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January 6, 2014

The Honorable Robert Adler
Acting Chairman
Consumer Product Safety Commission (CPSC)
4330 East West Highway
Bethesda, MD 20814

Re: Commission's Response to AAFA Letter Regarding Children's Sleepwear
Flammability Standards

Dear Chairman Adler,

On behalf of the American Apparel & Footwear Association (AAFA) we would like to thank the Commission for its response to our letter requesting that the Consumer Product Safety Commission (CPSC) enforce its position on the Children's sleepwear standard. For your review, we have included our original letter and the Commission's response written by former CPSC Chairman, Inez Tenenbaum.

AAFA has an established, long standing, and active relationship with the Commission, and we are pleased to engage in a constructive dialogue that addresses solutions for an issue that is of concern to our members.

In response to the former Chairman's letter, AAFA respectfully disagrees with the former Chairman's assertions and will address the issues raised in turn.

**The Commission's misinterpretation of AAFA's request to codify
any modification in sleepwear standards**

In our letter, we assert that the existence of seemingly non-compliant sleepwear that remains on the market and continues to be sold year after year, suggests that the CPSC has modified the rules for sleepwear. Meanwhile, AAFA has continued to educate members on the existing rules, and members have continued to comply with the rules, while seemingly non-compliant sleepwear continued to flood the market, appearing in every retail channel. If there was indeed a modification to the rules, AAFA urged the Commission to codify the relaxed rules in an updated sleepwear regulation so that AAFA members could both protect public safety AND compete on a level playing field.

Unfortunately, the former Chairman, in her response, mistakenly misinterpreted AAFA's request to mean that AAFA would now advocate for the Commission to formally relax federal sleepwear standards. That assertion is completely false.

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Like the Commission, AAFA considers the protection of children to be of the utmost importance. We agree that the sleepwear standards are critical to protecting the nation's most vulnerable consumers from the risk of fire and burns. As such, we have and will continue to urge the Commission to enforce its position on sleepwear, and fully investigate all reports of non-compliant sleepwear to ensure that the standard is properly adhered to throughout the entire industry.

The former Chairman's incorrect assertion that AAFA has failed to post important flammability recalls on our website

At AAFA, we take pride in our industry's commitment to product safety. This includes regularly informing our members of recent CPSC recalls as well as recalls issued by Health Canada. Not only have we maintained a list of all apparel and footwear related recalls since 1975 involving flammability, but also recalls related to drawstrings, small parts, lead, and other hazards. Our full membership is notified when the CPSC issues a recall, and the running list is updated to reflect the recall. The running list is available to all AAFA members via an internet link on the AAFA website and serves as a valuable resource for our industry.

We also note that we did publish reports in AAFA's weekly member newsletter on several important flammability recalls that the former Chairman's letter referenced: Vive La Fete, Baby Boden, Elephantito, Gabiano/ Ishtex, and Target.

AAFA's Concerns about Flammability Standards Compliance

In response to our letter, we are pleased to know that the Commission actively seeks our assistance in enforcing sleepwear standards, and seeks specific information we may have about noncompliant products on the market.

In the past, we have provided specific examples of noncompliant sleepwear being sold on-line and in store. In fact, our last trade complaint regarding non-compliant sleepwear was sent to the CPSC Textile Flammability Team Lead on April 15, 2013. CPSC staff acknowledged receipt of the trade complaint and responded with the following statement,

"My team reviews each and every trade complaint that is received. As you know, we are not able to discuss any specific details or corrective actions with any third parties. The only corrective actions that are publicized are consumer level recalls. CPSC has recently recalled a significant number of sleepwear garments for violating the children's sleepwear standards. Those recalls are available on our website at: <http://www.cpsc.gov/en/Recalls/>."

However, the former Chairman's letter states that CPSC staff has not received any actual trade complaints from AAFA in over fourteen months, since July 2012. In fact, AAFA has made numerous submissions to CPSC staff over this time period and would be happy to share those submissions with you. Throughout, we were never informed that the submissions were improperly filed. However, if, we were not submitting our trade complaints through the proper channels, we ask the Commission to provide guidance on the proper way to submit a complaint. Regardless, going forward every trade complaint sent from AAFA to CPSC staff regarding non-compliant sleepwear will be also be sent to the CPSC Chairman, Commissioners, and their staff.

Secondly, the former Chairman, in her response, claims that some of the previous trade complaints filed by AAFA and its members turned out to be for garments that did not violate federal standards. AAFA was never notified of these determinations. If information on those determinations was indeed provided to AAFA, please provide the correspondence from the CPSC stating such.

Finally, we restate our questions to the Commission as to why seemingly non-compliant sleepwear products are allowed to be sold. Please note, as per the former Chairman's response, we have indicated the size of the garments and how they are to be used.

1. Can cotton lounge pants without flame resistant treatment be marketed to children in sizes (0-14) as not intended for sleepwear?
2. Regarding the marketing and selling of robes to children in sizes (0-14), are there specific guidelines on what must be flame resistant and what does not have to be flame resistant. If so, can the Commission publish and share the guidelines?
3. Many sleepwear styles sold online do not list the fabric content information in the description. As a result, potential customers are unaware that they may be purchasing a violative garment. We are aware that the Federal Trade Commission (FTC) ensures compliance with labeling requirements for textiles. However in the case of fabric content of children's sleepwear, we believe the CPSC has a stake in this issue that needs to be addressed. What action has CPSC taken to address this violation of the law?

Summary and Conclusion

Chairman Adler, thank you for your time and consideration in this matter. We value our strong and longstanding relationship with the Commission and appreciate the willingness of both Commissioners and CPSC staff work with AAFA and the industry. We look forward to continuing a constructive dialogue with the Commission to find solutions to this important issue. Please contact Danielle Abdul of my staff at 703-797-9039 or by email at dabdul@wewear.org if you have any questions or would like additional information.

Sincerely,



Steve Lamar
Executive Vice President

Cc:
The Honorable Ann Marie Buerkle
The Honorable Marietta Robinson