Information Technology Industry Council
Leading Policy for the Innovation Economy

Association Connecting Electronics Industries

March 16, 2009

Office of the Secretary
Consumer Product Safety Commission
Room 502
4330 East West highway
Bethesda, MD 20814

Subject: **Consumer Product Safety Improvement Act (CPSIA); Section 101: Electronic Devices Interim Rule**

The Information Technology Industry Council (ITI), Consumer Electronics Association (CEA), and IPC – Association Connecting Electronics Industries ®, represent numerous manufacturers of a wide range of components, computers, televisions, video display devices, wireless devices, MP3 players, printers, printed circuit boards, and other electronic equipment. We appreciate the time you have taken to work with industry and ensure that the concerns of the high-tech electronics industry are addressed.

Our member companies have long been leaders in innovation and sustainability. Many of our members go beyond requirements on product safety, environmental design and energy efficiency, and lead the way in product stewardship efforts. We appreciate the opportunity to provide feedback to the Consumer Product Safety Commission (CPSC) on the interim final rule entitled, "Children's Products Containing Lead: Exemptions for Certain Electronic Devices" (February 9, 2009) and appreciate the effort CPSC is putting forth to ensure stakeholder involvement. We look forward to continuing to work with the CPSC to address issues relating to compliance and implementation of the Act and thank the Commission for their timely work in providing guidance.

Based on our evaluations, most electronic devices will not be considered children's products, as defined in the Act. For the most part, our members' products are intended for general consumer use and not specifically intended for children age 12 years and younger and therefore, are not subject to the lead-content limits under CPSIA. These comments are intended for the small number of electronic devices that may be considered children's products and therefore subject to the lead content limits under CPSIA. Most uses of lead in electronics will be inaccessible as defined in the proposed Interpretative Rule on Inaccessible Component Parts (January 15, 2009 74 FR 2439).

Section A.

We appreciate the Commission's determination that absent an interim final rule, manufacturers of electronic products would potentially be subject to enforcement action or marketplace confusion regarding the lead standards in the CPSIA. This is particularly true during the initial compliance period before the Proposed Rule on Inaccessible Component Parts Becomes effective.

Section B.1.

ITI, CEA and IPC agree with the definition from the CPSIA that if "a lead-containing component part is not accessible to a child, it is not subject to the lead limits under the CPSIA." Most component parts of an electronic product are inaccessible under this definition. Electronic products typically use a covering or casing to protect the internal components from dust, moisture, exposure, and other influences that could damage the component parts or otherwise impact the functioning of the device. We also wish to point out that most electronic components are actually composed of one or more smaller component parts. There may be some limited circumstances where an accessible larger component part may contain a smaller lead-containing component part. However, the smaller lead-containing part would be inaccessible because it is fully enclosed within the larger part. We agree with the interim final rule that recognizes that "[s]ome lead-containing component parts of electronic devices are, by design, not accessible to children because the lead is fully enclosed within a component that is itself within an electronic device." Therefore, the fact that a component can be touched by the accessibility probe (as discussed in the proposed inaccessibility rule) should not affect whether a smaller component contained within the larger component is inaccessible.

Section B.2

ITI, CEA and IPC agree with the Commission's approach to exempt certain uses of lead as it is technologically infeasible to remove it. However, despite the electronics industry's continued efforts to find replacements for lead in certain uses, we feel that the limited list of exemptions in the Interim Final Rule may be inadequate. The Proposed Rule on Electronic Devices (January 15, 2009, 74 FR 2435, which was withdrawn by the Commission) had incorporated by reference the functional lead exemptions of the European Union Restriction on Hazardous Substances (RoHS) Directive.

ITI, CEA and IPC believe that incorporating all current exemptions of the use of lead contained in the RoHS directive will help avoid inconsistencies between the established global electronics regulation and CPSIA. The RoHS Directive impacted every facet of the supply chain and forced the electronics industry to make enormous and expensive changes, forever transforming the electronics industry landscape. Manufacturers rely

extensively on the exemptions during all phases of fabrication such as design, testing, compatibility, functionality, and ultimately production. Ongoing research aims to find alternatives and eliminate the use of lead, however, alternative or other technically feasible mechanisms have yet to be discovered. Multiple, conflicting, and confusing regulations for a single substance place enormous financial and productivity strain on manufactures. Harmonizing the exemptions for the use of lead in RoHS with CPSIA will allow electronic manufacturers to comply with one standard. ITI, CEA, and IPC have listed the applicable exemptions for the use of lead under RoHS at the end of this document in Annex I.

The background information in the withdrawn proposed rule on exemptions for certain electronic devices (January 15, 2009, 74 FR 2435) provided useful clarification to manufacturers that to the extent that a lead-containing part in an electronic device is granted an exemption to the lead limits or is otherwise inaccessible to a child, that component part would be relieved from the testing requirement of section 102 of the CPSIA for purposes of supporting the required certification. For clarity, we suggest that the Commission explicitly include this statement in the Final Rule 16 CFR Part 1500.88.

Section B.3.

The interim final rule states that spare parts or other removable component parts be considered inaccessible under the provisions of CPSIA, provided that the lead-containing part is inaccessible when the product is assembled in functional form or if the component itself meets the criteria for exemption. ITI, CEA, and IPC support the Commission's determination, as replacing or installing parts of a children's electronic device is not a children's activity.

Section B.4.

This section states that all component parts that cannot be made inaccessible and are not specifically exempted by rule must comply with the lead limits in the CPSIA. While we are not opposed to this statement, we are concerned with regards to enforcement and testing. Testing for lead in electronic products is difficult and costly.

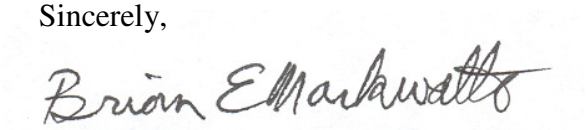
Concluding Comments

On behalf of our combined membership, we appreciate the opportunity to provide comments on the interim final rule. We hope to continue working with the CPSC as these rules and additional rules and actions implementing the Act are developed. We would welcome the opportunity to have a small number of technical experts from our

industry meet with CPSC to discuss these comments in more detail and answer any questions that you might have.

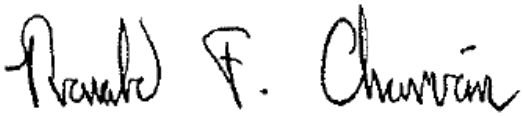
We look forward to continued, close cooperation as this important legislation is interpreted and implemented. Please do not hesitate to contact Megan Hayes, CEA, at mhayes@CE.org or 703-907-7660; Chris Cleet, ITI, at ccleet@itic.org or 202-626-5759; or Ron Chamrin, IPC, at RonChamrin@ipc.org or 703-522-0225 if you have any questions.

Sincerely,



Brian Markwalter
Vice President, Technology & Standards
Consumer Electronics Association

Christopher Cleet
Director of Environmental Affairs
Information Technology Industry Council



Ronald F. Chamrin
Manager of Government Relations
IPC – Association Connecting Electronics Industries

Annex I: Current Lead Exemptions under RoHS

1. Lead in glass of cathode ray tubes, electronic components and fluorescent tubes.

2. Lead as an alloying element in steel containing up to 0.35% lead by weight, aluminum containing up to 0.4 % lead by weight and as a copper alloy containing up to 4% lead by weight.

3. Lead in high melting temperature type solders (i.e. lead based alloys containing 85% by weight or more lead)

4. Lead in solders for servers, storage and storage array systems, network infrastructure equipment for switching, signaling, transmission as well as network management for telecommunications

5. Lead in electronic ceramic parts (e.g. piezoelectronic devices).

6. Lead in lead-bronze bearing shells and bushes

7. Lead used in compliant pin connector systems.

8. Lead as a coating material for the thermal conduction module c-ring.

9. Lead in optical and filter glass.

10. Lead in solders consisting of more than two elements for the connection between the pins and the package of microprocessors with a lead content of more than 80% and less than 85% by weight.

11. Lead in solders to complete a viable electrical connection between semiconductor die and carrier within integrated circuit Flip Chip packages.

12. Lead in linear incandescent lamps with silicate coated tubes.

13. Lead halide as radiant agent in High Intensity Discharge (HID) lamps used for professional reprography applications.

14. Lead as activator in the fluorescent powder (1% lead by weight or less) of discharge lamps when used as sun tanning lamps containing phosphors such as BSP (BaSi2O5:Pb) as well as when used as specialty lamps for diazo-printing reprography, lithography, insect traps, photochemical and curing processes containing phosphors such as SMS((Sr,Ba)2MgSi2O7:Pb).

15. Lead with PbBiSn-Hg and PbInSn-Hg in specific compositions as main amalgam and with PbSn-Hg as auxiliary amalgam in very compact Energy Saving Lams (ESL).

16. Lead oxide in glass used for bonding front and rear substrates of flat fluorescent lamps used for Liquid Crystal Displays (LCD).

17. Lead in printing inks for the application of enamels on borosilicate glass.

18. Lead as impurity in RIG (rare earth iron garnet) Faraday rotators used for fiber optic communications systems.

19. Lead in finishes of fine pitch components other than connectors with a pitch of 0.65 mm or less with NiFe lead frames and lead in finishes of fine pitch components other than connectors with a pitch of 0.65mm or less with copper lead-frames.

20. Lead in solders for the soldering to machined through hole discoidal and planar array ceramic multilayer capacitors.

21. Lead oxide in plasma display panels (PDP) and surface conduction electron emitter displays (SED) used in structural elements; notably in the front and rear glass dielectric layer, the bus electrode, the black stripe, the address electrode, the barrier ribs, the seal frit and frit ring as well as in print pastes.

22. Lead oxide in the glass envelope of Black Light Blue (BLB) lamps.

23. Lead alloys as solder for transducers used in high-powered (designated to operate for several hours at acoustic power levels of 125dB SPL and above) loudspeakers.

24. Lead in soldering materials in mercury free flat fluorescent lamps (which e.g. are used for liquid crystal displays, design or industrial lighting).

25. Lead oxide in seal frit used for making window assemblies for Argon and Krypton laser tubes.