

PSC Feels the Impact of Water-Filled Yo-Yo Balls

CINDY SKRZYCKI - The Washington Post

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Lisa Lipin wants water-filled yo-yo balls off the market and has been hounding the Consumer Product Safety Commission to ban them since her 5-year-old son, Andrew, got the elastic string the balls are attached to wrapped around his neck in July.

"A recall is just not good enough," said Lipin, who lives in Chicago and has been crusading to get the media and Congress to recognize the dangers of the toys. "It should be banned as it has been in other countries. I just want to see this thing off the shelves."

The imported yo-yo balls, which can cost less than \$ 1, have been banned in Canada, Brazil, Luxembourg, Australia, Britain and France. Two states have issued warnings. Toys R Us, Walgreen's and Wal-Mart have decided not to sell them. Consumers Union tested the product and said last week that it was "not acceptable" because the ball burned when held to a flame and "the swinging cord could wrap around a child's neck and restrict or cut off circulation."

The CPSC doesn't see it that way. Despite reports of 220 incidents of close calls -- the agency estimates that 11 million to 15 million yo-yo balls were sold in the United States last year -- the commission decided in late September that the toys were a low risk.

After weeks of study, the agency said in a statement, "there is a low but potential risk of strangulation" from the yo-yo balls. But the staff concluded after testing the balls, that they did not show a substantial risk of serious injury or death.

In documents released to The Washington Post, the agency found after testing that the balls are not flammable or toxic, and the impact of the toy hitting a child in the face "would be within the range of other non-rigid projectile toys."

But it also found that it could not "rule out the possibility [that it] could cause a fatal strangulation in an unattended child" -- particularly an older child who could wrap the string more tightly around the neck. "Although the toy may not immediately disable a child, older children may be capable of generating forces high enough to put themselves at risk if they cannot remove the toy and help is unavailable," the staff study noted.

When it announced the results of the study, the agency suggested that parents exercise caution in allowing their children to play with the toys.

"The decision we made is based on the powers we have under the Consumer Product Safety Act. The staff said we cannot tell you there is a substantial product hazard," Harold D. Stratton Jr., chairman of the three-member commission, said in an interview.

Frederick Locker, general counsel of the Toy Industry Association in New York: "It's not like a tight cord -- it's extremely flexible. The product does not fail any regulation. They [CPSC officials] can only proceed . . . if it creates an actual risk. In the United States, we make decisions on hazard-based data. Other countries use the precautionary principle."

He said the perceived dangers of the product has been media driven. He said the CPSC investigation into the toy was in response to "apprehension and unease" of parents. Safety advocates and a member of Congress criticize the CPSC's decision not to take stronger action.

"A toy is not supposed to wrap around a child's neck. They did a very soft warning. They could have done much more," said Rachel Weintraub, assistant general counsel for the Consumer Federation of America.

The commission has pushed forward recently with rulemaking to make baby bath seats and upholstered furniture safer. But Weintraub said the lack of action on yo-yo balls could indicate the current administration's philosophy toward initiating tough recalls or pressuring manufacturers to act on their own.

Ann Brown, previous CPSC chairman, used her position as a bully pulpit, often pushing the industry to do recalls or make changes to products even if they might not have met the technical standard for CPSC action. Many manufacturers resented her reliance on high-profile media appearances to affect "voluntary" recalls. Indeed, almost every recall the agency has done since 1973 has been with the cooperation of the manufacturer.

Brown said in an interview it would be difficult to initiate even a voluntary recall because there are so many small companies and importers involved. If she were still on the job, she said, she would ask manufacturers and retailers not to make or sell them and she would "do a hell of a lot of publicity and tell people to get them out of their homes."

Stratton said, "I do not do that. I do not see my job as shaming people into not doing things they can legally do."

R. David Pittle, a former CPSC commissioner who now is senior vice president, technology policy for Consumers Union, said the agency should meet with the industry and press them to reduce the risk of the toy and should label the toy for children ages 6 and older.

Rep. Janice D. Schakowsky (D-Ill.), ranking member of the House subcommittee on commerce, trade and consumer protection, has written the commission twice, urging a recall, and then, a ban of the toys. "I am extremely disturbed that the CPSC has not taken bolder action to protect children from this dangerous product," she said in a statement.

She asked CPSC to issue a stronger warning to parents about the risk of strangulation and urge retailers to take it off their shelves. The CPSC response was that the evidence to date does not support a recall or a ban. If "new and compelling evidence arises, we will, of course, take that evidence into account and do whatever is appropriate under the circumstances," the agency said.