Tip-Overs Still Pose Danger, Despite Lighter Flat Screens” (Mar. 22, 2018) (online at: [www.consumerreports.org/product-safety/tv-tipovers-still-pose-danger-despite-lighter-flat-screens](https://www.consumerreports.org/product-safety/tv-tipovers-still-pose-danger-despite-lighter-flat-screens)).

<sup>6</sup> Formerly known as the American Society for Testing and Materials.

<sup>7</sup> *Supra* note 2.

Although tip-over incidents have affected people of various ages, we agree with the CPSC that children under age 6 are particularly at risk of harm from tip-over incidents due to their physical abilities, mental capacities, and behaviors at these young ages. Especially given young children's vulnerability, the number of deaths and injuries from tip-over-related incidents remains far too high. From the 195 CSU tip-over deaths reported to the CPSC from 2000-2016, 167 involved children under 18.<sup>8</sup> CPSC's analysis estimates that thousands of CSU tip-over-related injuries to children are treated at emergency rooms every year, with an estimated 47,700 childhood injuries from 2006-2016.<sup>9</sup> The latest publicly available CPSC data shows that after declining for a few years, 2016 estimates show a 33% uptick in injuries to 2,800 from 2,100 from the year before, in 2015.<sup>10</sup> Children under age 6 are those most commonly involved in CSU tip-over incidents, comprising 95% of deaths and 83% of injuries involving children of all ages.<sup>11</sup>

Additional CPSC data show that 53% of child CSU tip-over fatalities involve both a television and CSU tipping over.<sup>12</sup> Concern about the way TVs may exacerbate the harm from CSU tip-over incidents leads CR to recommend that consumers avoid placing TVs or other large objects on top of dressers and other CSUs. Such scenarios, however, should not draw attention away from CPSC efforts, including rulemaking, focused on CSUs alone. Regardless of whether a TV or other heavy item is present, the common denominator in these incidents is the CSU.

Performance requirements for stability are essential to addressing the risk of death and injury from CSU tip-overs, and the Commission should not seek to have warning labels and tip-over restraint devices take their place, particularly considering our concern that these safety tools—while important—may be of limited effectiveness. With regard to tip-over restraints, CR thinks that the most important step consumers can take today to minimize the number of CSU tip-over incidents is to secure the unit to the wall. However, CR recognizes that consumers may not have the option or skill set to correctly apply restraints to bolster dresser stability. Further, it is the responsibility of manufacturers to produce CSUs that are not prone to tip over, rather than leave a substantial burden of ensuring safety on their customers. Performance requirements improve safety for all households, rather than just some, and are likely to be significantly more effective in reducing the risk to young children than labeling or encouragements to use restraints. For any stability standard to truly provide adequate safety, it must include stability performance requirements that, on their own, are sufficiently protective. Warning labels and safety communications urging consumers to anchor their furniture are best viewed as a supplement to performance requirements, not as a substitute.

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<sup>8</sup> CPSC ANPR at 56753.

<sup>9</sup> *Id.* at 56754.

<sup>10</sup> CPSC Staff Nov. 2017 Briefing Package, Tab A, at 25 and 31.

<sup>11</sup> CPSC ANPR at 56754.

<sup>12</sup> *Id.*

## **II. CR Found Industry Standard ASTM F2057-17 Inadequate, and Found a Stronger Standard, Addressing 95% of Children Under Age 6, Necessary and Feasible**

Based on CR's research and our recent comparative testing results, we have concluded that the industry's voluntary standard ASTM F2057-17 is inadequate and leaves too many children at risk. The standard does not adequately account for the weight of children under age 6—those developmentally expected to exhibit behaviors associated with tip-over incidents<sup>13</sup>—and excludes dressers 30 inches in height and smaller.

In the past year, CR tested 24 CSU dresser models from a cross-section of the marketplace, including four shorter dressers outside of the scope of the ASTM standard. The dressers were evaluated based on a series of progressively more rigorous stability tests to see how the CSUs performed.

The first two tests were modeled after the unloaded and loaded stability tests in ASTM F2057-17, where all drawers were empty. First, in the unloaded stability test, all empty drawers were opened to their full extension and all models passed. Next, in the second, loaded test of stability, the top empty drawer was opened to its full extension, and a 50-pound weight was placed over the drawer front. In the second test, 19 dressers passed this test, while five dressers failed this test. Of the five dressers that failed our second test, three were shorter dressers that were outside the scope of the ASTM standard, which covers units taller than 30 inches in height.

CR's third test was patterned after the second test, but included adding one pound weights incrementally until either the CSU tipped over or 60 pounds of load was achieved without the CSU tipping. Using 60 pounds of test weight in a standard would be more protective of children than the loaded stability test procedure in ASTM F2057-17. Specifically, using 60 pounds would account for the weight of 95% of children under age 6; these children have historically suffered 83% of all child injuries and also are the children most commonly involved in incidents.<sup>14</sup> By increasing the test weight in a loaded stability test to 60 pounds, a significantly larger number of the children developmentally expected to exhibit play behaviors or purpose-based behaviors associated with tip-over incidents would be covered by the standard, including children between 60 and 72 months of age.<sup>15</sup> CR test results demonstrate the feasibility of this stronger performance requirement, as the 13 models that passed our third test comprised more than half of our test pool and were purchased at various price points ranging from \$170 to \$900. In other words, our tests found that it is possible to build a dresser that can meet a tougher standard, and that such models already exist in the marketplace and are readily available for consumer purchase.

Our test results further demonstrate that it is appropriate to focus on simple, protective improvements that go beyond the current industry standard, including straightforward strengthening of test requirements via an increase in the test weight and an expansion of the scope of the standard to include shorter dressers.

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<sup>13</sup> See CPSC ANPR at 56755.

<sup>14</sup> *Id.* at 56767.

<sup>15</sup> *Id.*

As part of the research for our investigation, CR performed tests with weighted ballast in the drawers that were patterned after our first three tests, to measure how the units would perform and to identify any discernible differences in performance between tests involving empty drawers and those filled with ballast. We noted that one challenge in ballast tests came from attempts to model the ballast to mirror real-world conditions, which may vary considerably among consumer households. What we found, in these tests, is that the ballast used in the tests masked the inherent propensity of a dresser to tip over. Specifically, of the 11 models that failed our 60-pound test with the drawers empty, seven of those passed the 60-pound test with ballast in the drawers, meaning that a model could pass ballast-based tests, despite failing an equivalent empty-drawer test with test weight added.<sup>16</sup> We concluded that evenly spread out ballast residing in closed dresser drawers both helped stabilize the dressers and could not be justified as adequately representing the wide variety of foreseeable ballast configurations. Therefore, we found that our test with empty drawers and the use of incrementally increasing test weight, up to 60 pounds, was much simpler to perform, more reproducible, and more protective than any of our ballast tests. Because we did not find the ballast-based tests to be reliable indicators of a dresser's relative stability, we did not include the results in our consumer-facing story. Nevertheless, because the ASTM Furniture Safety Subcommittee is contemplating including a ballast-based test, we are including the conclusions and data from our tests as part of this comment submission to provide data that may inform CPSC decisions.

CR did not introduce carpet into our testing at this time, but acknowledges that a wide variety of floor types are found in consumer households. We would support test methods involving carpeting if they demonstrate reliability and repeatability. In the meantime, CR recommends that testing for a standard should occur on a hard, level, flat surface, and that strong provisions be implemented without delay to reflect our previous two recommendations of increasing the test weight to 60 pounds and covering shorter dressers in the standard. As soon as adequate research for establishing reliable and repeatable on-carpet testing is made available, the standard should be updated to include additional tests or testing conditions.

There are other issues that currently are the subject of ASTM task group discussions, such as operational sliding length and freestanding furniture. While we encourage the CPSC to remain engaged in the work of these task groups, we urge the Commission not to condition any of its core CSU tip-over work or any advances in the rulemaking process on the resolution of disagreements related to these other issues. Essentially, we encourage the Commission not to miss the forest for the trees. Instead, the Commission should focus on adequately, and urgently, protecting children under age 6 by—at a minimum—implementing a heavier test weight of 60 pounds and covering dressers 30 inches in height or shorter under stability performance requirements. Subsidiary issues should not delay or inhibit consumers from receiving the significantly stronger protection that these two changes would provide. To the extent the CPSC implements test procedures about which there are current disagreements, the agency should opt to reflect the “worst-case scenario” in a standard, which would be the most protective of consumer safety.

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<sup>16</sup> Each dresser that passed all three of our empty-drawer tests also passed all equivalent tests involving ballast in the drawers.

### **III. To Address Unreasonable Risk of Injury and CR's Findings, CPSC Should Develop a Mandatory Standard with a Test Weight of 60 Pounds and CSUs of All Heights**

As CR's research, testing, and analysis has found, consumers—and especially children under age 6—face an unreasonable risk of death or injury from CSUs tipping over onto them. The CPSC has requested comment on regulatory alternatives to address the risks associated with CSU tip-overs, including the issuance of a mandatory standard with performance requirements for the furniture. We support this approach for several reasons, and urge the CPSC to develop a strong mandatory standard that, at a minimum, includes a test weight of 60 pounds to require adequate stability performance and extends coverage to dressers 30 inches in height and shorter. For the reasons discussed above, this test should be performed with the drawers empty and on a hard, level, flat surface.

First, under the current system of safety oversight, consumers essentially must place their trust in manufacturers that they will produce a reasonably stable CSU. As we have noted, 60 pounds of test weight would be appropriate for evaluating the stability performance of CSUs at this time. This would provide stronger protection for consumers than the current industry voluntary standard, ASTM F2057-17, whose loaded stability test involves a 50-pound test weight that does not adequately account for the weight of children under age 6. While CR's testing found that 13 out of 24 dressers tested remained upright with a 60-pound test weight, we also found that no single attribute of a dresser, of the many that we explored, predicted greater stability on its own. For this reason and others, there is no easy way for consumers to tell from looking at a dresser or its packaging whether it is more or less likely to tip over. A standard that is both stronger than ASTM F2057-17 and mandatory would greatly help consumers be able to trust that dressers for sale in the U.S. would resist tipping over onto young children.

Second, while we recognize the important role of tip-over restraint devices, they are no substitute for adequate stability performance testing. Anchoring furniture is not always an option for rental tenants, for families less proficient with tools, or for those contending with brick or concrete walls. Similarly, while it is critically important to raise awareness of the tip-over hazard and encourage consumers to anchor their furniture, even the best awareness campaigns do not reach all consumers. Some consumers CR interviewed, for example, told us that they had no idea kits for anchoring dressers even existed. With deaths and injuries occurring, it is the industry's responsibility to ensure safer, more stable dressers—and preventing a child from being injured or killed need not and should not rely on consumer skill at anchoring a dresser to a wall.

Third, as we have discussed, the current voluntary industry standard, ASTM F2057-17, is inadequate and leaves too many children at risk, because it does not adequately account for the weight of children under age 6 and excludes dressers 30 inches in height and smaller. Because compliance with ASTM F2057-17 would not “eliminate or adequately reduce the risk of injury addressed,”<sup>17</sup> and there is not another voluntary standard that would do so,<sup>18</sup> the promulgation of

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<sup>17</sup> 15 U.S.C. 2056(b).

<sup>18</sup> We nevertheless note that the Australia and New Zealand standard, AS/NZS 4935:2009, covers chests of drawers more than 500 mm (19.7 inches) high.

a mandatory consumer product safety standard would be justified.<sup>19</sup> Given the known facts, the Commission can, and should, find that such a rule is reasonably necessary to eliminate or reduce an unreasonable risk of injury associated with CSUs tipping over, and that the rule's promulgation would be in the public interest.

Fourth, a mandatory standard is practical because CR's testing shows that manufacturers are capable of incorporating appropriate design changes to their products that yield adequate stability, and of offering units for sale to consumers that are affordable and do not sacrifice utility. As we have noted, models that passed CR's 60-pound stability test comprised just more than half of the dressers we tested, and demonstrated the feasibility of passing the stronger test at various price points.<sup>20</sup> CR selected units for testing on the basis of a variety of factors, but each was a unit existing in the marketplace and available to consumers. Our results could indicate that manufacturers had considered the stability of their products and arrived at various ways to help them remain upright—though some appear to have thought about the subject more carefully than others. The designs of the furniture will be determined by consumer demand and the engineering expertise companies can readily use to meet stronger, mandatory performance standards for CSU stability.

Finally, as highlighted in CR's main story, a mandatory standard would bring benefits to consumers because such a standard would allow the agency to enforce requirements, including performance standards, and more easily gain industry cooperation for recalls. Based on CR's reporting and experience, if a product is subject to a mandatory standard but does not comply, it is far more likely that the product will be recalled, and recalled more quickly, than if it were only subject to a voluntary standard. Furthermore, we understand that the presence of a mandatory standard eases the Commission's use of civil penalties as appropriate to help shape corporate behavior and deter wrongdoing, helping ensure that companies live up to their safety obligations to consumers.

#### **IV. Conclusion**

Consumer Reports once again thanks the CPSC for issuing the advance notice of proposed rulemaking, as well as for initiating the rulemaking process, so that it might take regulatory action to address the risk of death or injury from CSU tip-over incidents. We urge the CPSC to carefully consider our comments, investigation, and test results, and to develop a strong, mandatory safety standard that includes, at a minimum, a loaded stability test with 60 pounds of test weight and extends coverage to dressers 30 inches in height and shorter. While we also will be advocating for furniture manufacturers to take action independently, several factors—including the absence of an adequate voluntary standard and the inability of consumers to readily observe whether a CSU is more or less likely to tip over—make it critical for the CPSC take urgent action to implement a strong, enforceable rule applying across the marketplace. Such a rule would, finally, give consumers the ability to trust that dressers for sale in the U.S. would resist tipping over onto young children.

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<sup>19</sup> Separately, we note that the Commission currently is assessing the extent of compliance with voluntary standards, including ASTM F2057-17. In light of at least one recall that has taken place and CR's testing and reporting, there is reason to doubt that it is likely that there will be substantial compliance with ASTM F2057-17.

<sup>20</sup> Please see the attached chart, which includes detailed test results and the purchase prices of the dressers we tested.

Respectfully submitted,

Don Huber  
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<sup>21</sup> Consumers Union is the advocacy division of Consumer Reports.