



**Summary of Testimony: ACI¹ President & CEO Ernest Rosenberg
S. 1009, the Chemical Safety Improvement Act (CSIA)
Subcommittee on Environment and the Economy
November 13, 2013**

ACI supports the Chemical Safety Improvement Act (S. 1009), a bipartisan framework for strengthening TSCA. ACI companies have facilities in two-thirds of the districts of the Subcommittee membership.

ACI urges Congress and policymakers to ensure that updates to TSCA result in a credible and workable program for the EPA and industry, and allows EPA to meet its regulatory obligations without unduly delaying or burdening innovation. The U.S. chemical management system must be risk-based and use the best science so as not to waste or misdirect resources. Improvements in the law should reflect recent progress in science and technology and advance further innovations. A modernized TSCA has the potential to promote even greater innovation in the development of evermore sustainable cleaning products. CSIA accomplishes these goals.

The modernization of TSCA is important to the cleaning products industry in three areas *because a* -

1. Robust and credible federal program is crucial to the national uniformity that industry requires. Without this, our ability to be responsive to concerns that may be raised about chemicals in cleaning products — especially those concerns not based on reliable science — is significantly hampered.
2. Modernized TSCA is important to account for scientific developments and advances that allow important information developed by industry to be incorporated into chemical safety assessments and determinations.
3. Strengthen TSCA has the potential to promote the kind of innovation that our members consistently use in developing and creating more effective and sustainable cleaning products.

Protection of Confidential Business Information (CBI): TSCA must continue to provide robust, effective and predictable CBI protection. This will provide industry confidence that they will be able to reap the benefits of their expenditure of both time and resources in research and development leading to the creation of more sustainable products. Limits on the ability of industry to preserve CBI and prevent illegitimate use of intellectual property would discourage innovation and hinder the introduction of safer chemical alternatives.

Speed to Market of Innovation: New products and greener chemistries get to U.S. consumers as fast as innovation allows because of the efficient method TSCA provides to accomplish this task. The TSCA premanufacture program is a better constructed process than any command and control regime which demands reams of data, irrespective of any health or safety concern. Hallmark features of the program that set the U.S. system apart from other regimes around the world include minimal delays, robust interactions between government and industry, and data flows all designed to meet key health and environmental goals.

CSIA Strengthens TSCA: The CSIA directs EPA to systematically evaluate the safety of existing chemicals in use, and enables EPA to identify and act on chemicals that may pose safety concerns in their intended use. CSIA would allow more data on chemicals and Agency safety assessments to be made available to the public while respecting legitimate CBI; require rigor in CBI substantiation; and, will open up lines of state and federal government communication on issues of chemical safety. CSIA will preserve the efficiency of the current review process for new chemicals. CSIA would also provide needed uniformity on chemical management, and will encourage information data flows to better inform chemical assessment and risk management decisions.

¹ ACI is the trade association representing the \$30 billion U.S. cleaning products market. ACI members include the formulators of soaps, detergents, and general cleaning products used in household, commercial, industrial and institutional settings; companies that supply ingredients and finished packaging for these products; and oleochemical producers. ACI and its members are dedicated to improving health and the quality of life through sustainable cleaning products and practices. Our mission is to support the sustainability of the cleaning products industry through research, education, outreach and science-based advocacy. More information can be found at www.cleaninginstitute.org



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Testimony of

Ernest Rosenberg, President & CEO, American Cleaning Institute

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Introduction & Background

Chairman Shimkus, Ranking Member Tonko, and Members of the Subcommittee on Environment and the Economy, I am Ernie Rosenberg, President and CEO of the American Cleaning Institute® (ACI)¹. On behalf of the home of the U.S. cleaning products industry, I appreciate the opportunity to appear before the Subcommittee to provide testimony. ACI welcomes the bipartisan interest of the Subcommittee in the modernization of this important law. ACI companies have facilities in the congressional districts of two-thirds of the Subcommittee membership.

The American Cleaning Institute Supports the Modernization and Strengthening of our Nation's Premier Chemical Management Law

ACI and its members support the modernization and strengthening of TSCA. ACI has called for strengthening TSCA for several years before the recent Congressional efforts to amend the law.

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ACI is committed to efforts to enhance public confidence in the federal management of chemicals through the strengthening of TSCA. We recognize that consumers have an increasing awareness of chemicals used in everyday products.

ACI members are developers of innovative products which have improved performance and convenience and have delivered significant energy, water, and waste reducing technologies to consumers. A modernized TSCA has the potential to promote even greater innovation in the development of evermore sustainable cleaning products. These products provide essential benefits to consumers while protecting human health and the environment. The sustainability mission for ACI is to benefit society and improve quality of life through hygiene and cleanliness – and by driving sustainability improvements across our industry and throughout the supply chain. From cold water washing to efficiencies in cleaning product and packaging delivery, many of our members are building sustainability platforms across their businesses and throughout their supply chains. Chemical innovations help bring these sustainable products to our lives. With leadership from our member companies, ACI sustainability initiatives are demonstrating transparency by reporting aggregated environmental metrics data using sound science and outreach to show how cleaning products and ingredients enhance health and quality of life, and communicating ways in which consumers can use these products safely and responsibly.

Our industry supports S. 1009, the Chemical Safety Improvement Act (CSIA). We welcome the bipartisan development of this measure, and particularly the efforts of the late Senator Lautenberg (D-NJ) and Senator Vitter (R-LA), in crafting a compromise bill and obtaining bipartisan Senate co-sponsorship. ACI has been, and expects to continue to be, an active

participant in bipartisan engagements to advance the modernization of TSCA. The CSIA presents a valuable framework and roadmap for improvements to TSCA.

Our industry has been working with companies and trade associations up and down the value chain, among others, for some time on updating the law. Common ground has been established.

Some of the most basic principles for updating TSCA include:

- The need to reflect the scientific advances made since the 1976 enactment of TSCA and to allow greater data sharing so that public health and environmental health interests are protected.
- Retention of the law's risk-based principles (which permit risk management decisions to be founded on a consideration of both hazard and exposure criteria), while enabling EPA to review and assess the safety of chemicals in a prioritized fashion.
- Encouraging innovation by ensuring speed to market for new products, growing jobs, and permitting our industry to compete in the global marketplace while protecting confidential business information.

The Modernization of TSCA is Key to Domestic and U.S. Global Chemical Leadership

The modernization of TSCA is important in three areas. First, a robust and credible federal program is crucial to the national uniformity that industry, particularly the consumer packaged products industry, needs. Public awareness of chemical substances and human and environmental exposure to them has changed in the nearly four decades since the law's enactment. An updated TSCA will contribute to improved public confidence in the chemicals used to manufacture consumer products and packaging. Second, a modernized TSCA is important to account for scientific developments and advances that allow important information developed by industry to be incorporated into chemical safety assessments and determinations. The law needs to be updated in order for the U.S. to continue to set the pace. Third, a

modernized TSCA has the potential to promote the kind of innovation that our members consistently use in developing and creating more effective and sustainable cleaning products.

TSCA is an important statute to ACI members because of the impact it has on American manufacturing and the freedom to formulate the products that the public wants and needs. For this reason, TSCA is particularly important to manufacturers who develop product and process innovations. TSCA's new chemicals program has made safety a design requirement in the development of chemical substances and formulated products. Put another way, the TSCA new chemicals program has had a deterrent effect on the introduction of any new chemical that creates a likelihood of harm to human health and the environment while still fostering innovation. Fundamental to this is how TSCA facilitates the introduction of groundbreaking innovative and sustainable chemistries and does so more effectively and efficiently than any other system in the world.

U.S. jurisdictions – not just states but localities as well – are taking mandatory steps to manage chemical substances through actions such as bans, restrictions, or phase-outs. Businesses are making decisions about the chemical substances they use to make products more conscientiously than ever. Chemical substitutions driven by safety, or concerns about safety, are increasingly being demanded. ACI suppliers and formulators are working in a business climate that is being driven to restrict the use of certain chemicals in consumer products by perceived safety concerns. However, such actions in this type of climate are not often driven by thorough scientific analysis. Without a credible federal program, our ability to be responsive to concerns that may be raised about chemicals in any kind of product, including cleaning products — especially those concerns not based on reliable science — is significantly hampered.

EPA needs to have access to, and take full advantage of, information and data necessary to reach credible science-based chemical management decisions, and to keep current with the rapid advances in the science of toxicity screening and risk assessment for chemicals. ACI recognizes that the Agency needs sufficient information to better inform chemical assessment and risk management decisions. A modernized TSCA should require EPA to systematically prioritize and assess existing chemicals. The current statute requires updating because there are considerable hurdles that EPA must meet before it can identify chemical risks and take effective action. CSIA addresses this.

Congress should provide EPA with adequate resources and clear authorities to meet deadlines to do the work under a revised TSCA program. It is crucial to stress that any changes to TSCA must be practical and achievable in order to maintain U.S. leadership in innovation. It is essential that any modernization of TSCA results in a successful program that is credible and workable for the Agency and industry, and allows EPA to meet its regulatory obligations without unduly delaying or burdening innovation.

A Robust U.S. Chemical Management Law Must Maintain and Enhance Competitiveness

There are key aspects of TSCA that allow U.S. industry to remain competitive in the global marketplace and help maintain and create U.S. jobs. TSCA maintains research and development flexibility, along with the confidentiality of new technological developments, during all phases critical to marketplace innovation. To this end, ACI remains watchful for any changes to TSCA that would create unnecessarily high hurdles for market entry of sustainable or otherwise innovative chemistries that our industry makes and uses. The U.S. chemical management system must be risk-based and use the best science so as not to waste or misdirect resources. Moreover,

improvements in the law should reflect recent progress in science and technology and advance further innovations.

Cleaning product manufacturers are leaders in greener chemistry innovations. These unique and breakthrough developments often stem from existing or newly developed proprietary “knowledge capital.” To that end, the law must provide robust, effective, and predictable confidential business information protection. This is a priority for our industry and for the development of new chemistries that advance sustainability. Data confidentiality provisions must protect proprietary information in the U.S. to encourage innovation and protect businesses from intellectual property losses. These concerns extend to any limits on the protection of chemical identity, and to any arbitrary time limits on CBI claims. Amendments should not alter the current Freedom of Information Act (FOIA) protection of trade secrets under which rules exist for commercial and financial information that is privileged and confidential under the law. Requirements that would limit or presumptively force the expiration of CBI protections, even if there continues to be a legitimate business purpose, would be problematic.

ACI accepts that a level of transparency is required to achieve the credibility we seek. The protection of CBI is not at odds with a modernized TSCA. ACI supports enhanced EPA access to chemical health and safety effects information. However, arbitrary limits on legitimate claims of confidential business information would inhibit the development of more sustainable chemistries and products. Such limitations may actually and ultimately conflict with the aim of the law to protect human health and safety and the environment by discouraging the development of new data, and by discouraging manufacturers from exploring these innovations in the U.S. market. In this regard, the continued protection of CBI (including the specific identities of chemicals when appropriate) remains important to our members. Consistent with similar

provisions in other laws, medical and health professionals should be permitted access to confidential chemical identities to diagnose or administer appropriate medical care, subject to appropriate confidentiality agreements. The sharing of CBI with other government authorities could be useful to EPA and industry, provided that safeguards are in place granting CBI protection equivalent to that under TSCA and FOIA. The robust protection of CBI provides industry confidence that they will be able to reap the benefits of their expenditure of both time and resources in research and development leading to the creation of more sustainable products.

New products and greener chemistries get to U.S. consumers as fast as innovation allows because of the efficient method TSCA provides to accomplish this task. TSCA Section 5 gives EPA the authority to evaluate and regulate new chemical substances for use in the U.S. marketplace. In general, EPA accomplishes this through the receipt and expedient review of premanufacture notices (PMNs). The law allows EPA to review and take any necessary action even before there is any commercial production of the chemical substance. Only after the review period has expired and EPA has elected to take no action on the basis of health and safety concerns can commercial production commence. The individual chemical substance is then listed on an EPA inventory; but when it is appropriate, may be subject to future review. EPA accomplishes much of this work using information already in its possession, or from information and data submitted by manufacturers and processors, and by relying on constantly evolving assessment tools as an alternative to additional animal testing. While TSCA grants EPA control authorities, it has been repeatedly demonstrated that the Agency can also obtain additional information from the chemical manufacturer, or take more time for review. Such requests lead to the submission of new information or the withdrawal of the premanufacture notice.

The TSCA premanufacture program is a better constructed process than any command and control regime which demands reams of data irrespective of any health or safety concern. Moreover, the law allows EPA to interact and engage with chemical substance manufacturers faster and more flexibly than any other global regulatory counterpart. This is a fundamental reason why TSCA Section 5 has worked so well — and why the U.S. is where most chemical innovations are introduced. These important features of minimal delays, robust interactions between government and industry, and data flows to accomplish key health and environmental goals are paramount features that set the U.S. apart from other regimes around the world.

The Chemical Safety Improvement Act (CSIA) S. 1009 Strengthens TSCA

The CSIA would for the first time direct EPA to systematically evaluate the safety of existing chemicals in use. S. 1009 would also help the Agency take steps to clean-up its chemical inventory nomenclature system. It would also enable EPA to identify and act on chemicals that may pose safety concerns in their intended use. CSIA artfully and thoughtfully refocuses the TSCA safety standard on risks to human health and the environment, but would remove key obstacles to the Agency's use of its authorities. CSIA also seeks to strengthen the credibility of EPA's program and enable uniformity on chemical management which is so urgently needed.

Data collection by rule under existing TSCA authority is complicated and cumbersome. EPA has been very successful in obtaining new data from industry without resorting to rulemaking. The CSIA would provide a pathway for new testing agreements building on these successes. For those cases where EPA must require the submission of health and safety information, the CSIA would enable the Agency to more efficiently gather data with revised tools. The CSIA, unlike the law today, would allow EPA to more efficiently and expeditiously gather data when needed for the Agency to determine whether a chemical is safe for its intended use. This may include

additional testing and obtaining information from processors. EPA would be required to assess and affirmatively determine the safety of existing high priority chemicals under CSIA, which would create a persuasive environment for industry to voluntarily develop or bring forward a variety of new data to ensure EPA assessments are well informed. CSIA would create a coherent program to ensure EPA has the tools for making chemical assessments that are well informed by encouraging the Agency to first use existing data. This is analogous to the structure of Canada's effective law.

CSIA would significantly improve EPA authority to identify and act on chemicals that pose safety concerns. One of the biggest problems EPA faces in administering the current TSCA is the Agency's inability to achieve timely risk reductions under Section 6 when faced with the need to reduce or eliminate exposures to a specific chemical through a cumbersome rulemaking process. While Section 6 has good processes in theory, it has been shown to be next to impossible for the Agency to successfully implement in practice. CSIA would eliminate excessive impediments by streamlining the Section 6 process.

Finally, with regard to the two critical aspects important to the cleaning products industry addressed above, the CSIA would allow more data on chemicals and EPA's safety assessments to be made available to the public while respecting legitimate confidential business information (CBI). Limits on the ability of industry to preserve CBI and prevent the illegitimate use of intellectual property would discourage innovation and hinder the introduction of safer chemical alternatives. The CSIA recognizes the need to protect legitimate CBI, while requiring rigor in substantiation. The CSIA opens up lines of state and federal government communication on issues of chemical safety. The CSIA would do this while preserving the efficiency of the current

review process for new chemicals. This is critical to facilitating innovation in the U.S., and for bringing sustainable chemistries to market and allowing substitutions where warranted.

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ACI is committed to remaining an engaged stakeholder to develop a constructive bipartisan, bicameral dialogue to update and strengthen TSCA. A credible federal chemical management program is important to promoting the safe use of chemicals; enhancing public confidence in the chemical management system; protecting American jobs; and, maintaining U.S. global leadership in chemical innovation. ACI appreciates the opportunity to engage as a direct participant with you on the most critical issues related to updating such an important law.