

Testimony of CPSC Commissioner Joseph P. Mohorovic before the
U.S. House Committee on Energy & Commerce
Subcommittee on Commerce, Manufacturing, and Trade
Hearing on Thursday, March 5, 2015

SUMMARY OF TESTIMONY

CPSC should do more to facilitate legitimate trade through public-private partnerships for those importers voluntarily willing to subject their compliance processes to greater scrutiny – not unlike similar CBP, TSA, and FDA programs. I envision a modernized CPSC import surveillance program where harmful and non-compliant consumer goods are intercepted and deterred, while legitimate cargo is identified and rapidly transported to consumers without disruption.

- Trusted Trader moves beyond incremental improvements in targeting to a more evolved understanding of importers' compliance efforts and abilities.
- To be worthwhile for the agency, Trusted Trader would involve thorough reviews, high standards, and firm responses to violators. To be attractive to industry, it would offer lower risk scores and resulting quicker, more predictable time-to-market.
- My support for requested user fees is predicated on implementation and support of a properly resourced Trusted Trader program capable of drawing robust participation.

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Chairman Burgess, Ranking Member Schakowsky, and members of the Subcommittee, I appreciate the opportunity to be here. My colleagues have discussed many of CPSC's challenges and opportunities. I would like to focus on the substantial challenges and tremendous opportunities the agency has in the area of imported consumer products.

In 2013, 235,000 importers brought \$700 billion worth of CPSC-jurisdiction products into the U.S.¹ Imported products make up 80% of our recalls, not necessarily because they are more dangerous than domestic products, but because there are so many imports. Because of this volume – and because of the difficulties in recalling products – our most effective strategy to keep consumers safe is to evolve our import programs to better keep violative products out of the country. Under the leadership of Chairman Kaye and our Import Surveillance team, we are improving, but there is much more we can do.

While port inspection will always be a component of import surveillance, the next evolution is not in inspecting more, but in more risk-based inspection. It is in a Trusted Trader program that allows importers to volunteer for greater scrutiny in exchange for lower risk classification.

Our peer agencies have developed programs like TSA Pre-Check and CBP's Customs-Trade Partnership Against Terrorism (C-TPAT) that offer substantial benefits – usually in the form of time – in exchange for greater scrutiny in advance. Those agencies cannot sign people up fast enough. Under these partnerships, the users are better off, and the agencies are, too. They gain information they might not otherwise have and they recoup limited resources. I believe CPSC needs to emulate that model with a robust, sophisticated Trusted Trader program.

¹ Consumer Product Safety Commission, *Fiscal Year 2016 Performance Budget Request*, 9 (Feb. 2, 2015).

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The Consumer Product Safety Improvement Act of 2008 required the agency to institute a Risk Assessment Methodology program, or RAM. RAM has been a successful pilot that has shown real capability to improve targeting. Even the most sophisticated targeting, however, will still delay cargo we know is likely compliant, and do so at significant cost to the economy.²

The benefits the agency derives from RAM are still bound by the practical limits of an inspection regime. RAM helps us allocate the numerator in our inspection ratio. Trusted Trader changes the denominator. Even if the number of inspections we conduct remains constant, those inspections would be better concentrated among importers who have not undergone additional scrutiny.

An evolved Trusted Trader program increases the level of confidence we can place in our risk determinations. RAM assigns higher risk scores to importers who have had compliance problems in the past. We assign a lower a risk score so long as we do not know a company has done wrong, even if that is only because we have not checked very often; under Trusted Trader, we can assign a lower risk to companies we *know* are doing *right*, because we *have* checked.

To reach the appropriate level of confidence, a Trusted Trader program should not only put the applicant company under a microscope, but pull back the curtains on its suppliers, as well. To interest companies in being poked and prodded, we should offer significant benefits, primarily in quicker, more predictable time-to-market. The costs of delay – and benefits of prompt passage – can be enormous.³

² “Each shipment held costs industry an average of \$1,500 in port charges and unknown losses resulting from delays to market.” U.S. Consumer Prod. Safety Comm’n, *Staff Report to Congress Pursuant to Section 222 of the Consumer Product Safety Improvement Act of 2008: Risk Assessment Methodology*, 6 (Sept. 9, 2011).

³ *Id.*

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My priority is strengthening our enforcement capabilities. While participants would enjoy substantial benefits, those would come only in exchange for substantial compliance and safety investments. The bar should be set high enough that a well-performing company could be rejected, advised of deficiencies, and invited to improve and apply again. With adequate audits and reviews, the program could give us sufficient confidence that we would see inspecting participants' shipments as not only unnecessary, but a redundant exercise that would draw our attention away from higher-risk companies. Of course, if we learned of a program participant falling short of its responsibilities, the response would need to be strong and swift.

President Reagan espoused the principle that we should "trust, but verify." In a sophisticated, evolved CPSC import surveillance system, we would verify, then trust – and continue to verify. We would offer importers an advantage in exchange for empirical evidence of the competency of their supply chains, and, in so doing, improve the efficiency of our port efforts.

As a final note, I am cautiously supportive of our request for an import user fee, but that support is predicated on implementation of a sufficiently resourced Trusted Trader program with concrete enforcement benefits and clear, meaningful incentives that can attract participation from large segments of the CPSC trade community. Without such a program, the user fee might enable us to run a little faster on the hamster wheel of inspection-focused import surveillance, but we will still be left spinning our wheel. With a Trusted Trader program, the added expense of the user fee would be balanced against shorter time-to-market for Trusted Trader participants and a more evolved import surveillance system for the agency and consumers.