

27 April 2020

Ms. Alberta E. Mills
Secretary
U.S. Consumer Product Safety Commission

Ref: "Agenda and Priorities FY 2021 and/or 2022" - 85 FR 12908

Dear Alberta Mills,

The TIC Council Americas is pleased to provide the attached comments and make oral presentations at the hearing on the CPSC "Agenda and Priorities FY 2021 and/or 2022," 85 FR 12908. We understand the date of the hearing is being determined and look forward to presenting at that time.

TIC Council is the global trade federation representing the independent third-party Testing, Inspection and Certification (TIC) industry which brings together more than 90-member companies and organizations from around the world to speak with one voice. Its members provide services across a wide range of sectors: consumer products, medical devices, petroleum, mining and metals, food, and agriculture among others. Through provision of these services, TIC Council members assure that not only regulatory requirements are met, but also that reliability, economic value, and sustainability are enhanced. TIC Council's members are present in more than 160 countries and employ more than 300,000 people across the globe.

We appreciate the opportunity to present at the hearing and to provide the attached comments. Should you have any questions, please don't hesitate to contact Karin Athanas at +1 240 762 8069 / kathanas@tic-council.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hanane Taidi'.

Hanane Taidi
Director General
TIC Council

A handwritten signature in black ink, appearing to read 'Roberta Telles'.

Roberta Telles
Executive Director
TIC Council Americas
rtelles@TIC-Council.org

General Comments

TIC Council supports and welcomes CPSC's outreach to stakeholders in requesting inputs for the Commissions' Agenda and priorities for FY 2021 / 2022. TIC Council recommends that CPSC continue to seek opportunities to collaborate and engage with industry to fulfil its mission. The TIC industry remains at the service of CPSC and looks forward to working in partnership with the agency to leverage resources and multiply its impact.

Collaboration with stakeholders broadens the conversation on relevant issues, increases the reach of CPSC's communications, better enables industry to respond effectively to proposed changes. TIC Council members have a global footprint with facilities in over 160 countries and have the technical expertise and capabilities in all aspects of product safety. They provide services that help ensure safety and compliance across all stages of the supply chain, from the design stages to post-retail and manufacturers, retailers, and importers of all sizes rely on TIC industry as a cost-effective solution to meet their legal obligations and demonstrate compliance with safety standards and regulations.

To further support the CPSC's work, TIC Council recommends that CPSC consider:

- 1) Partnership with TIC Council in a coordinated effort, including industry, consumers, and other stakeholders to address the growing issues of counterfeit products sold through e-commerce platforms.**

A 2019 report by the Organization for Economic Cooperation and Development (OECD) identified growth of 154% from 2005 to 2016 in the trade in fake goods.¹ Of those found to be counterfeit, many are also identified as low-quality and able to cause injury to consumers.²

To address this growing issue, a partnership of industry, consumers, TIC, and regulators is needed to find solutions and to educate end users on how they can protect themselves from injury. Campaigns such as check the label and/or mark and education on the risks of using e-commerce platforms would help to reduce injury among consumers and better prepare them to protect their loved ones. TIC Council remains at the ready to partner with CPSC and others to find a common-sense path forward.

- 2) Partnership with TIC Council and its members to leverage their technical expertise and global footprint in CPSC's training of manufacturers and designers.**

Product safety requirements and best practices across the globe can be diverse. TIC Council members assist industry in traversing such requirements by offering training and advising manufacturers and designers on best practices across the globe and better preparing them to meet the requirements of the CPSC and others. These trainings help ensure that safety is being built into the earliest stages of the supply chain, and it is a preventive and cost-effective approach to consumer safety.

TIC Council would welcome future partnership opportunities between CPSC and the private sector to make use of TIC member technical expertise and capabilities to help fulfil its mission.

¹ OECD/EUIPO, Trends in Trade in Counterfeit and Pirated Goods, Illicit Trade, OECD Publishing, Paris/ European Union Intellectual Property Office, (Mar. 18, 2019), <https://doi.org/10.1787/g2g9f533-en>

² U.S. Customs and Border Protection, Fake Goods, Real Dangers, <https://www.cbp.gov/FakeGoodsRealDangers>

3) Engage with stakeholders to discuss common-sense policies to address safety hazards caused by IoT devices.

In a report entitled *Status Report on the Internet of Things (IoT) and Consumer Product Safety*, by the CPSC Office of Hazard Identification and Reduction, dated September 25, 2019 it states the “CPSC staff is working to gain an understanding of the best way to define consumer product safety in terms of the IoT, the intersection of, and interdependencies among consumer product safety, data security and privacy, and how our traditional risk management approaches apply to these products.”

TIC Council continues to support CPSC’s efforts to better understand this emerging industry and the risks to safety associated with IoT functionality. We recommend continued engagement with stakeholders, tracking and reporting of IoT related safety incidents through the CPSC incident reporting system, and continued participation in standards development to ensure voluntary standards are considering risks to safety caused by IoT functionality and safe-guarding consumers at the time of manufacture.

Following our CPSC testimony in 2019, TIC Council provided the following additional guidance on recommended changes to the incidence reporting system to address the increasing use of IoT devices. We continue to support CPSC’s efforts and reiterate our recommendation that the CPSC take the following steps:

TIC Council recommends that CPSC establish a tagging process to allow products that are connected and/or when the connection contributed to the hazardization is identified.

According to the CPSC Recalls Retrieval Web Services Programmers Guide, the following fields are available under 'Products'

- Product
- Name
- Description
- Model
- Type
- Category ID
- Number of Units

TIC Council recommends the addition of a new category ID that is assigned if the product is connected, networked, or similar.

Alternatively, TIC Council recommends that the tagging be applied if CPSC determines that the hazardization was created by the device’s connection functionality – as an example, due to connection, software update, or similar.

4) Organize stakeholder roundtables to discuss emerging industries and to seek alignment on the best path forward for areas of concern including 3D printing and wearable devices.

Wearables come in many forms and innovation in all industry sectors have created a growing industry of consumer products. Where IoT and cybersecurity play an interconnected role, the safety of these devices remains paramount and better understanding their function, application, and the intrinsic safety risks that they post will better prepare all stakeholders in ensuring that consumers are protected.

3D printing has become commonplace in classrooms and many homes now have small printers for home use. These devices come with risks of fire, burns, mechanical injury and others and further discussion of their use and the safety risks they pose will better prepare the industry to take action.

For these reasons, we encourage broad discussion through roundtables and workshops with all stakeholder and offer our support and assistance.

5) Leverage private sector conformity assessment when designing conformity assessment programs to fulfil policy needs.

As described in OMB Circular A-119³, federal agencies are encouraged to rely on private sector conformity assessment (testing, inspection, certification, auditing, etc.) whenever possible to leverage efficiencies and save the agency's resources.

“(…) agencies should recognize the possible contribution of private sector conformity assessment activities. When properly conducted, conformity assessments conducted by private sector conformity assessment bodies can increase productivity and efficiency in government and industry, expand opportunities for international trade, conserve resources, improve health and safety, and protect the environment.”

Many governments across the globe increasingly rely on private sector third-party conformity assessment to save resources while fulfilling their mission to protect health, safety and the environment. The CPSC reliance on third-party testing for children's products, along with other measures, is an example of such public-private partnership that has been successful in helping drive compliance and keep children safe.

In addition, there are a variety of conformity assessment tools provided by the independent TIC sector that go well beyond testing that are used by manufacturers, retailers and importers, such as factory audits, capability audits, inspections, design evaluations, safety assessments, certification, among others. All these conformity assessment tools help mitigate risks, ensure compliance and give visibility across complex supply chains, making the TIC sector a trusted partner to industry and governments.

The choice of the appropriate conformity assessment method should always be based on risk assessment and confidence needs applicable to the situation, since there is no one size-fits-all in conformity assessment. Third-party conformity assessment provides higher levels of assurance of compliance with safety requirements⁴ and is an essential element in ensuring consumer safety in the United States.

³ https://www.nist.gov/sites/default/files/revise/circular_a-119_as_of_01-22-2016.pdf

⁴ http://www.ifia-federation.org/content/wp-content/uploads/IFIA_CIPC_239_2014-2016_Market_survey_report.pdf