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Tuesday, May 5, 2009

Chair

Mrs. Joy Smith

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● (1535)

[*English*]

The Chair (Mrs. Joy Smith (Kildonan—St. Paul, CPC)): Order, please.

Good afternoon, ladies and gentlemen.

I want to welcome the witnesses to our committee.

Prior to starting with the witnesses, I just have a few things to go over with the committee very briefly. It'll only take about five minutes.

I'm very happy to say that I went to the liaison committee today, and our budgets for the witnesses and for the trip up north were both approved.

Hon. Carolyn Bennett (St. Paul's, Lib.): Well done.

The Chair: Yes, I'm happy.

The other thing I want to talk to you about is the reminder that we're having dinner with the minister Wednesday at six o'clock at the parliamentary restaurant. She's invited all the committee members. We'll re-send that invitation in case you missed it. That's always a really good time for us to get together.

With regard to the trip up north, we'll be talking more about that on Wednesday, but we've taken the suggestions: the birthing centre in Rankin, the health clinic in Rankin, talk about Nunavut's community wellness strategy, the hospital, tours. Lots of things are going on on that particular trip. We will be leaving on the Sunday afternoon, May 24, and we'll be coming back the following Tuesday. You'll get more details on that very soon.

Right now, I need to have a motion to adopt the budget. Just to give you a reminder, today, in committee, we asked for an operating budget of $111,700 to bring in the witness for the HHR study simply because it's become such a big study that we're going to be continuing with it in the fall.

We did that budget, and we also got the budget, as I told you, of $86,745 for the travel up north.

I need to adopt the following:

> That the proposed budget in the amount of $38,850, for the study of Bill C-6, An Act respecting the safety of consumer products be adopted and that the Chair present the said budget to the Budget Subcommittee of the Liaison Committee.

I have to have that motion adopted here so that I can go to the liaison committee for that budget as well.

Ms. Murray has moved that.

(Motion agreed to)

The Chair: I thought you would agree, since you wanted to see the witnesses, but we have to go through that formality.

We're going to be going to our witnesses.

About 10 minutes before the end of the meeting, I would like to see the will of the committee in terms of the witnesses subsequently for Bill C-6. We need to decide how we want to proceed with this. We have our witnesses today, and at about 5:20 we will ask to go in camera with the committee to decide how we want to proceed.

We have with us today, from the Department of Health, Paul Glover, assistant deputy minister, healthy environments and consumer safety branch; Robert Ianiro, director of consumer product safety; Charles Ethier, director general of the consumer product safety directorate; and Diane Labelle, general counsel, legal services unit.

As you know, we will hear your presentations, and then we'll go through our Q and A session.

You have roughly 10 minutes each.

Can we start with Mr. Glover?

Mr. Paul Glover (Assistant Deputy Minister, Healthy Environments and Consumer Safety Branch, Department of Health): Sure.

Thank you, Madam Chairperson, for the invitation to appear before the Standing Committee on Health to provide an overview and to answer questions about Bill C-6, the proposed Canada Consumer Product Safety Act.

My minister has asked me to convey to the committee her regrets. She has other obligations that prevent her from being able to appear before you today. I can assure you, however, that she's extremely committed to the passage of Bill C-6 and the benefits it would bring about for the health and safety of Canadians.

[*Translation*]

My name is Paul Glover and I am the Assistant Deputy Minister of the Healthy Environments and Consumer Safety Branch of Health Canada.

I am joined today by Charles Ethier, Director General of the Consumer Product Safety Directorate, by Robert Ianiro, Director of the Consumer Product Safety Bureau, and by Diane Labelle, General Counsel in charge of the legal services unit of Justice Canada that serves my branch.

Bill C-6 forms part of the government's comprehensive Food and Consumer Safety Action Plan.

● (1540)

[*English*]

As part of the action plan, Bill C-6 is intended to deal with consumer products, and will realize significant, tangible improvements in the health and safety of consumer products by focusing on three areas for improvement. The first is active prevention, to prevent problems before they occur. Second is targeted oversight, to ensure the system is working by providing us the information we need. Third is rapid response, the ability to act swiftly when required.

The act is based on the principles that industry has the primary responsibility for the safety of any product it manufactures, imports, or distributes to the Canadian public; that the public also has a responsibility for the maintenance of its health and the safe use of marketed products; and, finally, the government also has a role and responsibility to monitor and promote compliance and to enforce the legislation it administers.

The Government of Canada is committed to promoting and protecting the health and safety of Canadians, and the proposed act before you would be a significant tool that would enhance our ability at Health Canada.

I would like to take a moment to give you a brief example of how this act would fundamentally change our department's ability to take action when confronted with dangerous consumer products. I'd like to turn to a specific example.

You may recall from media reports that in 2006 there was a worldwide problem with small magnets in children's toys. In short, there was a line of toys that contained numerous, small, and very powerful magnets. A defect in the design of the toys resulted in the magnets being released from the toys. Unfortunately, numerous children ingested these magnets. These powerful magnets were drawn together in the stomachs and intestines of these children, which led to perforations, internal bleeding, and other internal problems.

[*Translation*]

Under the Hazardous Products Act, our 40-year-old consumer product safety legislation, the Government of Canada's ability to address this issue in a timely fashion was limited. In reality, the procedures we used with industry were voluntary.

Of course, the idea of working in partnership with industry is important, but when a voluntary approach does not produce the necessary results, the government must have the necessary authority to resolve the situation.

Without Bill C-6, we did not have the authority to order a recall, stop the sale of the product, or remove the product from store shelves.

[*English*]

Under the proposal before you, our ability to address this situation would be greatly improved. The toy manufacturer would have been required to submit health and safety incident reports when the problem emerged, thereby getting the department important information much earlier in the process. Thanks to the general prohibition in Bill C-6, there would have been various actions that we could have taken very quickly. We could have ordered a stop to the sale, manufacture, or importation of the product, and we could have had the product removed from store shelves.

In short, you can see how Bill C-6 would strengthen the department's ability to help promote and protect the health and safety of Canadians.

As was previously noted, the Hazardous Products Act has been around for 40 years, and it's been the legal instrument we've used for protecting the Canadian public from unsafe or dangerous consumer products. Although this product safety regime has served us well since coming into force in 1969, it has become outdated and is in need of modernization.

[*Translation*]

Today's marketplace is significantly more complex than that which existed in 1999. Globalization means that products sold in Canada now originate from all over the world. Changing technologies have introduced new materials and substances into the marketplace much more rapidly. And there are now more products available to Canadian consumers.

● (1545)

[*English*]

An exact count of the number of new products would be very difficult to give, but it is safe to say that there are millions of consumer products on the market in Canada, with thousands of new products introduced each year. This raises an interesting question about how Health Canada approaches product safety. While our department does have pre-market approval regimes in place for products such as pharmaceutical drugs and medical devices, the nature of the consumer product market means that the regulatory regime for consumer products covered by Bill C-6 is post-market.

This clearly underscores an importance of having the tools that are proposed under the act that would grant our ability to respond rapidly and take appropriate actions when dangerous consumer products appear.

[*Translation*]

Our major trading partners like the United States and the European Union have already modernized their product safety regimes to address new marketplace realities. This proposed act is in keeping with these safety regimes and would afford Canadians an equitable level of protection. It would also harmonize the requirements for industry.

[*English*]

Bill C-6 proposes a comprehensive suite of measures that respond to the need for a modern, efficient, and proactive product safety regime. At this time, I would like to give the committee a brief overview of some of the key features of the act.

The most significant change from the current legislation would be the introduction of a new general prohibition provision. The general prohibition would make it an offence for a supplier to manufacture, import, advertise, or sell a product that poses an unreasonable danger to the health or safety of the public. This provision both reinforces the fundamental responsibility of industry to ensure the safety of its products and gives the government the tools it needs to respond rapidly, if and when required.

If we look back at the example of the small magnet that I referred to at the beginning, the government prohibition would make enforcement options immediately available when there were no regulations in place in respect to the hazards posed by a particular product. This is in stark contrast to the Hazardous Products Act, where a product-by-product approach does not allow the enforcement action in respect of a production until a regulation is in place, which is often very time-consuming.

Bill C-6 would also introduce mandatory reporting. Manufacturers, importers, and others along the supply chain would be required by law to report any significant product-related health or safety incident or product defect within a set timeframe. Again, it's the notion of targeted oversight. Mandatory reporting would strengthen Health Canada's ability to quickly identify consumer product safety problems and to respond accordingly with appropriate corrective measures. Further, and significantly, it would contribute to our ability to make product safety information available to Canadians.

Inspector powers would be strengthened. Inspectors would have the authority to order suppliers to carry out recalls and other corrective measures when required. Bill C-6 would also permit inspectors to take action to follow through on the provision of a corrective measure when the supplier fails to do so.

To further support corrective measures, new document retention requirements would require suppliers to retain information about the source and distribution of their products. This would facilitate better information gathering and sharing in the case of a health and safety incident. I again turn to the small magnet. These provisions would have permitted the government to respond quickly and efficiently in applying corrective measures where most appropriate along the supply chain.

Where there is a well-founded suspicion of a health or safety concern of a particular product, authority would be given to the minister to require suppliers to test products or to provide results of tests or studies and other information that would allow the verification of compliance or prevent non-compliance with the act.

These requirements, as is the case with other provisions in the proposed act, would not introduce new, onerous requirements for industry. Rather, they are consistent with good business practice in the exercise of normal due diligence.

[*Translation*]

Bill C-6 would also raise fines and penalties to levels that are in line with other modern federal legislation and those of our trading partners.

● (1550)

[*English*]

I'd like to repeat: Bill C-6 would also raise fines and penalties to levels that are in line with other modern federal legislation and that of our trading partners.

As well, Bill C-6 would introduce an administrative monetary penalty scheme, which we refer to as AMPS, as a more flexible and responsible alternative to criminal prosecutions. The key provisions of the act would be complemented by a standard regulatory regime, which is in keeping with other pieces of modern legislation. The regulatory authority sought would enable the department to keep pace with technology in a marketplace that evolves almost daily. More importantly, it will enable the department to maintain the flexibility to take action when new consumer-product-related risks to health and safety present themselves.

In presenting the key elements of the act, I hope I have given you a sense of the main objectives of the proposed legislation and some new features that distinguish it from the existing act. I would also like to take this opportunity, before I conclude my remarks, to respond to concerns that we have heard that this proposal would be used to regulate natural health products.

It is not the government's intention to regulate natural health products though the consumer product legislation before you today. Natural health products are now, and will continue to be, regulated by the natural health products regulations under the Food and Drugs Act. The Minister of Health has written to you to inform this committee of the government's intention to propose an amendment to Bill C-6 to expressly communicate that natural health products are excluded.

In closing, I would like to reiterate that the proposed act would give the government the tools it needs to act swiftly and decisively to help protect Canadians from unsafe consumer products. My colleagues and I would now welcome the opportunity to answer any questions that you or the honourable colleagues may have.

Thank you, Madam Chairperson.

The Chair: Thank you, Mr. Glover.

We'll now go into our line of questions. We have only one person presenting today, and we have our backup people as well, so you can address your question to any one of those witnesses today.

We will have our first seven-minute round, starting with Ms. Murray.

Ms. Joyce Murray (Vancouver Quadra, Lib.): Thank you, Madam Chair.

Thanks for the presentation. It was very clear. It's hard to boil down a complex act into some clear information like that, and I appreciate that. Also, I appreciate the intent of the act. Of course we want to make sure that children are not ingesting harmful substances in toys, so it's the right thing to do.

I have, I guess, four questions, and maybe I'll just lay them all out and the right person to answer can answer them.

One question is, could you outline for us the consultation with stakeholders and provinces and territories that was undertaken in drafting this policy and legislative direction? We have had major concerns for Bill C-11, and we need to assure ourselves.

As well, what, if any, are the implications for information privacy under the act that you're putting forward?

What feedback did you get from stakeholders and the public after having put Bill C-52 essentially in front of the public previously, and was that incorporated into changes?

I'm curious as to what would be the incremental departmental capacity that would be needed to do the information management, the inspectors, the compliance and enforcement of this bill. Do you have an assessment of the extra staff that you'll need and the cost that will be resulting from that?

The Chair: Excuse me, Ms. Murray, I'm so sorry, I have to interrupt you.

There's just French translation and no English, I understand. Are you having the same problems? Can we get that corrected so we have both translations going on, please? It's just French, no English. We need both, please.

I hear English now, yes. Thank you so much.

My apologies.

Ms. Joyce Murray: My last question is about your AMPS, the administrative monetary penalty scheme. Again, who actually is going to track the fines and collect the money? That's a big administrative challenge—

● (1555)

The Chair: I'm sorry, Ms. Murray, it has not been corrected. My apologies.

We are definitely not getting English translation.

Ms. Joyce Murray: I hope I don't have to be translated into English. Is my lexicon that bad?

The Chair: It's all French. It's absolutely all French.

Can you listen again now? Is English on the floor now?

No, just French.

You're happy because you can understand it. I saw your big smile, Monsieur Dufour.

We're going to have to get that corrected.

A voice: It's coming.

The Chair: Can we ask you to try to speak very loudly? They're coming right now to fix it. I hate to suspend committee, so if you could just speak extremely loudly, that would be very helpful.

Thank you.

Ms. Murray, let's try this.

Ms. Joyce Murray: My last question, which I think I had completed, is about the AMPS. It's complex to administer revenue collections of fines, and I'd like to know what has been identified in terms of the structure, the staffing, and the funds to do that.

Thank you.

Mr. Paul Glover: Thank you, Madam Chair, for the questions from the honourable member.

I counted five questions, and I'll try to weave one answer through all of them while touching on each of the specific questions.

We have had, and continue to have, extensive consultations on consumer product safety in general, and the act specifically, on a regular basis. This has been subject to numerous provincial-territorial meetings and discussions. We have had consultations with different industry groups where they have invited us. We have invited them to speak with us, and we have heard from numerous Canadians as we have moved forward on this.

I would characterize this as an area in which there has been a rich exchange of views from industry, Canadians, and the department on the issues before it. I acknowledge that there are always those who feel there should be more, or perhaps they are not satisfied with the consultations because their particular issue has not been reflected in the bill. But we have had numerous consultations as we have developed this.

I'll skip the privacy question and come back to it.

What sort of feedback and building on those consultations has there been to this act since we introduced Bill C-52? There has been ongoing dialogue, with some specific examples of general prohibition and the definition of danger to health and safety. You can think of the example of a stove. It is meant to be hot and there is a risk of burning, but if it's not designed properly and a young child could grab onto it and pull it over, there are different risks. We have been able to work through things like that since Bill C-52 to clarify our intentions and make some amendments with the new Bill C-6 that responded to such concerns that industry and other groups had put forward.

We were informed of concerns about inspectors' orders, how they would be completed, and what a reasonable timeframe would be. Those sorts of adjustments were worked into the new Bill C-6 that's before you. So I think it is fair to say we have capitalized on the opportunity that was presented to us between Bill C-52 and the introduction of Bill C-6.

On this bill and all of the information requirements, we have had ongoing discussions with the Privacy Commissioner to make sure that the information we house and retain is respectful of those requirements. As we develop the regulations to support this, we will continue to make sure we are respectful of privacy information and confidential business information as it moves forward.

On incremental departmental capacity, there is a range. We would be happy to provide a full breakdown of the resources, but one specific area is inspection. We talk about active prevention and targeted oversight, but there is also an inspection function, where the department intends to double the number of inspectors in support of this legislation.

On the issue of AMPS, the inspectors are working on a process that would look at the severity of the issue and how often a company has been involved in a problem with us in order to arrive at what we feel is an appropriate administrative monetary penalty.

On the actual implementation of those collections, I will ask Robert Ianiro to elaborate further.

● (1600)

Mr. Robert Ianiro (Director, Consumer Product Safety, Department of Health): Thank you, Paul.

I think it's important that people realize how the whole administrative monetary penalty schemes work. A monetary fine is levied when suppliers fail to take corrective action that has been ordered. So they've been given valid notice of what activity they have to carry out, and they have decided not to carry that out. They are then subject to a notice of violation that is subject to a fine.

As Mr. Glover was mentioning, the specifics of how we determine the fines are subject to regulations. He's gone through some of the factors that would be taken into consideration, such as past compliance history, level of risk, and whether there was a degree of negligence or intent in that action. The fines can be upwards of $25,000 per violation for anyone who is conducting business for commercial purposes. Anyone conducting business for non-commercial purposes is subject to a fine of up to $5,000.

The drafting of those regulations is well under way. The fines are collected as we would collect any other fine through the Receiver General for Canada. If the fines are not paid in full, the Receiver General follows the normal process, as when you're not paying your taxes.

The Chair: Thank you very much.

We'll now go on to Monsieur Malo.

[*Translation*]

Mr. Luc Malo (Verchères—Les Patriotes, BQ): Good afternoon, and thank you for being with us.

Mr. Glover, in your presentation, you said that there would be an amendment to expressly exclude natural health products. But when we met with Mr. Ethier, it seemed to me to be already clear that they were not included in Bill C-6.

I would just like to know if, since our meeting, other items like that have been included in amendments that will be introduced on second reading in the House.

Mr. Paul Glover: The short answer is “no“.

The natural products situation is somewhat unique. Some people are very concerned by the matter and by the legislation that deals with it. We wanted to make things clear. This really is the only situation like that.

Mr. Charles Ethier (Director General, Consumer Product Safety Directorate, Department of Health): As Mr. Glover mentioned, it was always very clear to us that natural health products were not covered by this bill, as we discussed when we met. However, to make the legislation even clearer, this amendment was proposed, but it is the only one since our meeting.

Mr. Luc Malo: When you answered Ms. Murray's question, you said that the number of inspectors would be doubled. Please allow us to be a little worried about that because, for some time, we have mostly seen the number of inspectors going down.

I am going to ask you some questions about inspection because I feel that, with this stricter bill in effect, there has to be more muscle on the street to make sure that it is enforced.

You tell us that the number of inspectors will be doubled. How did you arrive at the figure for the right number of inspectors being the present number times two, and how are you going to assign them? Where are you going to add staff and why did you decide that those places are the right ones for the increase?

● (1605)

Mr. Paul Glover: Our intention in drafting this bill was not to double the number of inspectors. We analyzed the marketplace and saw its many problems and its complexity. We realized that the present number of inspectors was not sufficient to meet the current challenges. It was not a matter of just doubling the number of inspectors, but of being able to meet the challenges.

Actually, some import centres, some industries, some small stores like Dollar Store and the like, always pose somewhat more difficult problems, we feel. That is why we realized that it was necessary to increase staff.

I will ask my colleague Mr. Ethier to answer your question about how the inspectors will be assigned.

Mr. Charles Ethier: Thank you, Paul.

When we talk about doubling the number of inspectors, it is an estimate. We have already started hiring a number of them. At the beginning of the fiscal year, that is, in April 2008, there were about 42 inspectors. Today, there are 56. We will increase our inspection capacity annually.

In his presentation, Mr. Glover spoke about the Food and Consumer Safety Action Plan. This action plan has a large number of elements based on three pillars: active prevention, targeted oversight and rapid response. We must change our approach to health and to consumer product safety, and we must work differently, especially by creating more partnerships than in the past. For example, we are going to work with the Canadian Border Services Agency in an attempt to identify problems at the point of entry before the products ever get to market in Canada.

Active prevention means working closely with Canadian distributors and manufacturers and providing them with advice so that, as they develop their products, they are well aware of the need to ensure they are safe. By working at that level, we prevent problems at the retail stage and when the products are in the consumers' hands.

So this is a very different way of dealing with the problem. We are looking to establish a structure. The new legislation is an extremely important tool that will allow us to reach our objectives. So we have to increase the number of inspectors in order for the partnerships to be highly effective in program delivery.

Mr. Luc Malo: From the time when the bill gets royal assent, how long do you think you will need to meet all the objectives established by the act, such as keeping our border relatively secure and making sure that the products on our shelves are safe?

Mr. Charles Ethier: That is a very good question. I would like to able to tell you that everything will be done very quickly. The partnerships with border services have been established. Measures are in place to facilitate the exchange of information that will allow us to identify the products that may cause problems before they ever arrive in Canada. A number of factors need to be considered. Our action plan will evolve in coming years. We will have to keep increasing our staff and our ability to manage the program. There is a lot of work to be done. We will take the time we need in order to do it. We are trying to identify and reach our objectives as quickly as we can.

● (1610)

Mr. Luc Malo: So you will need a bigger budget.

Mr. Charles Ethier: Certainly.

[*English*]

The Chair: Thank you, Monsieur Malo.

We'll now go to our next questioner, Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): Thank you, Madam Chairperson.

Thanks to all of you for your presentations.

I agree that this bill takes us forward. There are some improvements in this whole area. My concern—you've heard me before on this—is that we may have brought ourselves up to the 2009 scenario, but I don't know if we're prepared to look into the future to deal with some of the upcoming issues that other countries are grappling with.

First, why is there so much discretion in the bill? Every clause you look at talks about how “the Minister may”. You can read it on just about every page. I know there are different tools in this bill that are useful. Why isn't there a requirement that the government does something when there is a problem, as opposed to leaving it open to such discretion? And why has there been the change from Bill C-52, where the minister is no longer obligated to report and disclose problems?

Those are my first two questions. I have three more.

Mr. Paul Glover: Thank you for the questions.

The bill is intended, through the three principles that I enunciated in my opening remarks—active prevention, targeted oversight, and rapid response—to be, as my colleague Charles answered in response to the last question, something that will evolve to the market.

So this actually a bill that is intended to respond not just to the problems of 2009, but also to the problems of 2010 and beyond, by making sure that the department has the tools necessary to respond to an evolving marketplace.

We are finding, as a result of globalization, that with the introduction of new products, new technologies, there is a need for us to be flexible. So the system needs to respond to what we think of as active prevention. The needs for standards may shift over time, as we move forward, as we see the introduction of new technologies, new products, and as we learn what works and what doesn't in working with civil society, with industry, with other stakeholders.

The targeted oversight is intended to provide us with the information we need to then take an appropriate response relative to the risk that we see—this is a risk-based piece of legislation—as we move forward.

Then, finally, underpinning all of that, when we see that there are problems, is the notion of that rapid response.

It's meant to be something that will evolve as the markets evolve and as the products evolve. There was the notion that one product or one toy always used to come from the same plant, and we could count on that being the issue if there was a problem with it. With the range of issues that we are having to deal with, we're seeing that the market has changed with globalization, with the inputs into that, and with the products coming out of one plant differing with the source products going into that. There is a need for us to have flexibility to respond as we move forward.

Ms. Judy Wasylycia-Leis: I understand some of this, but I don't understand it when it comes to substances in products where there is a known risk factor. In those cases, I don't know why you need flexibility in terms of dealing with human health and well-being. If we know that something is dangerous, then surely the law can be written in a way that says actions shall be taken when a dangerous substance is found in a product that can be harmful to human health and well-being. What you're saying is you can have recalls, you can prohibitions, but it all can be done in the context of flexibility, and the minister has discretion to report it to the public or not.

I think people want something more than just a risk-management model—and maybe this is where we disagree. They want a proactive government that says, “If you know something is dangerous, then do something about it”. Don't say, “We might test; we might not. We might disclose; we might not”. Why not just do it?

● (1615)

Mr. Paul Glover: With respect to the question, there are a number of elements to the response. This piece of legislation is intended to allow us to respond significantly more rapidly than we have in the past—

Ms. Judy Wasylycia-Leis: I agree with that, yes.

Mr. Paul Glover: —where we see problems, and that is its intention. It is also important to note, I believe, that this is not the only piece of legislation that the government has to deal with in these types of issues.

For example, when you speak of dangerous substances, Canada is a world leader in terms of its chemicals management plan, where it has identified a large number of substances. It is working very rapidly to assess those. It has put the onus on industry. It has demonstrated a predisposition with respect to how it will move on those substances and is taking the appropriate regulatory actions or other actions, as necessary, based on the risk coming out of that.

So through the chemicals management plan, there is very specific, world-leading action that accelerates the efforts of this government to deal with substances, both in the environment and in human health.

Ms. Judy Wasylycia-Leis: Is lead on the list of dangerous chemicals? Is lead on the list? We know that lead in toys is a problem. This legislation isn't going to allow you to stop having lead toys on the market. Why not?

Mr. Paul Glover: This legislation, through the general prohibition, if the level that was found presented a risk, would allow us to act.

There's an important fundamental issue that is problematic for people to understand. With technology today, if you ask me to look for it, I will find it. In pretty much anything we are down to nanoparticles. It's very difficult to find something that, as you say, is completely lead-free. It occurs naturally in the environment. It's in dust, it is all around us, in many respects.

The unfortunate reality is that technologies today will allow us, if you say, “Go and look for it”, to find it. What we are trying to do with the general prohibition is make sure that industry, when it designs its products, takes those issues into account so that there is not an undue risk to Canadians as they use those products.

Ms. Judy Wasylycia-Leis: When you make those kinds of provisions, do you look at the possibility of the cumulative effect of these particular substances and its impact on human health? For example, with lead, it might be a tiny particle in this toy car, but combined with this other particle—

The Chair: Your time is up, Ms. Wasylycia-Leis.

We'll give him a chance to answer. Please, go ahead, Mr. Glover.

Mr. Paul Glover: The chemicals management plan looks at the cumulative effects, and the risk assessments we do also look at cumulative effects.

The Chair: We'll go to Ms. Davidson.

Mrs. Patricia Davidson (Sarnia—Lambton, CPC): Thank you, Madam Chair.

Thanks very much for your presentation and for being here this afternoon.

I have three different areas I want to ask questions about, so maybe I'll just ask the questions and then whoever wants to can answer.

My first one is about the relationship between the proposed act and the Canadian Environmental Protection Act, the existing one. I'm assuming that they're going to work together to reduce exposure. But how will you deal with consumer products that consist of toxic substances? Will the fact that a product contains a toxic substance under CEPA automatically ban the product under the proposed act? Will they coincide? How does the proposed act deal with the environmental impact of consumer products? That's my first set of questions.

My second question is in regard to the proposed act and its impact on manufacturers and retailers. What's going to be the impact on them? For example, going back to Judy's question on addressing lead in children's toys, how will the new act work in collaboration with existing regulations along those lines?

My third question is in regard to importers. How can the products that we know pose a danger to human health and safety be stopped at the border? Will this cause a delay in the flow of goods into Canada? Can we actually deal with non-compliant manufacturers in other countries?

● (1620)

Mr. Paul Glover: Chair, I'll take those questions in reverse order.

The legislation would definitely allow us to deal with importation issues, so we would be able to work with our partners, Canada Border Services Agency and others, to deal with the product before it would even enter the country. So if we had concerns about a product, we could stop its importation. We could ask that it be held at the border. There are a range of things we could do relative to the risks. So it does have the ability to do that, and we could work with them through triggers and other notices.

When there is not a risk, it is not meant to propose that there be an undue burden on the industry. That's where you get back to this being a post-market, not a pre-market, regime as we move forward. When there is a problem we have identified, we could deal with it through this before it entered the country.

With respect to manufacturers, the impact on them is really, I think, speaking as a bureaucrat, quite simple. They need to make sure that in the design of the product they are manufacturing, they have contemplated its uses so it will not create a health and safety risk when used. That's the impact on manufacturers. As they do that, they need to make sure that they have records, that they've done the tests, and that if we have concerns and ask for the data, they provide it.

With respect to something being on CEPA and how we would work directly with CEPA, I spoke earlier of the chemicals management plan and of identifying substances. The two pieces of legislation work together. Our intention in creating Bill C-6 and the proposal before you was not to design one piece of legislation that solves all the problems associated with all the issues. It was intended to deal with consumer products and their safety and to work in concert with other pieces of legislation. So where we see that there is a substance-specific problem that CEPA has identified, we would then ask ourselves which act is best placed to achieve the results.

In terms of the impact we are trying to achieve, CEPA's objective is also the protection of human health, the environment, and sustainability. So we would ask which of those two acts is best positioned to respond as we move forward in developing the response from the government as it moves forward.

I know that my colleagues would like to add to that response. Just briefly, then, I'll turn to my colleagues Rob Ianiro and Diane Labelle.

Mr. Robert Ianiro: Thank you, Paul.

I have just a couple of quick words on the question of existing requirements and how the new act would carry over any of those requirements.

I think it's important to note, in the example of lead that was given, that we already control, to a great extent, lead in a variety of products, everything from paint in a can to surface coating on toys. In fact, we are the first country in the world to enact regulations to control the levels of lead in children's jewellery. There are five countries that are now following suit.

I think it's important for committee members to realize that the act itself really proposes a framework, and the general prohibition really creates that safety net. If we have an unregulated hazard, or a hazard that we had never considered, and it poses unreasonable danger to human health or safety, if we have a regulation or not, we will be able to take action. I think it's important for the committee to know that all those existing regulations under the current Hazardous Products Act, which number about 30 or so, will continue to stay in effect and be moved over to the proposed Canada Consumer Product Safety Act.

Ms. Diane Labelle (General Counsel, Legal Services Unit, Department of Health): Madam Chair, perhaps I can clarify the points that are being made about the interaction between CCPSA and CEPA. One has to understand the context in which CCPSA will be operating. It is establishing a new obligation in the sense of a prohibition.

If a substance or product is caught by this general prohibition, then the CCPSA will apply. If it's a matter of looking at and analyzing a substance and trying to figure out how to deal with it in the future, then a decision will be made as to which is the best instrument to use for regulating that product or substance.

Mrs. Patricia Davidson: In your remarks, when you talked about the general prohibition, you said that the general prohibition would make it "an offence for a supplier to manufacture, import, advertise or sell a product that poses an unreasonable danger to the health or safety of the public".

Who defines that unreasonable danger, and how do they do that?

● (1625)

Mr. Paul Glover: That is an excellent question. I wish the answer were simple.

If you take practical examples, knives are meant to be sharp. They're meant to cut things. They are a consumer product. We wouldn't, by definition, say that they're sharp; they're therefore dangerous.

We have to take a look at the intended use of that product and the amount of documentation that supports it so that the consumer, when using it, has the information they need in order to make sure that they're using it as was intended and that it is reasonable.

There is, in fact, existing jurisprudence about this particular issue as we move forward on how we will interpret what is an unreasonable risk.

The Chair: Thank you so very much.

Now we'll go to Dr. Bennett.

We're now going into five-minute rounds for questions and answers.

Dr. Bennett.

Hon. Carolyn Bennett (St. Paul's, Lib.): My first question is why is there still the statutory exemption to tobacco products?

My second question is in terms of risk management. A lot of this seems to be focused on acute exposure. How are you organizing the science when we know that for some things it's over accumulated exposure that actually there are health effects, as with BPA? We know that tissue has tons of this stuff in it, so people must be getting it somehow. How are you going to determine this?

Also, there's the science of the two or three different chemicals that may be added together in a certain way—i.e., two and two makes five, in a certain way. How do you do that? What is the advisory process that you use in obtaining the science?

Finally, this actually says "safety of consumer products". Do you have a process within this that deals with consumers in terms of their being allowed to determine the risk that is acceptable to them or not? You would think that in consumer safety, you would be the best in all of government in consulting consumers and educating consumers as to what they see as acceptable or not, given the facts.

I guess you could start with the question on tobacco.

Mr. Paul Glover: Okay. I will also defer to my colleague Diane Labelle.

With respect to tobacco, again as I mentioned earlier, this legislation is meant to work in concert with other pieces of legislation. There is already an extensive piece of legislation that deals specifically with tobacco and tobacco products, and we see that act as the one we would continue to use. Therefore, rather than duplicating, replicating, and creating confusion, we chose to work with the existing legislation that is there.

Ms. Diane Labelle: Madam Chair, Justice has looked at this issue of moving tobacco to schedule 1. It has formed the view that Parliament has enacted valid legislation with respect to tobacco. Tobacco use is a unique social and health problem that the Tobacco Act does address. It was developed for that purpose.

In particular, the Tobacco Act has been subject to many constitutional challenges, the latest decision coming out of the Supreme Court of Canada on June 28, 2007. We now know that the tobacco legislation is a constitutionally valid piece of legislation.

So the prospect of regulating tobacco under the CCPSA has the potential of revisiting the balance that has been struck between Parliament's objectives and the charter. The government has sought, in subclause 4(2), to avoid revisiting this issue under this piece of legislation. It is provided for directly in the statute for some secondary reasons as well.

The CCPSA applies only to a single characteristic of tobacco products, and that is their ignition propensity. This has been dealt with in subclause 4(2) for two reasons—one, to respond in an open and transparent manner to comments made by the Standing Joint Committee on the Scrutiny of Regulations, and then to maintain the integrity of the schedule, which exempts entire products and not only the characteristic of a product.

Thank you.

● (1630)

Mr. Paul Glover: Madam Chair, I'll continue quickly with the member's two additional questions.

With respect to acute exposure, I would again return to the chemicals management plan that has identified the priorities that are of highest concern to the government and that is looking at acute exposure. It is also looking at the cumulative effects of exposure. It is looking at the different passive exposure from the range of products that exist and, again, at the different pieces of legislation working together, to figure out what is the best way for the government to respond.

BPA is a very good example that you raised. Does it really need to be in the baby bottle? No. But there are some benefits with respect to the can lining and the preservation and, in the absence of that, the spoiling of the food that's in that. Until we get safer alternatives, we're working with industry to drive those down. So there are different responses relative to the risk and how we move forward.

With respect to engaging consumers, absolutely; part of the targeted approach through active prevention is to make sure that not only industry knows what we expect from them, but consumers also have the information so they can make informed choices.

I'm not attempting at all to be defensive, but through the old Hazardous Products Act, it was a regulatory process where we were required.... The onus was on government to prove that a product was hazardous and then to advance the regulations. We will now be gearing up, if and when this legislation passes, to be more active in engaging consumers. Chuck and his group have already been doing that, creating databases on recalls. Not only do we do that but the industry itself does it, to make sure that there's more information to consumers in order for them to make their own choice.

Finally, as we move forward, we see Canada already committed to the globally harmonized system of labelling. We believe when that comes into force to complement this, that will also help by putting new labels on consumer products that are globally harmonized to represent the warnings around products.

The Chair: Thank you so much, Mr. Glover.

We'll now go to Mr. Uppal.

Mr. Tim Uppal (Edmonton—Sherwood Park, CPC): Thank you, Madam Chair. Thank you, witnesses, for being here today.

My first couple of questions will mostly be on the inspectors. Under this new legislation, will the provisions allow an inspector and persons accompanying the inspector to enter or pass through private property without restriction? That's one of my questions.

An inspector has quite a broad range of powers. Why are these powers necessary and how will you ensure that these powers are used appropriately?

I'll ask my third question, then you can answer all of them.

You mentioned general prohibition. Could you explain further what is general prohibition, and how industry players will know if their products comply with the act, including the general prohibition?

Mr. Paul Glover: Thank you.

I'll again start with the last question, the general prohibition, because it helps frame the larger answer, if it please the chair.

The general prohibition essentially—it's very simplistic, I acknowledge that—sets out for industry that the onus is on them to make sure the products they're importing and selling into Canada do not pose a health and safety risk. By extension of that—say somebody's choosing to manufacture outside of Canada—the onus is on them to have the appropriate quality control processes in place to make sure they know the ingredients coming into that product, wherever that plant is, and if there are multiple plants in different countries, they have the appropriate quality controls there to make sure the finished goods meet their design specifications and there is not an undue risk for Canadians with respect to the use of that product.

It would also mean they've done the appropriate research and testing on the design of that product to make sure it is safe and, when used properly, will not create problems as it moves forward. These are things industry does now for its own reasons in terms of liability and quality control. This is just building on that and clearly stating to them that the onus is on them to make sure that the products they bring into this country and sell to consumers are safe.

That is the fundamental principle behind the general prohibition that drives the action we would move.

With respect to the issue of inspectors, I'll call upon my colleague Robert Ianiro to elaborate further. But our intention with inspectors is to make sure they have the ability to go into businesses around the transaction of consumer products to make sure they can take a look at the corrective action they need to take—if it is properly labelled; if there are problems with seizure, to verify that the corrective order we've asked to be put in place has actually been transacted; and, if we're not getting cooperation, to seize products so we can do our research.

That is the intention with respect to the inspectors and the range of discretions afforded to them. The act does also allow for certain reviews of how we are using the discretion that has been afforded to us in this through independence.

Robert.

● (1635)

Mr. Robert Ianiro: Thank you.

I can definitely add a few other points. I think it's important to note that the proposed Canada Consumer Products Safety Act and our inspectors' powers, in fact, are in line with many of the powers we already have under the current Hazardous Products Act and in line with many of the modern health and safety federal statutes that exist to protect Canadians.

As Paul has mentioned, obviously these powers are here to prevent problems in the first place and to deal with things in a rapid manner when they do arise.

In instances where our inspectors are entering establishments, it is for a very limited and specific purpose. First of all, it's within reasonable grounds to believe that there is an activity being undertaken in relation to the manufacturing, selling, advertising, importing—whatever the case may be—of consumer products, and there has to be a purpose of verifying compliance or preventing non-compliance. So the powers are already very narrow, limited, and specific from that perspective.

There is some belief out there that our inspectors will be able to enter private property and private dwellings. In fact that is not the case. In any instances where we would have to enter private dwellings or dwelling homes, we would have to do so with the consent of the homeowner or under a search warrant.

The Chair: Just go ahead very quickly, Mr. Uppal. We're almost out of time.

Mr. Tim Uppal: Okay.

I was just going to touch on that point. If there's a business-registered address, but it's a home, and it's actually the office for some manufacturing company, is that still the same thing because it's a home?

Mr. Robert Ianiro: Unless legal has anything to add, I would think it would still be considered a place of business at that point, if it were a registered entity, absolutely. If it were some sort of sole proprietor who, I guess, was running a business out of his home as an individual, then I would think perhaps the other scenario would be the case. But in the case you describe, it sounds as if that would, in fact, also be a place of business.

Mr. Tim Uppal: And this goes for people who have a company—

The Chair: Thank you.

I'm sorry to interrupt you, Mr. Uppal.

Monsieur Dufour.

[*Translation*]

Mr. Nicolas Dufour (Repentigny, BQ): Thank you, Madam Chair.

I also want to thank the witnesses for being with us today.

You talked earlier about the little magnets in toys. My question is an operational one. I would like to know how the legislation is applied during the inspection process. You talked briefly about the way in which you are going to decide whether a product poses a danger. I would like to know how you are going to decide that and how much time will be needed to complete the testing that determines whether there is a danger or not.

You mentioned targeted oversight earlier. I would like you to explain what that is and how you are going to go about it.

Mr. Paul Glover: I will start that answer and then hand it over to my colleague Charles.

As for surveillance, if the use of a product causes a death or a problem, the companies, the distributors and manufacturers are required to provide information about the incident. That is one of the ways of getting information when a problem occurs.

Charles?

● (1640)

Mr. Charles Ethier: Thank you, Paul.

Let me go back to the problem with the little magnets.

The bill would require the distributors of a product to provide us with incident reports. When the little magnets came loose, those were incidents. Some children swallowed them and had health problems as a result.

Under this bill, the incident reports would give us reasonable grounds to conduct investigations and inspections of the product in question, including getting samples to test in order to determine the cause of the problem in our laboratory here in Ottawa. The general prohibition allows us to take immediate corrective action such as taking the product off the market if it poses a real danger to children's health.

Under the current Hazardous Products Act, we would just have to wait until distributors took corrective action to fix the problem on a voluntary basis, or wait for a regulation to be put into effect, which could be a very long process.

As for targeted surveillance, as Paul mentioned, the incident reports will allow us to develop a database of information that will help us to identify potential problems beforehand. That means better focus for our inspections and for our actions in dealing with problems before they happen. With so many products on the market, we cannot inspect everything. The reports and the database that we are going to develop will give us a better ability to zero in on problems wherever they are to be found.

Mr. Nicolas Dufour: It was mentioned earlier that similar laws have been put in place in other countries. The United States and the European Union were specifically mentioned. Have you noticed whether harmonizing their legislation has had any negative effects as well as the positive ones? Were the inspectors ready for the job, and were there enough of them? Did businesses need to change their operations, and, if so, was adapting to these changes complicated for them? Have we seen fewer incidents?

Mr. Paul Glover: Harmonization has advantages for industry and for us as well. In toy design, for example, industry standards are the same in Canada, the United States and the European Union. The verification process is easier. If an incident occurs in another country, we are informed. That exchange of information helps us and our inspectors.

Mr. Nicolas Dufour: Is there really a desire to work with other countries?

Mr. Charles Ethier: That is really a very good question.

The European Union and the United States have changed, modernized, their legislative framework in recent years. Adjustments must be made to accommodate all the changes made to the legislation. Under Bill C-6, our efforts will be in changing our legislation to harmonize it with the legislation in effect in other countries.

As my colleague Paul mentioned, the exchange of information between our governments and our product safety officers is being improved. The goal really is to have a global approach to problems that may arise. In matters of product safety, the problems we face are not unique to Canada. Because of this cooperation, and the committees established to make it possible, we anticipate that the tools that this new bill provides will allow us to react to problems much more quickly and to work more closely with our colleagues around the world.

● (1645)

[*English*]

The Chair: I'm sorry, Monsieur Dufour, your time is up.

We're now going to go to Ms. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): I'm sorry, but I thought Mr. Brown was ahead of me. My apologies.

Again, I like following these examples because it helps me interpret the differences. We talked a little earlier, for example, about the BPA in water bottles. How did that process happen previously and how would things be different with this new act? I guess this is about just walking through the steps of the differences.

Mr. Paul Glover: The BPA is both a good and a bad example about what is different. BPA is a bad example in terms of this act specifically, in that it was noted in the chemicals management plan as a priority, so it was already a trigger for the government, which was moving to act.

There was an assessment done that looked at all of the various sources from which Canadians could be exposed to BPA. It looked at that in consumer products. It looked at the use of those consumer products. It looked at that in all kinds of products, including foods, food packaging, and other things, to arrive at an integrated assessment about which populations were most at risk, and then took a look at the appropriate interventions in order to respond to that particular risk. That would continue to happen, where Canada is a world leader in terms of chemicals management and identifying those risks.

What would be different with this act is that we would then be able, as a result, to move very quickly with industry without having to develop regulations to say, “If this substance poses an unacceptable risk and doesn't belong in your product, you are breaking the general prohibition”. We would be able to act.

If we were uncertain, we could demand tests of industry. How do you know that this product is safe and that it doesn't come out of the product and expose humans to it? What is the ultimate fate when disposed into the environment? What cumulative exposures have you considered? We'd be able to work that in as we move forward. That's where it really helps us as we move forward.

The most fundamental change with this bill is that it moves from the government having to provide proof and introduce regulations, to, in the absence of that, which is a time-consuming process, working voluntarily with industry. This bill allows us to clearly state to industry, “The onus is on you to provide us the information we need to make sure that's working”. When it's not, then we're going to be there as that backstop. Along the way, we will inspect and we will make sure the system is working, which allows us to move far more rapidly.

As for our objective with Bill C-6, I will again go back to my comments, as they are so fundamentally important to us. In a system that is post-market, not pre-market, where we don't get to see products ahead of time, active prevention is through the establishment of standards. We will work with the Canadian Standards Association and others to say what standards should exist for different consumer products. Then we would tell industry that they need to use those standards that would be appropriate.

Those types of active preventions, including working with targeted oversight, the incident report and getting the information we need, the inspection, cyclical enforcement, taking a look at what's coming into our country, and then backstopping that with the rapid response, will allow for far more timely action on a broader range of issues when voluntary actions fail.

Mrs. Cathy McLeod: To follow through, being as that's not a good example, maybe a better example would be flammable clothing for young children. Let's say you have a store in Ottawa that has imported pyjamas from country X and also some that are made within Canada, and they don't meet our criteria in terms of resistance. Is there more of a challenge in getting the imported products off the shelf versus the Canadian products?

Mr. Paul Glover: That's an excellent question. The short answer is no.

The concern that this bill addresses is the health of Canadians and the safety of the products they produce. Whether you manufacture or import, the burden on industry is exactly the same in terms of reporting incidents and of tracking where your products are made, whether that's in this country or, if you're importing them, who you're importing them from and where they're getting them from, so that if there are problems we can trace those back to the appropriate manufacturing site.

The ultimate objective is the protection of the Canadian public whether the product is made in Canada or imported. The onus is the same. Whether you're making it here or somewhere else, know the design of your product, know the ingredients in the product, and make sure those ingredients do not pose an unacceptable risk to Canadians. If they do, with this bill, through the general prohibition, the targeted oversight, and our ability to respond rapidly, we'll be there.

● (1650)

The Chair: Thank you so much, Mr. Glover.

We'll now go to Dr. Duncan.

Ms. Kirsty Duncan (Etobicoke North, Lib.): Thank you, Madam Chair.

Thank you all for coming.

I'm struggling with parts of the bill and I'll tell you why. The last bill lasted for many years, and there is the opportunity for this one to last for many years. I think we have the opportunity to do something that will protect the health of Canadians.

Mr. Glover, you mentioned there are three pillars of the bill, including active prevention.

We all know that Canadians have heavy metals, pesticides, toxic chemicals in their bodies. The Canadian Cancer Society says that if we can reduce some of those chemicals, we will reduce cancers.

If the focus is on active prevention, why doesn't the bill phase out or ban known carcinogens and other toxic chemicals in consumer products? Ontario is requiring big companies, just in the last month, to track and report on their use of toxic chemicals and to develop plans to ban them.

The second question is regarding the fact that you mention prohibition. In talking about prohibition, how do you define "unreasonable" in regard to health and safety, and wouldn't carcinogenic qualify?

Third, I know that the bill talks about mandatory reporting, and this, of course, is a good thing, yet we're not asking for a labelling scheme. You say there are comparisons with what's happening in the U.S. and the EU, and I agree. I think those are good things. But in California, for example, a product that contains a known or suspected carcinogen has to have a warning label.

I'm wondering if you could address those, please.

Mr. Paul Glover: Thank you for those excellent questions.

I will, through my response, probably turn to my colleague Charles Ethier to help round out this response.

There are a number of issues. First, with respect to labelling, Canada has already committed, through international obligations, to implement something called the globally harmonized system of labelling.

If you think about those little warning symbols that exist on consumer products now, those are being revamped and the entire world is moving to a new system of labelling. Rather than create duplicate systems—to burden industry with two labelling systems—we are moving to implement the GHS with our trading partners, with all of the rest of the world, so that there will be one labelling system that will explain what the risks to consumers are. They will have that information in a standard format, regardless of the country they're in.

We are committed to moving to that labelling system.

● (1655)

Ms. Kirsty Duncan: Do you know how far away that is?

Mr. Paul Glover: I'd be happy, through the clerk, to provide that. There are different sectors. There's a pesticide sector. There's one around transportation, consumer chemicals and workplace chemicals. But I'd be happy to provide that through the clerk.

We do, as a country, have a plan for labelling. Again, not trying to solve everything with this one, we are already committed, and there is international commitment to do that. That would simplify things for industry as well.

With respect to simply saying something is a carcinogen, people talk about IARC as a good example. Sand is on that list. Coffee is on that list. Alcohol is on that list.

I go back to what I said earlier. With the technology today, if you ask me to look for it, we can find it. The risk comes from whether or not it comes out of the consumer product. Are humans exposed to it, and at what level, along with all of the exposures they might have, such that this creates an unacceptable risk? That's the approach we are taking with this.

To simply say, "Well, it's on a list and shouldn't belong in a product", quite frankly, we'll find it at the nanoparticle level there anyway, in all probability, given the amount that is in the globe already. At a practical level, it's the amount that's there and the potential for that to come out of this product that creates the risk of harm.

Ms. Kirsty Duncan: So will that be—

The Chair: To honour the time, I'm sorry to have to interrupt you.

We now have Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Well, I'm glad I could follow up this question. I've tried to keep calm through this meeting, but I'm about to go on a rant.

The Chair: Ms. Wasylycia-Leis, *please*; just please.

Ms. Judy Wasylycia-Leis: Oh, it will be a polite rant.

You've been telling us about this GHS for years. We put forward labelling motions in Parliament eight years ago, and you said GHS was coming, just wait. Now here we are, asking for labelling in a bill so that parents can know what toys are safe or not, and you're telling us to wait for GHS.

I don't think that will wash with Canadians. I think we can do better than that. I want to know why, as a bare minimum, you don't allow for labelling in this bill. Surely that's the most basic step that can be taken for Canadians.

Let's go back to lead. You talked about this chemical management system. Well, I now learn that lead is not on that list. So what are you doing, through this bill, that tells parents that a product with lead is off the market, it's not going to be sold, it's banned, it's prohibited?

You talked about lead in jewellery. That's it. But lead in key chains is okay. Lead in girls' watches is okay, maybe. I don't know. You've been very irresponsible on this front. You have to be able to tell parents, either way, that a product is safe or not, based on lead levels, or give them the labelling.

Tell me what system is in place that will ban toys with lead that are beyond background levels, beyond the so-called levels you say are naturally in products. How can I as a parent know what is safe or not? You won't do anything through this bill, and you won't even allow for labelling. So how can I tell anybody they can feel safe and secure through this legislation? What's new about any of this? It's not even risk management.

The Chair: Well, Mr. Glover, we await your reply.

Mr. Paul Glover: Thank you, Madam Chair.

With respect to labelling, with all respect, the question has been answered—

Ms. Judy Wasylycia-Leis: Wait for GHS.

And how many years should we wait? We've waited eight now. How many more should we wait? Tell us, so we'll know, at least.

The Chair: Ms. Wasylycia-Leis, can we let Mr. Glover answer the question, please? Thank you.

Ms. Judy Wasylycia-Leis: Well, it's relative to our discussion. If we want to propose amendments, we should know whether we're doing it because of substantive reasons or not. We should get the facts.

The Chair: Fair enough, fair enough.

Okay, Mr. Glover.

Mr. Paul Glover: With all respect, and I appreciate the passion on the issue, we have committed to provide, through the clerk of the committee, the timelines with respect to our plans to move forward with the implementation of GHS.

Ms. Judy Wasylycia-Leis: Why not have it in both places? On the tobacco you say we can't, that we have to have this exclusion of tobacco because there's another act. We can't do this because it's under CEPA. We can't do this because it's under chemical management.

If we really care about consumer product safety, wouldn't we want all of these legislative pieces to be in sync and sending the same message? That is, that certain substances are harmful and Canadians should not be exposed to them. If government's not going to do it, then we should at least give the people the information so they can make the choices.

Mr. Paul Glover: Absolutely. That is why this bill is focused on the issue of active prevention with respect to standards that we would look to have for products, information for consumers. The general prohibition is such that if industry has not designed a product, or is using levels of lead or any substance that creates a harm, rather than going after things one substance at a time, we have an elegant solution here that says that if you have substances in your product at a level that is unacceptable, you're breaking the general prohibition—

Ms. Judy Wasylycia-Leis: Okay, so how are you going to ban products other than jewellery in terms of lead? Give me some tangibles, then. Tell me what level kicks in for you to ban toys and any products that have lead in them? What level?

● (1700)

Mr. Paul Glover: We have a range of regulations that specify what the acceptable levels are in terms of migratable amounts from paint and other things like that. The minister has also committed to come forward with an integrated strategy on lead and a number of regulations to respond to this particular issue.

But more fundamentally, the idea is not to go at things one substance at a time. With respect, as a bureaucrat, I think that would doom us to fail, because we can't keep up. Industry has a new product, a new technology, a new substance around the corner. The general prohibition allows us a more flexible response, rather than trying to keep up with this thing one substance at a time. Rather than placing the heavy burden and onus on us to do all of the science, the onus is on industry to prove the product is safe.

Ms. Judy Wasylycia-Leis: So are you going to—

The Chair: Thank you, Mr. Glover.

Mr. Brown.

And thank you, Mrs. Wasylycia-Leis.

Mr. Patrick Brown (Barrie, CPC): Thank you, Madam Chair.

First, do you have any information on international examples of consumer product safety legislation? How does this proposed legislation compare with other countries' standards on consumer product safety?

Mr. Paul Glover: I'm terribly sorry, could I ask the member to repeat that? I'll keep it short. I know I'm eating your time.

The Chair: That's okay.

Mr. Patrick Brown: Do you know of any legislation proposed in other developed countries with regard to consumer product safety?

Mr. Paul Glover: The short answer is yes. We are taking a very close look at what other jurisdictions are doing.

In the absence of Bill C-6, our trading partners in the European Union and in the United States have a concept very similar to the general prohibition. Without Bill C-6, we do not. This is an example of where this will bring us up.

They have a range of powers for their inspectors and the ability to incent the right sort of behaviour through the implementation of penalties and fines. That is something that we do not have. They have product tracing requirements in their current legislations, or proposed legislations. In the absence of Bill C-6, we do not.

So quite frankly, when we look at what Bill C-6 is doing, it allows us to—

Mr. Patrick Brown: We're playing catch-up.

Mr. Paul Glover: —at least modernize up, and in some instances get a little bit ahead.

Mr. Patrick Brown: When you compare us to our largest trading partner, the U.S., what's their legislation like on this?

Mr. Paul Glover: They are moving through making a number of rules, and this would allow us to be very compatible with them. There are some things the U.S. is looking at with respect to mandatory toy testing and other things that we are watching very closely as we move forward.

Our attempt—again, because of the benefits of international harmonization, as long as it's harmonizing up—would be to continue to work with them to make sure that we have compatible legislation and the ability to exchange information. They're a much larger market. The signals they see on product problems, because of the numbers in their marketplace, are very helpful to us.

So we want to see a continued exchange of information. If there are small signals in a large population, they would catch them and share that with us. We could move very quickly to do joint recalls and joint corrective measures with industry.

Mr. Patrick Brown: I notice in clause 8 there's the term “danger to human health or safety”. What criteria would be used to determine that?

Mr. Paul Glover: I'll turn to my colleagues to answer that.

Mr. Robert Ianiro: There are internationally recognized and internationally validated hazard identification and hazard assessment types of methodologies. The European Union, as Mr. Glover has mentioned, already has in place what is referred to as a general product safety directive. They rely on a variety of standards and internationally recognized approaches to identify hazards and mitigate those hazards. They go through an entire step-wise approach to assessing those risks.

There is a lot of that type of intelligence and that type of information out there that gives great guidance for industry to determine what would constitute that danger to human health and safety. Of course, the types of requirements that we have stipulated already in our regulations would also be a signal.

That type of science and those standards are continually being assessed and revised. New ones are being implemented. All of these will be the foundation on which industry can rely to get an idea of what would constitute due diligence.

In most cases, responsible industry is carrying out a lot of these types of approaches through their product design, through their ongoing quality control and quality assurance measures. So this is obviously not a novel approach. The European Union, in fact, introduced its first directive on general product safety in 1992, and modified it in 2001. These types of concepts and how to respect them are well established.

● (1705)

Mr. Patrick Brown: What are those international standards that you referred to?

Mr. Robert Ianiro: There are a variety of international standards bodies. There are also domestic standards bodies. For example, we will reference through incorporation into a variety of our regulations, be it Canadian Standards Association regulations...for example, every hockey helmet that is sold in Canada has to meet a CSA standard.

There are European equivalents to the CSA. There is Underwriters Laboratories, which does a lot of standards on electrical products. They have a Canadian arm and an American arm. There is a U.S. standards body known as ASTM.

There is a wide range of standards bodies. I also want to add and underline the fact that in recent years there has been a real push towards improved international harmonization of standards through the international standards organization ISO, not only to help, obviously, with trade, but to have the same level of protection throughout all of the different markets.

So there has been a real push. A lot of the big markets, the U.S., EU, Canada, and Australia, are getting together and working collectively on those standards. Toys are actually one where there is quite a bit of work under way internationally, to deal with, for example, the magnet issue. We have toy regulations. This was an unregulated hazard. This was a hazard that no jurisdiction in the world had envisioned and no standard in the world had covered at that point in time. That is an example of how the standards will evolve to catch up to those types of dangers that are identified.

The Chair: Would the committee mind if I just asked one question? Would that be okay with the committee? I hate to intercede; we are going on to Dr. Carrie shortly.

I was at the brain injury presentation, and I was very interested in what you had to say about regulations for helmets and CSA. I was talking to some of those people, and I know that there is a private member's bill with Dr. Fry, talking about safe helmets and things like that.

You said that every helmet in Canada was CSA approved. I am wondering, what does that mean? The brain injury people had a concern that the helmets being sold weren't up to standard. Could you please clarify that for me?

Mr. Robert Ianiro: Just to be clear, the current requirements under the Hazardous Products Act are specifically for hockey helmets.

The private member's bill that Hedy Fry put forward speaks to a CSA standard that was just recently finalized. In fact it was a standard that Health Canada was on the technical committee to help develop. It is currently going through an accreditation process with the Standards Council of Canada. This standard covers ski and snowboard helmets.

The CSA standard that has been recently finalized will actually introduce the strictest requirements of any standard in the world for ski and snowboard helmets. It takes into account a lower level of G-force and multiple impacts in any one place. It blows any other standard currently on the market...and provides a greater level of protection.

In fact we have recently announced a consultation with our stakeholders with the recommendation that we actually move forward in requiring the standard in a mandatory fashion under the Hazardous Products Act.

The Chair: I promised the group I would speak to the minister, and I did. Dr. Bennett was at that same presentation. She was very concerned and very amenable. So thank you for answering that question.

We'll now go to Dr. Carrie.

Mr. Colin Carrie (Oshawa, CPC): Thank you very much, Madam Chair.

I wanted to talk a little bit about the powers of this new legislation. In any way do they encroach on the provincial and territorial jurisdictions? Are there going to be things that have to be worked out over a regulation process or anything along those lines with the provinces and territories?

Mr. Paul Glover: The very brief answer is that we do not anticipate that, but we have to anticipate that it might come up as we look at any particular issue. In the general design it is clear what the federal role is with respect to borders, importation, national standards, but then there are also local levels of government and different jurisdictions. We would want to make sure that we consult, collaborate, and cooperate with them as we move forward, perhaps in response to specific issues.

There is a clear federal role that Bill C-6 does enact for us to make sure that there is no duplication. But when dealing with any one particular issue, different jurisdictions sometimes have different strategies. We would want to work with them to make sure we're not setting conflicting directions for the industry and for consumers in a manner that would create confusion.

● (1710)

Mr. Colin Carrie: So there are mechanisms for conversations and discussions on that point.

Mr. Paul Glover: Again, while I say we don't anticipate, we kind of anticipate. I know that sounds contradictory, but....

We do believe there is a clear federal role. We do have provincial-territorial committees we work through to make sure, if there are issues that need to be discussed and worked through, we can anticipate those and respect the federal and provincial powers and come up with a strategy that is clear for consumers and for the industries in those areas.

Mr. Robert Ianiro: I may add a couple of key points.

To date we really haven't heard from any of the provinces or territories outlining any concerns and issues they have with the bill. I think it is also important to underline that one key aspect or one key action is covered solely under federal jurisdiction, and that is importation. Of course, that's one of the key areas you want to focus your activities on, and that falls squarely to the federal government.

In the past we have worked quite closely with many of the provincial authorities—for example, the Electrical Safety Authority in Ontario. We've had no issues in the past, and we do not foresee any issues going forward, in working with a variety of provincial and territorial governments that are, of course, interested in protecting their citizens as much as we are.

Mr. Colin Carrie: Thank you very much.

That brings me to the next question about internationally. We are seeing a lot of dollar store products. I remember on the industry committee there were issues with extension cords, for example, that were being imported into these stores. Sometimes they will even have counterfeit safety stickers on them.

Are we able to send inspectors overseas too? Is there anything international agreements-wise that allows our inspectors to go to countries where we get a lot of products coming into Canada? Is there a mechanism there?

Mr. Paul Glover: We do have reciprocal agreements with many countries. We would not necessarily send inspectors there, but would ask them to provide information. We are working with other parties to say, well, rather than all of us setting up offices in a particular country, how would we work together and share that information?

So there is a great deal of international collaboration and cooperation. As part of our active prevention, we are also trying to reach out to those different countries to make sure as they are manufacturing they understand what Canada's expectations are when they're selling into the Canadian marketplace. We need to make sure that the small and medium-sized enterprises understand as importers or when dealing with importers what they need to be cognizant of as they move forward.

So there is quite a comprehensive plan to respond to that particular issue that's based on a lot of international cooperation.

Mr. Colin Carrie: On that same theme, we had our friends the fire chiefs come by last week, and they talked about consultation and rapport with the government on different products. Again, I bring it back to some of these things that are seen in dollar stores occasionally that are really poor quality.

Do you have open dialogue with organizations like the Canadian Association of Fire Chiefs in terms of how they feel about this bill? Are they supportive?

Mr. Paul Glover: I will ask my colleague Robert Ianiro, who meets directly with a lot of these groups on a regular basis, to expand further, but suffice to say that we have been talking with them. They are supportive in general of what we are doing, and have been helpful in terms of ideas we've tried to incorporate as we move forward with this and other stakeholders.

I will turn it over to Robert Ianiro.

Mr. Robert Ianiro: We definitely meet with the Canadian Association of Fire Chiefs very regularly. Our area of the department has had a very collaborative and great working relationship with the fire chiefs for a number of years. We meet with them at least once a year when they come for the government relations week and on an ongoing basis on some of our initiatives. We are working with them right now on an information and education program for minors in the sale of lighters and matches at retail locations, for example. So we do have a great working relationship with CAFC.

I want to add one other point to your comment around dollar stores and electrical cords. I think you're probably making reference to a lot of issues in fire and shock hazards that come with what in a lot of cases are low-gauge wire, wire that doesn't meet requirements.

We're finding in a lot of these cases that these products appear to be certified but they're not. These types of products would be certified by ULC, the Underwriters Laboratories of Canada, or UL in the United States. They are using counterfeit marks.

Currently under the Hazardous Products Act, we have no ability or no authority to do anything, but under Bill C-6, clauses 9 and 10 do afford the minister with the ability to take action on false and misleading claims, including counterfeit marks, in relation to health and safety. We're not interested in Prada shoes and intellectual property rights violations, but anything relating to health and safety is captured under this bill.

● (1715)

Mr. Paul Glover: The other piece, without targeting any particular chain, is that if we see repeat offenders in terms of problems, that is contemplated in the administrative monetary penalties. So if this is the first time, there's an understanding, we want to work with you. But if you repeat, then the fines that we would impose, the administrative monetary penalties, will escalate as we move forward as a further deterrent in this sort of situation.

Mr. Colin Carrie: Thank you very much for clarifying.

And we shouldn't target dollar stores. My kids love them very much.

The Chair: Thank you so much.

I want to thank the witnesses. We have a few moments left, but we have some committee business. I want to thank you for your very insightful presentation today.

We're going to suspend. We're going in camera for a few minutes to talk about committee business, so I would ask anybody in the room who is not part of the committee to please excuse themselves.

Again, thank you so much. It was a great presentation.

[*Proceedings continue in camera*]

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