February 17, 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: Inaccessible Component Parts**

The Information Technology Industry Council (ITI), Consumer Electronics Association (CEA), and IPC – the 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 proposed rule entitled, “Children’s Products Containing Lead: Interpretative Rule on Inaccessible Component Parts. 74 Fed. Reg. 2439 et seq. (January 15, 2009) and appreciate the effort CPSC is putting forth to ensure stakeholder involvement. We look forward to continuing 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 primarily 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 this proposed rule. The remaining uses of lead in electronic products that will be considered “accessible” will likely be exempted uses as defined in the Interim Final Rule: Children’s Products Containing Lead; Exemptions for Certain Electronic Devices.
Sections B and C

We agree fully with the Commission’s determination that components that cannot be touched and/or are inside of a device are inaccessible. We also support the CPSC proposal to reference the ASTM F963 standard as well as the 16 CFR 1500.48 and 1500.49 tests.

Section C.1.

ITI, CEA and IPC agree with the approach for testing accessibility as described in the proposed rule. Specifically, we agree that the accessibility probes specified for determining accessibility of sharp points or edges under 16 CFR 1500.48-49 are appropriate for determining whether a lead-containing part of a product is accessible to a child and that “a lead-containing component part would be considered inaccessible if it cannot be contacted by any portion of the specified segment of the accessibility probe.”

We also wish to point out that most electronic components are actually composed of one or more smaller component parts. There may be some circumstances where a larger component part that is accessible may contain a smaller lead-containing component part that would be inaccessible because it is enclosed within the larger part. The discussion of the interim final rule entitled “Children’s Products Containing Lead; Exemptions for Certain Electronic Devices; Interim Final Rule” 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.” Accordingly, ITI, CEA and IPC suggest that the Commission also recognize in the interpretative rule on inaccessibility that some 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 should not affect whether a smaller component contained within the larger component is inaccessible.

Section C.2.

In general we agree with the Commission’s determination to use the Use and Abuse Tests in 16 CFR 1500.50. However, the Commission expressly requested comments on the effect, if any, of product aging on the use and abuse evaluation. For children’s electronic products, any aging that would result in an effect on the use and abuse evaluation would likely have already impaired the functioning of the product and rendered it unusable. The product lifespan for children’s electronic products is considerably shorter than for other children’s products. As such, the use and abuse testing proposed by the Commission in the interpretative rule is adequate and no additional testing to take account of aging would be necessary.
**Section C.3.**

ITI, CEA, and IPC believe that the Commission is correct in their assessment that the accessibility and use and abuse tests, while designed for children 8 and under, are adequate to protect children to age 12. We agree with the determination that the intentional disassembly or destruction of products by children older than 8 years by means of knowledge not generally available to younger children, including the use of tools, should not be considered in evaluating products for accessibility of lead containing component parts.

Section 101(b)(2) of the CPSIA provides that the lead limits do not apply to component parts of a product that are not accessible to a child. This section specifies that if a component part is not accessible if it is not physically exposed by reason of a sealed covering or casing and does not become physically exposed during reasonable foreseeable use and abuse of the product including swallowing, mouthing, breaking, or other children’s activities, and the aging of the product, as determined by the Commission. Paint, coatings, or electroplating may not be considered a barrier that would render lead in the substrate to be inaccessible.

For the most part, all component parts inside of an electronic product are inaccessible under this definition. This is because all such products use a covering or casing, not just paint, coatings or electroplating, 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. In many cases, the covering or casing can be removed by the use of tools, such as a screwdriver. The use of tools is not comparable to the activities listed in the CPSIA (i.e., swallowing, mouthing, breaking, or other children’s activities). Because the use of tools to remove a covering or casing is not a “children’s activity” and because older children (ages 9-12) have gained cognitive skills and knowledge to care for and appropriately use their products, accessibility through the use of tools should not be considered in accessibility and use and abuse testing. As such, we support the Commission’s determination and proposed rulemaking in Section 1500.87(g) that would recognize that “[t]he intentional disassembly or destruction of products by children older than age 8 by means or knowledge not generally available to younger children, including use of tools, will not be considered in evaluating products for inaccessibility of lead containing components.”

**Section G**

Section A (background) contains useful guidance stating that “to the extent a component part is 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 include this statement in Part 1500.87.
Concluding Comments

On behalf of our combined membership, we appreciate the opportunity to provide comments on the proposed 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,

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