



**STATE OF NEW YORK**  
EXECUTIVE DEPARTMENT  
Eliot Spitzer  
Governor

**Consumer Protection Board**  
Mindy A. Bockstein  
Chairperson and Executive Director



## **Testimony of Mindy Bockstein**

*Before the*  
Assembly Committee on Consumer Affairs and Protection  
Assembly Subcommittee on Child Product Safety  
NYC, N.Y.

*Regarding*  
**"Toy Safety"**

November 1, 2007

Good Morning. I am Mindy Bockstein, Chairperson and Executive Director of the Consumer Protection Board (CPB).

I want to thank Assemblywoman Audrey Pheffer, Chair of the Assembly Committee on Consumer Affairs and Protection, and Assemblywoman Ginny Fields, Chair of the Subcommittee on Child Product Safety, for hosting this hearing.

The CPB, established in 1970 by the New York State Legislature, is the State's top consumer watchdog and think tank. Our core mission is to protect New Yorkers by publicizing unscrupulous and questionable business practices and product recalls; conducting investigations and hearings; enforcing the Do Not Call law; researching issues; developing legislation; creating consumer education programs and materials; responding to individual marketplace complaints by securing voluntary agreements; and, representing the interests of consumers before the Public Service Commission (PSC) and other State and federal agencies.

Toys are defining objects in our culture. We can all remember a specific toy that meant a great deal to us as a child. Toys also tend to represent our culture at a given time period. For example, in the '70's there was the Pet Rock and Hot Wheels, in the '80's the Cabbage Patch Kids were the rage and most recently, Elmo has been a perennial favorite. When we think of these toys, we feel a sense of nostalgia and generally have good feelings. However, with the many toy recalls of recent months, some people's feelings toward toys have taken on another dimension. That dimension is fear. Now,

unfortunately, some consumers think twice when purchasing toys and are beginning to consider the potential risks to which their children may be exposed when they play with these toys. Latent risks may additionally abound just inside our children's toy chest.

The issue of toy safety and recalls has been a constant front-page issue during this past summer and into the fall. Children of New York State have been exposed to toys that have posed choking, magnetic and lead hazards. There has been heightened awareness and an outcry for government, both State and federal, to address the safety and manufacturing standards and oversight of toys.

Although this issue has recently become a hot topic among parents and the press, it has long been an issue of the CPB's as illustrated by our work with the US Consumer Product Safety Commission (CPSC) and other efforts. In 2004, the CPB became a State designee of the CPSC to assist them in assuring the removal of recalled products from store shelves. As a State designee, our Agency receives recalled product information including product description, lot number and product code and uses this information to investigate retail compliance with recalls. Since 2004, the CPB has been assigned more than 100 product recall checks. Agency staff made more than 300 store visits to meet the objectives of this partnership. Due to the volume of recalls that occurred in 2007, our Agency was asked to increase the number of recall checks it conducted. This federal/state partnership has also facilitated the issuance of educational alerts via the CPB website to increase awareness about product recalls. Ours has been a long-standing and fruitful collaboration, one that puts the person first, with a continued focus on consumer safety.

This positive relationship has helped to establish the CPB as an integral partner in the State's efforts to increase consumer awareness and retail compliance with recalls, thereby making the toy marketplace safer.

The recent surge in recalls during the summer alerted us to the fact that even once trusted toys like Thomas the Tank Engine, having been found to contain lead paint, can be dangerous. Large market players such as Mattel and Fisher Price are not immune from bringing toys to market that pose risks to our children.

In response to this realization, the New York State Department of Health, under the recommendation of Governor Spitzer, issued a Summary Order mandating retailers to remove the voluntarily recalled toys from the stream of commerce. To enforce this Order, the CPB, along with the New York State Departments of Health and Agriculture and Markets, made sweeps of 1179 retail stores throughout New York State. We found 146 recalled items for sale just within that sample. Each item consisted of one or more units, thereby making a total of 404 units of recalled items that were found for sale. Once informed by one of our inspectors that a recalled toy was found on the shelves, the involved retailers promptly removed and tagged the items, indicating that they were not to be sold. Some retailers had repackaged the recalled items prior to our arrival, and were awaiting directions from the manufacturer regarding their disposition.

In addition to the joint sweeps, the CPB sent letters to secondhand and thrift stores throughout New York State. These letters urged this segment of the marketplace to

be extra-vigilant and evaluate all toys being sold or donated against recall lists.

Throughout the months of September and October, our Agency continued reaching out to retailers, secondhand and thrift stores and Internet auction sites, urging them to conspicuously post recall notices. We also called for auction sites to bar the posting and sale of recalled toys.

As a result of our letter, Wal-Mart informed us that they were working with their Regional General Manager and Vice President to conduct an assessment of their current recall notice procedures and make needed changes. Additionally, Jo-Ann Fabric and Craft Stores, the Salvation Army, and Toys R Us, all responded favorably and expressed their continued commitment to implement recall notice procedures that will provide consumers with timely, conspicuous and needed information.

Prior to the Governor's August 17, 2007 press conference, the CPB had implemented a public campaign whereby consumers, using a draft letter created by the CPB and posted on our website, could write to toy manufactures and the Toy Industry Association requesting stricter manufacturing standards and oversight. The CPB has kept and continues to maintain updated recall information on our website [www.nysconsumer.gov](http://www.nysconsumer.gov). The website offers consumers a list of the most current major recalls, a brief description of the item and the reason for the recall. It also includes a link to the CPSC website for more information. We have created additional consumer tools, such as safety tip cards and a Toy Safety Inventory Checklist that is supported by several public and private entities, including the Medical Society of the State of NY (MSSNY),

so that parents and children can record the toys they own. It can be quickly referenced in the event of a recall and affected toys can be immediately removed so that they no longer pose a risk.

To complement the information on our website, we also use an interactive voice response (IVR) system to assist consumers in receiving information about recalls. During the height of the Mattel and Fisher Price recalls, we configured our IVR so that consumers could obtain company toll-free numbers, instructions and overall guidance for navigating the recall process. After roll-out of our new IVR message, the CPB saw a major increase in telephone calls to our hotline and in website hits.

At the press conference, the Governor also directed day care providers to remove recalled toys from their facilities and encouraged physicians to discuss health risks including the possible need to test children for lead exposure. We have been working with the Office of Children and Family Services (OCFS) to distribute our Toy Safety Inventory Checklist among daycare providers.

Under New York State Public Health Law, section 1371, the level of lead in paint cannot exceed .06 of one per centum. The Consumer Protection Board, in partnership with the Department of Health, is in the process of examining whether lead levels in some available toys meet this standard, in addition to continuing to spot-check for recalled items left on store shelves.

As I have indicated, the Governor, the CPB and various other State entities have not sat idly by as recall after recall was announced. Our proactive approach enabled New York State to respond to consumer concerns, providing needed information and resources, thereby affording New York consumers with additional protections.

Our Agency continues to seek ways to better inform the public about recalled items. To advance this objective, I am proud to take this opportunity to announce today's launch of "Safe Toys New York" Campaign, New York's commemoration of Toy Safety Awareness month. This program will include meeting with toy safety stakeholders, and will provide New Yorkers with additional tools, recall information, safety tips and other important initiatives to help the public conduct their own safety checks, and test toys, the results of which will be forthcoming in November.

The CPB has also created the 4R's program for adults and a Jr. 4R's program for children. This project encourages consumers to check on stores and report back to the CPB about how retailers are handling and advertising refunds, rebates, rainchecks and recalls. The recall component is another way in which the CPB is actively engaging the public and encouraging change in the marketplace to make it safer for consumers. Several groups are participating in this project.

As I have discussed, the CPB has engaged in many consumer safety activities, including letter writing campaigns, outreach, toy testing initiatives, website updates and various public awareness campaigns. We are taking a comprehensive approach,

combining public outreach and education, working with retailers and manufacturers, and looking at legislative initiatives to work in tandem with our other efforts. Indeed, the Governor has directed the CPB to draft legislation that would impose stiff penalties against those who sell recalled products; require manufacturers who recall products distributed in New York State to certify their disposal to prevent the items from surfacing on the Internet or at a second-hand stores; and, establish a more comprehensive notification system when products are recalled.

Legislative solutions are not quick, easy fixes. We want to be certain that any proposed solutions will be workable, appropriate for the marketplace and effective in minimizing potential, negative impact on the marketplace before any such legislation is introduced, and will engage in discussions with toy safety stakeholders over the next several weeks to that end.

Recall notices are indications that the system is working. Providing warnings regarding unsafe products is helping to protect consumers. True, it would be nice if all products were manufactured in such a way that a recall would never occur, however, that is not realistic. Therefore, in addition to encouraging safer and more transparent manufacturing standards and increasing oversight of manufacturing, we are also promoting recall notice awareness and education.

I will conclude with words and ideas from the European Union Consumer Affairs Commissioner, Meglena Kuneva, speaking on the topic of recalls and toy safety. Her



ideas mirror the very messages the CPB strives to convey. She discussed how we cannot afford to wait for something to go wrong, saying, “There can be no compromise on safety.” Thus, the challenge for the toy industry is to anticipate problems and deficiencies in toy production, and maintain the highest level of vigilance possible. With regard to safety however, silence is much more dangerous than openness and action. She continued, and I echo, “Transparency builds trust.”

I wish to thank Assemblypersons Pheffer and Fields for hosting this hearing today and for providing me with the opportunity to discuss this issue and the CPB’s dedication -- past, present and future -- to seeking safer toys and a safer marketplace for our children. I pledge our continued commitment to consumer safety on all levels, and look forward to working together with you to achieve our mutual goals on behalf of New Yorkers.

Thank you.