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Chair

Mrs. Joy Smith

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● (1530)

[*English*]

The Chair (Mrs. Joy Smith (Kildonan—St. Paul, CPC)): Good afternoon, ladies and gentlemen. I welcome everyone to the health committee. I want to welcome all our guests today. We're very pleased that you could come and join us.

Today we have Kathleen Cooper, the senior researcher with the Canadian Environmental Law Association. From the Canadian Health Coalition, we have Michael McBane, coordinator; from the David Suzuki Foundation, we have Lisa Gue, environmental health policy analyst; and from Consumer Health Products Canada, we have David Skinner, president, and Gerry Harrington, director of public affairs.

We welcome you all today. The first round will be seven minutes, and questions and answers will follow your presentations. You basically have seven minutes to do your presentations.

We will start with Kathleen Cooper, senior researcher for the Canadian Environmental Law Association.

Ms. Kathleen Cooper (Senior Researcher, Canadian Environmental Law Association): Thank you.

The Canadian Environmental Law Association is a public interest organization and an Ontario legal aid clinic. Alongside legal representation, our legal aid work is equally about law reform.

In responding to Bill C-6,, we think in terms of protecting the most vulnerable within the broader public interest. For the same reasons, my work for many years has focused on the greater vulnerability of children to pollution and chemical exposures.

Yesterday your committee received a report called “First Steps in Lifelong Health” from the Canadian Partnership for Children's Health and Environment, a group of medical, public health, environmental, and child care organizations, for which I chair the coordinating committee. We also provided a cover letter to orient you to that report's recommendations on product safety issues.

There is a great deal of scientific evidence about the greater exposure and vulnerability of children to pollution and toxic substances. Of greatest concern are exposures during pregnancy. At particular risk are women and children living in poverty, which affects over one million children in Canada. Evidence is growing that boys appear to be faring worse than girls, and aboriginal children in Canada can be at the greatest risk. Thankfully, most children in Canada are healthy, but there are rising trends in certain diseases and disorders that are very troubling, and pollution and chemical exposures are implicated.

After hearing Dr. Schwarcz's testimony last Thursday, I chose to focus my remarks on our educational work and so have also tabled with you today four of our publications. In the discussion about labelling on Thursday, Dr. Schwarcz said repeatedly that information about the risks of chronic toxicity of chemicals in products is far too complex for people to understand. I beg to differ. Our partnership has a proven track record of translating this complex knowledge with accuracy and integrity. Our primer on child health and the environment was extensively peer-reviewed by Health Canada officials among many other experts. The quality of our knowledge translation is one of several reasons why the Canadian Paediatric Society recently decided to join our partnership.

The evidence tells us that, alongside air pollution and pesticides, consumer products are the most important area on which to focus our attention. It also tells us to focus on children's respiratory health, impacts on children's developing brains, two increasingly common birth defects in boys, and cancer in young adults.

We agree that there is enormous complexity and uncertainty about these health risks, but it is not accurate to say, as Health Canada presented to you on May 5, that the assessment of chemicals under the chemicals management plan takes into account cumulative exposures and risks. Only for two groups of similar pesticides, and to some extent for smog-forming air pollutants, have risk assessments by regulatory agencies begun to account for the combined impact of groups of chemicals. Nowhere in the world are these assessments yet able to determine the combined impact of the low levels of varied and dissimilar pollutants and chemicals to which we are all exposed every day.

It is not difficult for pregnant women or parents to understand that a possible problem exists from exposures to these chemical complex mixtures, even if the experts cannot tell them what the impact might he on their children's health. Their reaction is entirely reasonable. They want to play it safe. They want to know where they should focus their attention, and how they can avoid these exposures. They want to apply precaution, and they want their governments to do the same.

To provide one example, during four years of educational workshops held across the country, we have asked people to consider the contents of their vacuum cleaner bag and their dryer lint. In both cases, almost everyone in those workshops was surprised to learn that, alongside dust and soil particles, hair, fabric fibres, and skin flakes, you can also find, concentrated in your house dust, low levels of chemicals that are known to be toxic, like brominated flame retardants from your furniture and computers, perfluorochemicals used as stain repellants, maybe some pesticides, phthalates, bisphenol A, short chain chlorinated paraffins, and metals like lead and mercury, among others.

We tell parents about this chemical mix for three reasons. First, it illustrates reality: We are exposed to multiple chemicals from multiple sources. Second, those sources are often from consumer products. Third, it underscores the fact that house dust is one of the most important places where children can be exposed when they are crawling on the floor or putting toys or fingers in their mouths. With this knowledge, parents can focus attention where it matters, and they can take personal actions to avoid or reduce exposures. That is just one example. We also talk about food containers and packaging, the need to follow fish advisories, safe renovations, and other issues. I don't have time for more details except to say that parents immediately want to know how they can make better choices in buying products, and how can they avoid products with toxic substances.

All we can tell them is that very limited but important information is on some labels. You've talked about the consumer chemicals and containers regulation and related efforts within the proposed globally harmonized system. This labelling provides very important information, and Canada does an excellent job in this limited area.

● (1535)

It's almost entirely, although not exclusively, about acute hazards, and it's not enough. To avoid products containing chemicals associated with cancer or reproductive toxicity or developmental neurotoxicity, like most of those I mentioned in the vacuum bag, we tell parents that this information should be required on the product label, but it isn't. The result is that well-intentioned people are denied important information that would enable them to lower their children's exposures. Government policy should be helping, not thwarting, these kinds of efforts.

I brought with me today an example of a label from California. It's a string of garden lights for indoor or outdoor use, and it says:

> CAUTION: PROP 65 WARNING: Handling the coated electrical wires of this product exposes you to lead, a chemical known to the State of California to cause cancer, birth defects, or other reproductive harm. *Wash hands after use*.

In very few words, in very little space on this packaging, it gives me five useful pieces of information. It gives me the warning, the law that requires it, the chemical of concern, the reasons for the concern, and good precautionary advice, to wash my hands after use. Most plastic-coated electrical wires contain between 2% and 5% lead for fire resistance. This is one of the ways that lead gets into house dust. Old paint is another.

I received the same warning label with a computer that I bought online. The company had chosen to meet the proposition 65 requirements, presumably to cover off any customers in California.

To conclude, I'll say three things. First, with limited time I've left out a lot. At CELA, the Canadian Environmental Law Association, we have sought product recall powers in the Hazardous Products Act for nearly ten years. This and many excellent reforms are in Bill C-6, but it only goes part of the way towards creating the modernized statute described by departmental officials to you. In particular, I hope we can discuss the general prohibition, which is welcome, but we have concerns about its ability to proactively address product safety issues related to concerns about chronic toxicity.

Secondly, in the interests of time, I have focused on labelling issues, but note that for Canadians living in poverty, they need more from product safety laws than an improved right to know. They are most affected by the legacy of our past mistakes. They are using or reusing older furniture and computers, which can expose them to higher levels of now-banned flame retardants. They often live in substandard housing, which can result in greater exposure to pesticides. If the housing predates the 1970s, there are potentially excessive levels of lead in old paint. They are not likely to own good vacuum cleaners. Poor-quality housing could be more difficult to keep clean and it can have moisture problems contributing to respiratory health problems.

Poverty establishes a key determinant of health, and there is good reason to expect that Canadians living in poverty are disproportionately exposed to multiple environmental hazards, including higher levels of chemicals of concern in consumer products.

Finally, I know my colleague Lisa Gue, with the David Suzuki Foundation, will table with you several recommendations concerning improvements to Bill C-6, so to avoid duplication of our presentations, we coordinated in advance. I'll just conclude by saying that the Canadian Environmental Law Association supports the recommendations that she will be making. They are substantially similar to the recommendations tabled with you in our partnership's *First Steps in Lifelong Health* report.

Thank you, and I hope I didn't speak too quickly for the translators.

● (1540)

The Chair: Thank you. I did give you a little bit of extra time, Ms. Cooper, because I knew you were coming to the end.

Ms. Kathleen Cooper: Burning through it.

The Chair: Yes. Thank you so very much.

Now we'll go to the Canadian Health Coalition. Mr. Michael McBane, please.

Mr. Michael McBane (Coordinator, Canadian Health Coalition): Thank you, Madam Chair, for the opportunity to present our views in seven minutes and to at least get on the record for students of social history.

The Canadian Health Coalition is a non-partisan advocacy organization founded in 1979, dedicated to preserving and improving Canada's public health care system. The first goal of our coalition is to create conditions for good health. We think this should be the first objective of the Minister of Health, not to balance health with economic interests.

I'll make a couple of general observations, then some specific recommendations on Bill C-6.

I read the initial presentation of officials from Health Canada to your committee on May 5, and was impressed by members' questions from all sides. However, I must say I found the departmental responses misleading and deceptive.

Bill C-6 is consistent with the Government of Canada's policy of putting economic considerations ahead of protecting health and the environment. Everything else follows from this, including the policy of managing risk that causes preventable death instead of preventing the damage in the first place with a precautionary policy.

Bill C-6 reflects a general pattern of regulatory and legislative initiatives coming out of Health Canada. Rules are drafted by the industry itself, then these rules are not applied or enforced.

Canada's health and safety regulatory agencies have been captured by the very industries they are supposed to regulate. This regulatory capture is formalized in memoranda of understanding, where the industry actually funds the regulator and the regulator enters into a client relationship with the industry. Now, I'm assuming members of Parliament understand this, and this is what fee-for-service is all about, so their client becomes the industry instead of the public.

Regulatory scientists at Health Canada, should they have old-fashioned views of serving the public, will be fired—and have been fired. If Health Canada were putting health protection ahead of economic interests of the chemical producers, why would Dow Chemicals be pointing to Health Canada to use against Canadian municipalities in the NAFTA court challenge on cosmetic use of pesticides? If Health Canada were a world leader in protecting human health from toxic chemicals, as claimed by the associate deputy minister here on May 5, then why is Health Canada, at the Codex Committee on Nutrition and Foods for Special Dietary Uses, actively working hand in hand with the food industry to block the reduction of chemical additives and contaminants in infant foods? This outrageous behaviour is well documented by the respected International Baby Food Action Network.

Health Canada has displayed negative leadership in international food and regulatory bodies by systematically blocking the introduction of the precautionary principle in international health regulations. Experience has taught me to approach any health protection legislation sponsored by Health Canada with a critical eye, based on what the department actually does, not on what it says it's doing. I encourage you to continue in this direction, as members of Parliament. Some of you have more experience than others with this departmental double-speak.

The following are specific recommendations on Bill C-6:

First of all, the legislation needs to be precaution-based, not risk-based, and the associate deputy minister acknowledged this was a risk-based piece of legislation. That's the completely wrong starting point. It means parents don't have the right to apply precaution, because the department has already taken the risk decision for you. That means that certain chemical substances should be banned outright.

The second recommendation is to end Health Canada's secrecy about unsafe products. Bill C-6, in the definition section, enshrines into law commercial confidentiality under “confidential business information” and is such that anything that affects a company's bottom line may be kept secret. This provision must be removed from the bill if any one of you believes in the right to know. This provision is completely inconsistent with that.

The third recommendation is that we support a number of our environmental organizations, some of which are here today, in calling for an outright ban on lead, mercury, phthalates, and PBDEs.

Fourth, there needs to be a legislated mandate toward labelling in the meantime, and I understand a number of witnesses will speak to that.

● (1545)

Finally, we have to ensure that whistle-blowers are protected. We strongly support whistle-blower protections for individuals within companies and within Health Canada who uncover wrongdoing. Whistle-blower protection will help bring to light serious safety issues hidden by unscrupulous corporate executives, and will help ensure that scientists and other professional staff at Health Canada may raise concerns about unsafe products without fear of retaliation by the Government of Canada.

Thank you.

The Chair: Thank you very much.

We'll now go on to the David Suzuki Foundation, with Ms. Lisa Gue, please.

Ms. Lisa Gue (Environmental Health Policy Analyst, David Suzuki Foundation): Thank you, Madam Chair and members of the committee, for the opportunity to appear as part of this panel today.

I will focus my comments on the potential for Bill C-6 to address the problem of chronic exposure to toxic substances found in consumer products.

The David Suzuki Foundation examined the need to update Canada's Hazardous Products Act in our 2007 report, *Prescription for a Healthy Canada*. This report recommended amending the act to authorize mandatory recalls of consumer products containing toxic substances that pose chronic health hazards. We also recommended, as an interim step towards phase-out, product labelling to identify synthetic chemicals and heavy metals remaining in products, which are known to cause or suspected of causing cancer, abnormal development, endocrine disruption, or damage to the nervous, immune, or reproductive systems.

On this basis, we are pleased to see Bill C-6 come before Parliament with the stated aim of modernizing Canada's product safety regime. However, in order to truly deliver on this objective, we feel the bill needs to include specific and enforceable measures that will protect against chronic health hazards in consumer products.

The interpretation section of the bill defines a danger to human health and safety to include chronic adverse effects on human health in addition to acute or immediate harm. This is a very important indication of the intended scope of this bill. Unfortunately, Bill C-6 lacks specific provisions to proactively protect against chronic health hazards in consumer goods. As drafted, the main features of the bill are reactive: enhanced inspection powers, product recall authority, increased penalties for non-compliance. While there is a general prohibition on consumer products that pose an unreasonable danger to human health or safety, this very general provision on its own cannot be relied on to meaningfully address chronic hazards to human health in consumer products. We feel the legislation should include explicit provisions to prohibit priority categories of toxic substances in consumer products and require product labelling to provide consumers with usable information about chronic health effects to the extent that these substances remain in products.

We therefore encourage the committee to entertain two amendments to Bill C-6.

First, include a legislative mandate for the Minister of Health to phase out the use in consumer products of substances that are carcinogenic, toxic to reproduction, and assessed as toxic to human health under the Canadian Environmental Protection Act, or CEPA. Such an amendment should direct the minister to establish a schedule of priority chronic health hazards, drawing from International Agency for Research on Cancer classifications, California's Proposition 65 list of chemicals that are toxic to reproduction, schedule 1 of CEPA, and other authoritative assessments. This provision should include a clear timeline—we recommend implementation within two years—and allow reasonable exemptions for essential uses where safer substitutes are not available.

I would like to address the issue of detection thresholds, which was raised in earlier sessions of your study of Bill C-6. This type of amendment should aim to prohibit the intentional addition of substances that are carcinogenic or toxic to reproduction, and the compliance threshold should be established accordingly. This acknowledges that some background levels of contamination may nevertheless be present, but also takes into account that there is no safe level of many of these substances.

The second amendment we suggest complements the first, and it would require labelling to identify substances that are carcinogenic, toxic to reproduction, or health toxic under CEPA, to the extent that these substances do remain in consumer products. Again, this provision should include a clear legislative timeline and should apply to all products within the scope of this bill.

Labelling will allow consumers to make their own choices about what hazards to accept or avoid in consumer products. It will also help policy makers gather better information about chronic health risks in consumer products. We believe, as well, it will promote market innovation to substitute inherently safer alternatives in response to consumer demand.

I think most of us would agree that internationally recognized carcinogens and substances that are toxic to reproduction should not be used in consumer products if safer substitutes are available.

● (1550)

This is what the Canada Consumer Product Safety Act should be about, and it would be quite straightforward to add to the bill explicit provisions to this end, as I have suggested.

Strengthening the bill in this way would also help to bring Canada's product safety regime up to date with initiatives in leading jurisdictions to protect against chronic health hazards. In California, for instance, legislation dating back to 1986 requires businesses to notify the public when chemicals known to cause cancer or reproductive problems are included in consumer products, and you've already seen an example of that being implemented. Last year the European Union legislated implementation timelines for hazard labelling as well, and the EU is also phasing in notification requirements and restrictions on substances of very high concern beginning this year. These measures are designed not only to protect public health and safety but also to stimulate innovation in the development and production of safer alternatives in consumer products. This is the approach that Canada should adopt in Bill C-6 as well.

Before I conclude, I'd like to touch briefly upon two other issues.

First of all, the incident reporting and product recall provisions in the bill make no requirement for public disclosure. We recommend that the legislation be amended to require the minister to notify the public of reported incidents and recall orders, including information about health hazards.

Second, we also recommend that the authority to exempt exports in paragraph 36(1)(a) be removed from the legislation. It is not morally defensible for Canada to export health and safety hazards that we prohibit or restrict domestically.

Thank you again for this opportunity to present our views. I'll be happy to respond to your questions.

The Chair: Thank you very much.

Now we'll go to Mr. David Skinner, from Consumer Health Products Canada.

Mr. David Skinner (President, Consumer Health Products Canada): Thank you, Madam Chair and members of the committee, for allowing me the opportunity to speak on behalf of the consumer health products industry on Bill C-6. My name is David Skinner, and I'm president of Consumer Health Products Canada, formerly known as NDMAC.

Consumer Health Products Canada is the national industry association representing manufacturers, marketers, and distributors of consumer health products. The association's members, who range from small businesses to large corporations, account for the vast majority of sales in Canada's $4.7-billion market for these products. Our members' sales are equally proportioned between natural health products and other consumer health products, including sunscreens, allergy medicines, upset stomach remedies, and so forth. Our association has been the leading advocate for consumer health products for over 110 years.

Bill C-6, the Canada consumer product safety act, is, along with expected amendments to the Food and Drugs Act, a key legislative component of the government's food and consumer safety action plan. Consumer health products are exempt from Bill C-6 by virtue of falling under the current Food and Drugs Act definition of "drug". Nevertheless, we have identified two issues with respect to Bill C-6 that relate to consumer health products within the broader consumer safety action plan.

The first of these issues is the need to ensure that the intent to exempt those products regulated under the Food and Drugs Act is indeed carried out effectively. The second relates to the release of confidential business information to third parties, a provision found in both Bill C-6 and in the former Bill C-51 the Food and Drugs Act amendments that were introduced in the last Parliament and that died on the order paper when the 39th Parliament was dissolved.

The stated intention of the government is to exempt all therapeutic products, including consumer health products, from the provisions of this particular bill. This is to be accomplished by referencing the current definition of "drug" in the Food and Drugs Act. However, there has been much confusion around the need to specify a number of consumer health products to ensure they are adequately excluded through Schedule 1 to Bill C-6. The minister has indicated that an amendment to clarify the scope of the act will be proposed.

A concern has been expressed that if specific subcategories of products broadly defined in Section 2 of the Food and Drugs Act are not set out specifically, they may be subject to the provisions of Bill C-6 in addition to the Food and Drugs Act. It stands to reason, however, that if one subcategory of natural health product is to be specifically identified as exempt, then all subcategories of products captured by Section 2 of the Food and Drugs Act must be set out in Schedule 1 to Bill C-6. Classes of product that must be recognized in addition to NHPs would include personal care products—for example, antiperspirants—and other consumer health products such as sunscreens.

A further concern that we have identified is that while Schedule 1 identifies substances that would be exempt from the provisions of the bill, it is unclear whether this exemption would extend to other elements of the products regulated under the Food and Drugs Act, specifically their packaging and labelling. Discussions with departmental officials thus far have not been able to rule out the possibility that any subcategory of product could wind up being subject to both pieces of legislation in this way. In addition to the complexities and the unwarranted burden of being subject to two pieces of legislation, this possibly also creates the potential for situations in which the two regimes could come into conflict with each other.

Regulations and guidance documents under the Food and Drugs Act set out many specific requirements for the packaging of consumer health products, including child-resistant packaging, tamper-evident packaging, packaging material specifications, dose delivery mechanisms—for example, metered inhalers—and, of course, labelling.

We recognize that an attempt to list all possible classes of product could fail to cover all potentially relevant products. Since new classes of products arise from time to time under the Food and Drugs Act—for example, nutraceuticals—the list could be out of date rather quickly. To ensure that Bill C-6 clearly exempts products regulated under the Food and Drugs Act and to provide for flexibility so that every time a new class is added under the Food and Drugs Act there is no need for consequential amendments to Bill C-6, we recommend that schedule 1 be amended to delete articles 2 to 5 and replace them with a broad exemption for all products regulated within the scope of the Food and Drugs Act.

● (1555)

Our second key concern relates to the confidential business information provisions. The consumer health products industry understands the need, in rare emergency circumstances, for Health Canada to be able to release confidential business information to foreign regulatory authorities and other third parties to mitigate against potential serious and imminent public health risks. However, given the extent of vital proprietary information shared with Health Canada, industry believes that Health Canada must also notify the proprietor of the confidential information at the time such information is disclosed. Since consent to disclose is not required in the circumstances laid out in the act, timely notification would not in any way impact the government's ability to act or to act in a timely manner.

Thank you for your time and consideration of our industry's perspective on this important legislative proposal. My colleague and I look forward to answering questions you may have.

The Chair: We thank you as a committee for your insightful comments, and we look forward to the opportunity to ask you some questions.

We are going to go through our first seven-minute round. That's seven minutes per person for the question and the answer.

We will start with Ms. Murray.

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

I have a question for anyone who has information about this. Ms. Cooper, you mentioned Mr. Schwarcz's testimony the other day. He made a comment that there are 80,000 human-made compounds that have been introduced into products we use in society and that the body processes those compounds the same way it processes natural compounds.

I wonder if anybody is aware of research or evidence to support that or to contradict that assertion.

Mrs. Joy Smith: Go ahead, Ms. Cooper.

Ms. Kathleen Cooper: Sure, the body processes things that come into it through the digestive system and the respiratory system, and so on. But it's the nature of those chemicals coming in that are a problem as well as the fact that many of them the body has never seen before. It has never had to develop mechanisms for either breaking down persistent chemicals or for dealing with the toxic results of, say, breakdown products and so on. So sure, the body will process what comes into it, but the effects that result are what we're concerned about.

I just found that to be a bizarre statement he made. It's not useful information in terms of the concerns that exist for some of the more toxic components, especially synthetic chemicals. But of course there is lots of toxicity associated with naturally occurring substances, such as lead or mercury.

● (1600)

The Chair: Ms. Gue.

Ms. Lisa Gue: If I can just add to that as well, it makes sense within the scope of this discussion to address toxic substances in consumer products, and that's where we've really centred our discussion. That's not to suggest that there aren't concerns about toxic substances from other sources as well. But for the purposes of this bill, our interest is in those substances that appear in consumer products.

None of us would suggest that it's perhaps possible or a worthwhile use of resources to attempt to eliminate every single hazard. But there is an opportunity in this bill to eliminate unnecessary hazards that enter our homes and our workplaces and our schools through consumer products.

Ms. Joyce Murray: I appreciate everybody's time and effort to come and give testimony here to help us kind of wind our way through the complexities of this issue. When I heard that, it just didn't compute for me that the body would know what to do with an artificially created molecule in the same way it would be used to for natural products. That would lead to the concern about chronic toxicity.

Ms. Cooper, you made a comment that the general prohibition doesn't work when it comes to protecting consumers from the potential for chronic toxicity. What kind of amendment or what kind of wording would address that, since it was pointed out that it is in the stated purpose of the bill?

Ms. Kathleen Cooper: Well, to go back to your previous question, the other thing I mentioned in my remarks is that we should focus our attention on what matters most in terms of children, or what the evidence tells us matters most, and that's air pollution and pesticides. When you protect children, you protect everyone else, generally. There's air pollution, pesticides, and consumer products. There's a lot to choose from here. We've done a lot of research saying that's where we need to focus our attention.

But then regarding the general prohibition, it's a very welcome addition to the Hazardous Products Act. But as Lisa mentioned, there's not enough specificity there in terms of how it's going to be useful for situations of chronic toxicity. If you're talking about something that is going to contribute to learning and developmental disabilities, or the latency period for cancer, our ability to know that and to have the evidence to say that certain products are associated with those kinds of long-term health outcomes is going to be very reactive. You're not going to know about health outcomes that could happen five, ten, twenty, or thirty years later and then be able to associate them back to a specific product. There's a real conundrum there.

So that's why we are trying to suggest complementing this notion of a general prohibition with the recommendations Lisa mentioned, so that we go after the chemicals we know now are a problem, saying, first and foremost, let us know about them, and also, phase them out. A further step in the vision and strategy document, *First Steps in Lifelong Health*, is to require that they be substituted with safer alternatives, as Sweden is doing.

Ms. Joyce Murray: So the ones that should be banned outright, in your organization's view, are the same ones that Mr. McBane was listing—lead, mercury, phthalates, and PBDE?

Ms. Kathleen Cooper: That's our shortlist.

Ms. Joyce Murray: Okay, and what's—

Ms. Kathleen Cooper: In the vision and strategy document, *First Steps in Lifelong Health* , that's a recommendation we made for immediate action—that is, a ban on non-essential uses of lead and mercury in consumer products, the banning of phthalates in children's products, and the banning of all flame retardants.

We would definitely support the broader lists Lisa mentioned for a more comprehensive approach. That's why I mentioned at the end of my remarks that I just wanted to support what she said. We tried to be complementary, given our limited time to present.

So yes, I would support exactly what Lisa said and the way she recommended using the IARC list, schedule 1 of CEPA, and on developmental reproductive toxins using the wisdom and experience that California has developed, for example.

● (1605)

The Chair: Thank you, Ms. Murray.

Now we'll go on to Monsieur Dufour.

[*Translation*]

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

Thanks very much to our witness for taking the time to come here today.

First of all, Ms. Cooper and Ms. Gue, I would like to tell you that several of the proposals you made are already in effect in Quebec, in the Environmental Quality Act and the Pesticides Act. So, we can see that Quebec is already moving towards much more fair and equitable legislation. We encourage the federal government to follow the path that Quebec has already chosen. I will come back to that a little later.

Mr. Skinner, you told us something interesting just now about the publication of confidential information. This is extremely important, I feel, because we have to make sure that consumers are protected. That is vital, but there also must be a kind of guideline so that companies are not unfairly penalized. I feel that we need to achieve a balance there.

You are not alone in making that proposal to us. Jeff Hurst, the president of the Canadian Toy Association, wanted some amendments too. For example, before the department decides to publish confidential documents unilaterally, it should at least take the time to communicate with a company so that the company has time to get itself organized, to determine the damage, to try to come to an arrangement, or especially to order a voluntary recall, or perhaps to decide on a course of action with the department.

Ms. Reed, from Option consommateurs, also recognized that companies must not be penalized. She mentioned something extremely interesting in Europe, where they have a website on which manufacturers—she was talking about toys, but she explained that it could apply to many other areas—could post information about the composition of their toys without getting into confidential information. It is done without necessarily listing the companies they do business with, or whatever. But it would be good to have a list of the components that go into the manufacture of toys. Mr. Hurst, from the Canadian Toy Association, seemed receptive to that.

I am going to ask you another question at the same time. Could you tell me if you were consulted about Bill C-6? Also, how could we ask the department to make sure that its position is fair and equitable for all, and to examine the idea of a web site with Option consommateurs?

Mr. Gerry Harrington (Director, Public Affairs, Consumer Health Products Canada): Thank you for your question, Mr. Dufour.

Allow me to answer in English.

[*English*]

The question of the release of confidential business information is a key one for an industry that is proprietary information-based, such as the consumer health products industry.

We are in a bit of an awkward spot before this committee, however, because we don't anticipate that the provisions contained in this bill will apply to our industry. We expect that the discussion will be unique to health products, once the anticipated amendments to the Food and Drugs Act come along.

Certainly we recognize that there is a public health need at times that will require proprietary information to be released; we don't contest that. We also understand that there will not be a requirement for consent from industry when that information, as an issue of public safety, needs to be released. However, we have a broader concern around the issue of notification, so that manufacturers are in a position to at least deal with the consequences of their information going into, at some level or other, the public domain. It may require business decisions that are very important, when proprietary information is one of the key assets that these companies hold.

In the broader sense of your questions, I expect that the dialogue, when we get to the amendments to the Food and Drugs Act, will be a very detailed one. But in terms of the issues around Bill C-6 they could be different. I think the health products industry has some unique dimensions to it, around intellectual property protection and so forth, that make up how products are approved so that Health Canada is in the possession of key proprietary information, which may not be the case with other consumer products.

In that sense, I'm afraid there are limits to the input we can offer the committee.

● (1610)

[*Translation*]

Mr. Nicolas Dufour: Thank you very much.

When we are dealing with information that is essential to prevent any kind of danger, the minister clearly must be able to communicate that information, that is for sure. It is extremely important.

And you must be given some time in which you can react, because it can cause irreparable harm to companies with virtually unblemished dependability and credibility. They can find themselves in that situation overnight by an unfortunate stroke of bad luck.

We agree on that.

Mr. Gerry Harrington: Yes.

Mr. Nicolas Dufour: Earlier, I was talking about the environment in Quebec. Ms. Cooper, I found it interesting that you repeated what Mr. Schwarcz told us last week.

His view of the matter was interesting all the same. He mentioned labelling in California, for example. I would not want to give the wrong impression, but he was saying that providing too much information—perhaps not providing too much information, but putting too many labels on a product—resulted in certain information having less impact. It gets to the point where people can begin to get lost in the fine print on the label and can no longer really find the important information about the dangers.

I tell you quite honestly that I am not against that, but I want to be the devil's advocate. Are you not afraid that, by pushing labelling too far, you get the opposite effect and consumers get lost in all the mass of information on some carcinogens?

[*English*]

The Chair: I'm sorry, Monsieur Dufour, we're going to have to ask Ms Cooper just to briefly answer that—very briefly, please.

Ms. Kathleen Cooper: Let's try it. We have 20 years of experience in California, which we can learn from, not repeat the mistakes. I think three different members have asked for peer-reviewed literature on the implementation of Proposition 65. I brought some of it today. I can table it with you.

The Chair: Thank you.

Ms. Hughes.

Mrs. Carol Hughes (Algoma—Manitoulin—Kapuskasing, NDP): Thank you. I want to elaborate a little on the labelling part.

Mr. McBane, you talked about precaution-based and not risk-based legislation and about labelling support. I'm wondering about some of your comments with regard to the items being imported. All too often we see that the labelling is not similar to or up to the same level as in Canada. I'm trying to get some sense of your worries with respect to some of the imports that are coming in.

Ms. Kathleen Cooper: Can I use an example?

The Chair: As long as it doesn't tick or or blow up, you may use an example.

Ms. Kathleen Cooper: Tick or blow up? Gotcha.

I want to know what's in it. This is number 3 plastic, so it's phthalate-softened PVC plastic. It's a drink container. It was given out by the thousands at the fall fair in Lindsay, Ontario, last fall.

I have another one. This example is given out to children as a drink container for reuse. Again it's phthalate-softened PVC plastic. In my opinion, it would be very efficient to say “don't use phthalate-softened plastic for food and drink containers”, rather than, one product at a time, say “we'll have to assess and we'll get back to you; it will take us two or three years to do a regulation”. That's the process we have.

I'm straying. I shouldn't have done that. You asked about imports.

It's great that we're increasing the number of inspectors; we needed to do that. But how is something like this going to get caught? That's the concern I have.

I'm going to find out whether its red colour comes from lead. I'll get back to you on that. I know it has phthalates in it.

I don't want to be the heavy mom who, when the kids bring this stuff back, may look at the bottom of it and say don't use that. I don't want this sort of thing to be happening in the first place, and I think it happens all too easily.

This is just one example. It's cheap, imported, junky stuff that I think too easily gets through the kinds of screens, even with more inspectors, that, if we had more efficient ways of saying “just don't use that in food and drink containers”—in the same way that we are saying “don't use bisphenol A in any food and drink containers”, not just the baby bottle thing, because we have enough evidence to say don't do that....

I don't know whether I'm being clear there, but I'm trying to get at the notion of being more efficient and just saying categorically, in certain ways, especially when it's food and drink and it's directed to kids, “don't use it”—categories, rather than one product at a time, one substance at a time. It gets at that notion of the volume of things that are coming in, in so many ways—usually as imports.

● (1615)

Mrs. Carol Hughes: Does someone else have a comment on that?

Go ahead, Ms. Gue.

Ms. Lisa Gue: Yes, I'd like to comment briefly.

When you raise the issue of the globalized production chain for many of the products coming into Canada, another consideration is that as other jurisdictions are moving forward to prohibit certain priority categories of toxic substances in consumer goods, we don't want Canada to become the dumping ground for products that can no longer be sold elsewhere, such as in Europe, and when we know that manufacturers are complying with labelling requirements and phase-out requirements elsewhere, it raises the question of why similar protections couldn't be in place in Canada.

The Chair: Go ahead, Mr. McBane.

Mr. Michael McBane: I will briefly add that the assistant deputy minister said, “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”. Do you see some holes here, in “targeted”, “relative”, or “the risk we perceive”?

Meanwhile all this is coming in. What we need is a proactive approach. We need regulation, old-school regulation, that prohibits these toxins in the first place. We should not be handing them over to the so-called risk managers, which is a mug's game when you're dealing with children's health. That's the difference between a precautionary system and a risk management system.

Mrs. Carol Hughes: That basically leads us to the idea that the legislation should also include a duty for the government to act. We're seeing a lot of imports coming in; from what I can gather from you, you're saying that it's been very difficult to actually monitor what is coming in, and that we need stricter rules with respect to that.

The Chair: Go ahead, Ms. Cooper.

Ms. Kathleen Cooper: I use that example also to come up with efficient ways too, so that across the board you don't have to second-guess at this sort of thing: it's not allowed. It fits with what Lisa was presenting; you just don't use certain things in certain ways, with fair exemptions essentially used in all of those other things.

Mrs. Carol Hughes: You also talked about the second-hand stuff, and of course a lot of people certainly can't afford to buy the brand new items. Then they end up in second-hand stores as well. I would like to hear some of your views on how to deal with the second-hand issues.

Ms. Kathleen Cooper: That's really important, especially for low-income people, but also for everyone in general. Health Canada puts out some good advisory information about being careful at garage sales and yard sales. They could be more comprehensive, I think. The labelling recommendations we've made don't really help there, but that's why the public education part of it is so important.

I've brought a piece of old foam. If you're using old furniture and you're low-income and you've got exposed foam sticking out of, say, an old couch, up to 30% by weight of that foam will be brominated flame retardants. Those are now banned. We should ban them all, but I'm talking about the ones that are now banned.

You know the way foam will discolour when it's exposed to light. It will break down. It ends up in the house dust, and then children are exposed to it. There are several steps of information there, but it's part of the educational work we are doing that empowers people to know about second-hand products.

Sorry; that was too much.

● (1620)

The Chair: Thank you, Ms. Cooper. That's okay; thank you very much.

We'll now go to Ms. Davidson.

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

I'd like to thank each of our presenters today. We have certainly been getting very good information from you.

Ms. Cooper, I just wanted to say that I know you've done a lot of work advocating on the different aspects of product safety. I think you've done some great work in your focus on toxic chemicals and the different items you've brought here today. I know you've been actively involved in these kinds of things.

We had another bill before Bill C-6, and I know that you gave feedback on that other bill. Have you given other feedback on Bill C-6 prior to today, or are your comments much the same as when you talked about mandatory labelling and expanded testing requirements and those types of things in commenting on the prior bill that did not get passed?

Ms. Kathleen Cooper: Are you talking about Bill C-52 last year?

Mrs. Patricia Davidson: Yes.

Ms. Kathleen Cooper: It didn't actually get to committee stage. We did a response during the consultation, yes.

Mrs. Patricia Davidson: Did you?

What about your consultation on Bill C-6? Have you been actively involved with consultation on this bill?

Ms. Kathleen Cooper: Yes, we have met with departmental officials. It's been pretty last-minute, but that has been due to scheduling problems. Yes, there has been satisfactory consultation.

Mrs. Patricia Davidson: That's good.

Can you talk to me a bit about the new powers of recall and your status on those?

Ms. Kathleen Cooper: It's about time. Absolutely, we need it. We have needed it for a long time, and it's one of the best things in this bill.

Mrs. Patricia Davidson: Can you just elaborate a little more on how this is going to result in safer consumer use?

Ms. Kathleen Cooper: It's just common sense that if something is unsafe the government should have the power to get it off the shelves. But we have not had that power under the Hazardous Products Act. That is one of the things we've been trying to get done for almost ten years.

Mrs. Patricia Davidson: Can you talk about other improvements to consumer product safety that are going to result from Bill C-6?

Ms. Kathleen Cooper: Sure. There will be a more streamlined process for fines.

Mrs. Patricia Davidson: Are the fines adequate?

Ms. Kathleen Cooper: I haven't focused on that enough to give you a researched response, but I think so.

There is a whole range of reactive measures that are excellent such as greater powers to inspectors. You've heard it from the department, and we definitely support those essentially reactive things. What we're trying to get is a more proactive set of measures to prevent exposure to substances associated with chronic toxicity.

Mrs. Patricia Davidson: You read out a label when you first started your presentation, which was very succinct and told a lot in a concise way. From the testimony we've heard, we know there are naturally occurring toxic substances, hazardous substances, and under a mandatory labelling scheme we'd have labels on practically everything. Is there a danger that the mandatory labelling would cause labelling fatigue? Would people not worry about it as much as they should and start taking it for granted? Is there a way around that?

● (1625)

Ms. Kathleen Cooper: Lead is a good example. Lead is everywhere, and we can measure it down to very low levels. There are a lot of things you can't label as lead-free, but you can label when there has been an intentional addition of lead. First of all, there should be no intentional addition of lead, and usually the levels in regulatory limits, 90 parts per million, are set to make sure that this is the case. Generally, if someone is going to make a product that is going to use lead, it's going to be a lot higher than 90 parts per million. If it were an intentional addition of lead, such as in electrical wires, then it is appropriate to have a label, since if you are handling electrical wire, lead is going to come off on your hands.

As for labelling fatigue, it is one of the criticisms of Proposition 65, and we can learn to do better. There have been three different members of the committee since the last peer review of Proposition 65. I brought a report that includes some of that.

The Chair: Perhaps you could submit that to the clerk, and then the clerk could distribute it to the committee.

Ms. Kathleen Cooper: Sure.

Mrs. Patricia Davidson: Are you saying that naturally occurring substances wouldn't necessarily fall under the labelling, it would be those that are added to it? Is that what I heard you say?

Ms. Kathleen Cooper: Yes. If a manufacturer has chosen to use lead, to stay with that example, and added it to make the colour happen or the fire resistance in the cords, or whatever, then yes, it should be labelled. Otherwise, if they haven't intentionally added it, then no, I don't think it needs to be labelled.

Mrs. Patricia Davidson: Okay. Would that then negate the concern about the very minute detections that are found naturally?

Ms. Kathleen Cooper: I think it would, yes.

If you go back 20 years, when we still had leaded and unleaded gasoline, there was a regulatory level for the allowable level of lead in leaded gas. There was a regulatory level, a very low one, for the allowable level of lead in unleaded gas. It was a recognition of environmental contamination. You measure the unleaded gas and see if there's any lead in it. If it's very low, below that level, you know it's fine. If it's above, then the red flag is up and you want to investigate.

The Chair: Thank you, Ms. Cooper.

We'll now go into our second round. The second round is going to be five minutes for questions and answers.

We'll begin with Dr. Duncan.

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

Thank you to everybody for coming.

I strongly believe we have a real opportunity here to protect our children, who are the adults of tomorrow. I know it is stated in the beginning of the bill that precautions should be the focus. Canadians deserve to know what's in their products and then they can choose the level of risk. We also know these chemicals bioaccumulate in our bodies. We know we have aldrin, toluene, and the list goes on. I think we all intuitively know that carcinogens and neurotoxins are bad for our health.

I would like us to take a true precautionary approach and not do what we've done in the past. For example, there were 7,000 peer-reviewed articles that said tobacco was bad for our health before we did anything. We learned last week that consumer product manufacturers are meeting proposition 65 in California and in Europe. Why do you think there is such resistance to providing the same standards for Canadians?

The Chair: Who would like to answer that question? Ms. Cooper, again? Or would somebody else like to try that just to give Ms. Cooper a bit of a break?

Ms. Gue.

Ms. Lisa Gue: I can only speculate. I guess you've heard some answers to that from other members on previous panels.

All of you in government will be familiar with a bit of resistance to any change on the part of manufacturers. It is true that a labelling requirement, for example, is going to involve changing product designs. Phase-out requirements are going to involve, in some cases, changing product composition. We're actually quite confident in the innovative ability of manufacturers. We've seen them do it in other places, and we're confident that they could do it here too. It's an opportunity, like you said, to send a clear signal, to direct the market in a direction that does prevent unnecessary hazards.

● (1630)

Ms. Kirsty Duncan: Thank you.

Mr. Michael McBane: I'm sure members of the committee know that if you want a truly precautionary approach, like you said, it will take a very serious intervention by Parliament, because the department is on a completely different highway. It would require strict directions from the Parliament of Canada to change gears. You might as well change gears, because Washington is going to change gears.

Ms. Kirsty Duncan: I'd like to pick up on that comment.

If I could read a comment to all of you, I'd like to know if there's anyone who disagrees with it. It reads:

> Well-known toxic chemicals should be phased out of consumer products, especially children's products, unless there is no alternative available.

Is there anyone who would disagree with that comment?

The Chair: Go ahead, Dr. Duncan. I guess there's nobody here standing up.

Ms. Kirsty Duncan: Thanks, Madam Chair.

I'd like to ask a second question, and I'll put it out to all of you as well.

Is there anyone who would disagree that the Minister of Health should establish a list of hazardous substances? That's trickier. I'm going to put it that way and then I'll go through the ways that perhaps this could be done.

The Chair: Who would like to take that question?

Mr. Harrington, then Ms. Cooper.

Mr. Gerry Harrington: From the operative position of an industry regulated under the Food and Drugs Act and that is intended to be exempt from this bill, allow me to just provide an example from our world.

Under the Food and Drugs Act, all products are assumed to have risks attached to them. If there is any therapeutic benefit, there is a risk attached. The math really comes down to managing and ensuring that the benefits outweigh the risks, and that the products are used and labeled and regulated in such a way that the risks are minimized and the benefits are maximized. How that applies to non-health products in the consumer product domain is obviously a trickier matter. That's because under the Food and Drugs Act, we are not just regulating the safety of the product; we're also regulating the efficacy, what they offer, what benefit they give.

I don't know how that fits under the Canada Consumer Product Safety Act, which doesn't evaluate efficacy. It's a difficult question for us to answer.

The Chair: I'm sorry, Mr. Harrington, and my apologies to Ms. Cooper. Your time's up.

I'm going to have to go to Ms. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): Thank you, Madam Chair.

I think again what we are hearing from the witnesses is that this bill indeed does create many positive moves in the right direction. There are just perhaps some thoughts, which vary from witness to witness, in terms of what areas might be tweaked to make it a better bill for all Canadians.

I have perhaps an unusual question, but I was piqued by the flame retardant comment by Ms. Cooper, that we should ban them all. Children's clothing has mechanisms to be flame resistant. I was just curious on that issue.

Ms. Kathleen Cooper: I did not mean all flame retardants. I meant specifically the polybrominated diphenyl ethers, the PBDEs. We've declared all of them to be toxic. There's no way I would say get rid of fire safety for children's clothing. In fact the way fire safety for children's clothing is accomplished is in the design and the type of fabric. They're not treated with chemicals the way they used to be twenty years ago.

I totally agree with you. We want to make sure we have good fire safety provisions.

Mrs. Cathy McLeod: Thank you. I think I perhaps misinterpreted the comment, but I think that was important to actually clarify, that we do need to continue to protect children.

I'm still struggling with this label issue. I think I've struggled with it all along. I think many of us are struggling with it. I certainly heard Dr. Schwarcz. His opinion was that if something is unsafe, whether it be sort of known to be cumulative over time, or we know it right now for acute exposure, it simply shouldn't be there. Is that not what he stated?

● (1635)

The Chair: Ms. Cooper, would you like to comment on that?

Ms. Kathleen Cooper: Fair enough, except it's too simplified. For fire safety, lead is in electrical wires, and it's also a carcinogen and a reproductive toxin. That's why we're saying let us know, so we can wash our hands after we handle them. People are very surprised when I show them this label, because they're not even aware that with their Christmas lights and their computer cords and everything else, lead can come off on their hands.

It's agreed that we should be getting rid of toxic chemicals, carcinogens, because they shouldn't be in there. But we still use them. There are sometimes legitimate reasons to do so, and people want to know. They want to make choices, product choices. Labelling gives them that information.

We'd go further and say that they shouldn't be there, or if there are substitutes, you must substitute something else, the way Sweden has done. All this labelling does is give people information.

Ms. Lisa Gue: My comments are very much aligned with what Kathleen just said.

Labelling, on the one hand, can be an interim step that promotes transparency to pave the way for other policies in the future that will get those substances out of products. It's also an acknowledgement that there will inevitably be exemptions given for essential uses. The consumer should at least know about the hazards in order for them to take the appropriate steps.

I do note, as well, a bit of a danger of a circular argument here. We have a bill that in fact doesn't propose to prohibit chronic health hazards from consumer groups, and therefore can't see its way to labelling them, because we wouldn't want to admit that there are hazards still in goods. I think we need to take a more proactive approach and at least allow consumers to make that choice for themselves. That also acknowledges that some aspects of the population are more vulnerable than others, and may have a particular interest in protecting their health.

Mrs. Cathy McLeod: So with the thousands and thousands of compounds, and the science that is not clear on many substances, where do you go with it?

Ms. Lisa Gue: I think the acute warning system on products already provides a good example. When we see a product with an explosive sign, it's not a guarantee it's going to explode. Consumers know that. It's an indication of an inherent property associated with that substance or container, and the propensity for danger that implies.

It would just make sense, and I think we all know that consumers are interested in having the same kinds of indications about chronic health hazards.

The Chair: Thank you.

We'll now go to Monsieur Dufour.

[*Translation*]

Mr. Nicolas Dufour: Thank you very much, Madam Chair.

I asked the people from Consumer Health Products Canada about the possibility of giving reasonable notice of 24 hours, or a day, to companies before confidential information on a product is published. I asked industry representatives the question, but I would like to know your opinion.

The minister informs companies, but should she give them 24 hours' notice so that they can prepare themselves?

[*English*]

The Chair: Who would like to take that question from Monsieur Dufour?

Ms. Cooper.

Ms. Kathleen Cooper: I'm not sure I understand the question. Is it related to notice of inspections in advance, or are you talking about seeking information for testing of products?

[*Translation*]

Mr. Nicolas Dufour: We are going to talk about inspection again in a few minutes. My question was more about the publication of a company's confidential information.

Let us suppose that inspectors uncover a problem in a company. Would it be a good idea to give that company 24 hours' notice so that it can investigate the problem from their end or send out their own information?

● (1640)

[*English*]

Ms. Kathleen Cooper: I don't feel qualified to answer that question. I can talk about whether or not inspectors should notify companies in advance that they're coming—I think that's ridiculous. That came up in the testimony before. But I don't feel qualified to answer the question, because I am not a manufacturer of products.

The Chair: Is there anybody here who feels they are qualified to tackle that question?

Mr. McBane.

Mr. Michael McBane: We have other concerns about the business confidentiality section, which I think is the one you're talking about. It basically defines the right of a company to protect anything as proprietary that affects their bottom line. I don't think safety information is proprietary, period, whether it's drugs, medical devices, food, or any toxic chemicals.

This is an example of paradigms in conflict. Public health trumps business in communicable diseases, etc.. Public health trumps proprietary information. That's why I have a problem with the definition. It's too broad and won't let us get at safety information.

[*Translation*]

Mr. Nicolas Dufour: Thank you.

[*English*]

The Chair: Mr. Skinner, do you want to add something?

Mr. David Skinner: That's why in our testimony we're suggesting it's not inappropriate to release the information, especially about intellectual property, as that confers certain property rights to the owner of the property. You should at least be able to tell them that you're releasing the information.

[*Translation*]

Mr. Nicolas Dufour: We mentioned inspectors. In the listeriosis outbreak, there were not enough inspectors. Bill C-6 is all well and good, but what scares me is the severe shortage of inspectors. Mr. Burns, from the Professional Institute of the Public Service of Canada, shares my fear.

In this bill, should the government make it clear that there must be an adequate number of inspectors to do the inspections? It is all very well to pass a bill, but, if there is no one to oversee it, what have we gained?

[*English*]

The Chair: Who would like to take that question? There are only about twenty seconds left.

Mr. Harrington.

Mr. Gerry Harrington: A quick comment.

I think you'll find that most industrial sectors are divided: there are companies that follow the law as a matter of course, and there are those that do not. The members of our association strongly believe that the more inspectors, the more enforcement staff that Health Canada has for enforcement of its regulations, the better. It's a level playing field. It's about the way we do business, so we're strongly supportive of ensuring that any piece of legislation regulating products in Canada has the required enforcement power behind it to ensure there's a level playing field out there.

Mr. David Skinner: And the resources.

The Chair: Thank you very much.

We'll now go to Dr. Carrie.

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

Thank you very much to all the witnesses today. I do apologize, I missed your opening statements, so if my questions don't quite jive, my apologies in advance.

Mr. Skinner, in your opening comments did you bring forward any amendments that you think might be appropriate for the bill? Did you make a suggestion?

Mr. David Skinner: Yes, we did. We made two proposals, one with respect to schedule 1 of Bill C-6. Rather than attempting to list all individual substances that may be found in the Food and Drugs Act, recognizing that from time to time new categories pop up and you'd be going back numerous times to make consequential amendments every time something changed in the other bill, as well as a conundrum that we face and are still discussing with the department on whether it's only the substances that are exempt or the full product, including child resistant packaging and so on, we've made a suggestion that rather than trying to list the substances and trying to catch them that way, a simple amendment would be to replace clauses 2 to 5 with an amendment that says that products regulated under the Food and Drugs Act would be exempt.

● (1645)

Mr. Colin Carrie: You're aware that we've proposed an amendment to make it clear that natural health products would not be in. So you would add things like food and anything else that went in there, and that would be an all-encompassing one?

Mr. David Skinner: I don't think you even need to do that. I think the intention—and I believe it is possible within the "whereas" portions of the bill—is to make it clear for those who believe that natural health products, which make up 50% of our members' business, might be covered. The "whereas" portions of the bill could make it clear. Then simply within schedule 1 refer to "any product regulated under the Food and Drugs Act", and that would cover everything that may come up subsequent to what our knowledge base is today.

Mr. Colin Carrie: Thank you very much. That makes sense.

I want to ask Ms. Gue a question. We've heard a lot about this Proposition 65, and I was wondering if you have any evidence that Californians are more healthy now, since Proposition 65. I think it was started in the mid-1980s, and I was wondering if anybody has done studies to actually see if it has made a difference.

Ms. Lisa Gue: Actually, I think Kathleen referred earlier to a comprehensive review of Proposition 65 that she has offered to make available to the committee, so that will probably be of interest.

Broadly, Proposition 65 is located within a suite of policies that is designed to make California a leader in green chemistry initiatives, or the substitution of safer alternatives in manufacturing processes. Proposition 65 alone does not go as far, in fact, as we would like Canada to go.

It is two decades old now. It's a valuable experience, which Canada can learn from, frankly. We have the opportunity to now have a more targeted intervention, focusing on consumer products, whereas the scope of Proposition 65 was much broader. And we have the opportunity to couple labelling requirements with phase-out requirements in a way that will result in safer products, in a reduction of chronic health risks associated with consumer products.

Mr. Colin Carrie: I remember when we did our study on alcohol labelling we found that sometimes even well-meaning labels with the populations you wanted to attract didn't make a big difference. Are you saying we don't quite have any specific evidence on that yet? Is that what you were saying? I didn't get your answer quite clearly.

Ms. Lisa Gue: Labelling can be used to achieve different objectives, or used in pursuit of different objectives. With alcohol warnings, tobacco warnings, clearly the objective is to reduce the abuse of those drugs.

Mr. Colin Carrie: That will probably make people healthier.

Ms. Lisa Gue: Right.

Consumer product labelling I think is in pursuit of a different objective, and that's to allow consumers the right to make informed decisions about the products they buy. I know if I were a consumer in California I would have a better chance of being able to avoid certain types of chemicals in the products that I buy than I do here. I can recount a frustrating experience I had last year when I tried to buy a couch and I was looking for a couch that didn't have brominated flame retardants in it, and there was no way for me to identify whether or not the couches I was looking at contained that product. The retailer didn't know, the supplier didn't know, the manufacturer didn't know, because there was no requirement.

The Chair: I'm sorry, Ms. Gue, we're going to have to go on.

Ms. Murray, can you continue?

Ms. Joyce Murray: We're trying to balance the safety of Canadians, especially kids, with the importance of not over-regulating and not having unintended extra costs for industries that are a competitive problem and so on.

One of the things I think is important is as much as possible we're harmonizing with other schemes so that companies are not having to do a different scheme of regulatory response and labelling with every jurisdiction they're selling to.

The other broad issue we're balancing is we've heard testimony from people saying there should not be more information on products because parents are not really capable of understanding all the different chemicals and making those decisions. So it's our responsibility to preserve them from having to make those decisions—government should be making those decisions—and on the other hand there's the right to know so parents can make the decision. That's the broad place we're looking at. What do we think conceptually? Having been a mom of three kids and having been someone who ate organically from the time I was a teen, I thought about what's in everything I bought for my kids, are chemicals a concern, and so on. I want to know. How do we balance this?

I guess I'm going to ask a couple of questions about the harmonization. How harmonized are these issues in the different countries in Europe? How can we proceed in a way that matches other schemes that will reduce the duplication and the transaction cost for business but still provide the labelling, the prohibitions, the precautionary approach that we think is in the best interest of kids?

● (1650)

The Chair: Mr. McBane.

Mr. Michael McBane: There's a lot of talk about harmonization from the department, and from other sectors. I think before we talk harmonization we must realize that Canada is in serious conflict with the European Union, where the World Trade Organization has gone to court over health and consumer protection. Europeans are trying to stop the adulteration of their meat with carcinogens, estradiol, which Health Canada secretly approves and won't show you the data upon which that is based, and won't even show the World Trade Organization. So harmonization with what? We have serious conflicts between the application and precaution in Europe, Africa, and Asia versus the United States, Canada, and Argentina.

Health Canada portrays this harmonization as everyone is in the same boat. That's not true. We have serious disagreements about the application and precaution. Most of the world does not want toxic chemicals in infant formula. Canada stops any moves to clean it up on behalf of the food industry, on behalf of the infant formula manufacturers. Harmonization sounds nice, but there's some substantive disagreement, and I think you've articulated the two conflicting camps: trust us, we're experts, toxic sludge is good for you; versus no, I'm going to choose based on what I know, and I don't trust the experts on risk.

So I'm with you. I'm a parent, and I'm with you, but let's get the legislation so we have the right to have that information.

Ms. Joyce Murray: With due respect, I appreciate your feedback, but I'm also with the manufacturers and the sellers who don't want a different scheme for every jurisdiction. So my question is really whether Europe has kind of a single common approach, or there are countries in Europe we can harmonize with to reduce the complexity and transaction costs of business while accomplishing the other objectives I have and which you have picked up on.

Ms. Lisa Gue: Could I comment on that?

The Chair: Go ahead.

Ms. Lisa Gue: In some ways, that's an important implementation detail. If the committee and Parliament could see their way to giving the Minister of Health a clear legislative mandate to move in the direction of phase-out for categories of toxic chemicals and for labelling if those remain in products, then these would be the kinds of implementation details that Health Canada would address along the way. Certainly there are examples we can draw on from Europe through the globally harmonized system, although that applies to a smaller sector of product.

Very briefly, if you'll indulge me, Madam Chair, I also question how significant a barrier this actually is. California, a market of a similar size, has been able to implement stand-alone labelling requirements. Canada does require bilingual product labels, and the market responds. I think this would be the same.

● (1655)

The Chair: Thank you, Ms. Gue.

We'll now go to Ms. Hughes.

Mrs. Carol Hughes: One of my questions is whether you're in favour of this, and whether you have concerns with the fact that clause 12 of Bill C-6 actually places the onus for conducting tests and studies of consumer products on manufacturers and importers rather than on Health Canada or another government agency, such as the Canadian Food Inspection Agency.

I'm curious to get your feedback on that. I'm wondering if there's an issue, or if you have the sense that some of the companies might be bordering on the side of fraud because they want to get their product in, or whatever.

Ms. Kathleen Cooper: Could I respond to that?

The Chair: Yes.

Ms. Kathleen Cooper: There is a danger of companies being in charge of the information supporting what they'd like to see happen. By the same token, there is a principle called “the polluter pays”. That's for emissions of pollution, but it's the same idea. When we regulate pesticides in Canada, the companies do the work. It should not be up to the taxpayers of Canada to pay for massive amounts of scientific investigations to evaluate millions and millions of products.

By the same token, we need people on staff who can professionally evaluate the information coming to them and look at the broader peer-reviewed literature and be able to make a decision based on that kind of public interest investigation.

On the one hand, it's a very legitimate concern, so you build in those. But think of the costs. Think of the amount of time and money for the government to have to do all of that work. It would be an obscene amount of money. And why should we—we, meaning the citizens of Canada, the Government of Canada—have to prove that something is safe? It should be safe before it comes on, and there should be literature to support that. And there should be that infrastructure within government to evaluate it and look more broadly than simply at what industry is placing before us. That's the approach we take with pesticides.

Mrs. Carol Hughes: Does anybody else have any comments on that?

Ms. Lisa Gue: In general, I think we appreciate the way that this bill is structured so that it does put more of the onus on the manufacturers to ensure that their products are safe before they bring them to market rather than always putting government regulators in the position of catch-up, trying to demonstrate the danger. But it also relates to the point Monsieur Dufour brought up in the last round, that there does need to be an underlying capacity within the agency to enforce these provisions, and for surveillance and inspections as well.

Mrs. Carol Hughes: I'm going to go back to the import again. I'm wondering if when you were reviewing the bill you saw any problematic areas with regard to the importation of products into Canada. Should the bill be amended somehow to make sure that it's a safer area, or to make it better?

Ms. Lisa Gue: I'll be brief so that others can comment.

The amendments I proposed that require the phase-out of priority categories of toxic substances and require their labelling, to the extent they remain in products, must apply to both imports and domestically manufactured products—anything that is placed on the market in Canada, to parallel the language the European Union uses. This should not in any way disadvantage domestic manufacturing. The idea is for a consistent standard across the board.

Mr. David Skinner: I can make a brief comment—and it goes back to a previous question as well—about what happens to products in international commerce and so on.

The resources the government would have to have to pre-approve every single possible product that would ever come on the market before it comes on the market would make that an impossible task. Recognizing that, are there any best practices globally for regulating products?

Every country seems to take a slightly different approach, but they all have the same outcome in mind. With that in mind, speaking from our world of health products, there are things called mutual recognition agreements whereby competent regulatory authorities talk to each other and build confidence that the systems they are using result in the same outcome. Therefore, they can have confidence in a product moving in international trade.

● (1700)

The Chair: Thank you, Mr. Skinner.

We'll now go to Mr. Uppal.

Mr. Tim Uppal (Edmonton—Sherwood Park, CPC): Thank you, Madam Chair.

I just want to get back to Lisa for a second. You said that there is really no substantive evidence that Proposition 65 is making Californians safer or healthier specifically because of Proposition 65. Do you think it's because there's so much information? People may have been almost turned off by it or just overlook it now or are overexposed to information. There's all this information, and then it's also a matter of what people do with it.

The example Ms. Cooper had was pretty good. It was just one issue; it was pretty concise. But if you had a number of elements in there, there would be all this information, and then what do you do with it? What do consumers do with that information? You can go to the Internet, but not everybody has the Internet. I know, as a new father, with our new baby, that on the Internet itself, and even in the books we're reading, there's so much conflicting information on there. There are all these experts, even doctors. When do you start feeding? When can they have honey? When can they not? When can they have eggs? When can they not? The information is so different. Where do consumers go with all this information?

Ms. Lisa Gue: Again, I guess I would come back to a comment I made earlier. I think the legibility of labelling is an important detail that Health Canada would be able to deal with in the implementation phase of this type of provision.

I think what's needed right now is a strong legislative mandate. There are examples, some of them positive, some that could be improved upon, in the case of Proposition 65, that Canada can look at to resolve some of those very issues.

In general, we know that there is consumer demand for this kind of information. Will everybody look at the labels? No. Will some people look to the labels? Yes. And I think the increased awareness has likely played a role in what California is now doing as one of the world leaders in promoting green chemistry solutions.

The Chair: Ms. Cooper, did you want to make a comment?

Ms. Kathleen Cooper: I want to agree with what Lisa just said.

I think we're asking a lot to say that this one law makes Californians healthier. Making that kind of linkage, a cause-and-effect kind of analysis like that, would be pretty tricky to do. I think we know that it's enormously popular in California. And it has led to the kinds of innovations that have definitely contributed to that whole movement towards green chemistry in California.

On the issue of who to believe, I think there are ways people decide who they're going believe and which sources of information they're going to find reliable. Public health nurses across this country are getting the kinds of questions we've been talking about. Which product do I choose? How can I make better choices? That's what I was getting at in my remarks. People want more information so they can make those kinds of choices, and that's what this kind of labelling would provide.

Mr. Tim Uppal: It was mentioned earlier that Canada could become a dumping ground for some of these products. Is that happening elsewhere? Is that happening in other states, other than California? Do we know if that is happening already in other countries?

Ms. Lisa Gue: The reality is that where leading jurisdictions are prohibiting certain categories of toxic substances in consumer products, those manufacturers are looking for markets elsewhere in the world. So we know that in the absence of those kinds of restrictions in Canada, the products will be sold in Canada. We know it's happening by the absence of any regulation to prevent it.

If we were so lucky as to have effective labelling requirements, we'd be better placed to be able to answer that kind of question, because we would be better able to know what exactly is in Canadian consumer products.

Mr. Tim Uppal: I guess it's just the way you think about it. It sounds like we are this dumping ground, but do we have any examples of products we have that may not be as safe for us and that California will not allow in, where they're saying no? Where are these other jurisdictions?

Ms. Lisa Gue: Well, brominated flame retardants are a good example. All PBDEs have been banned in the European Union in electronics. Canada, under the Canadian Environmental Protection Act, has just recently issued a draft proposal to catch up with a similar regulation that will be in place in 2011. So we do know that today televisions are being sold in Canada that contain neuro-developmental toxicants suspected of causing cancer—decaBDE—and those same manufacturers sell televisions to the European market that don't contain those substances.

● (1705)

The Chair: Thank you very much, Ms. Gue.

We'll now go to Dr. Carrie.

Mr. Colin Carrie: Thank you very much, Madam Chair.

Ms. Gue, you mentioned cumulative effects. I'm struggling with the question of how you would measure those effects. With the definition in the bill of danger to human health or safety, it clearly outlines and includes chronic adverse effects on human health in the bill already. I think everybody around the table would agree that covering both acute and chronic concerns is of the utmost importance to Canadians. What I am struggling with is understanding specifically.... It seems that chronic health hazards are already covered in the bill as I read it. So in the specific amendments you are proposing, how would they improve on the general prohibition and what is already there?

Ms. Kathleen Cooper: Can I respond?

Mr. Colin Carrie: Sure, yes, please. Both of you would be great.

The Chair: Ms. Cooper, would you like to start with that one? Go ahead.

Ms. Kathleen Cooper: On cumulative effects, as I said in my remarks to begin with, we barely have the techniques to evaluate the cumulative effects of similar groups of chemicals. We're starting to do that with some pesticides. We've done it to a certain extent with smog-forming air pollutants. We don't even have the methodology to be able to evaluate the cumulative effects of many different chemicals, like the examples in the vacuum cleaner bag that I mentioned.

Given that scientific challenge that exists, people want to apply precaution; they want to reduce exposures, especially where they have the power to do so. The popularity of the cosmetic pesticide bans, first in Quebec and now in Ontario—well, first in municipalities across the country—stemmed from the recognition that exposure to multiple chemicals from many different sources was occurring and the desire to support initiatives that reduced exposures that are unnecessary. Those pesticide bans are popular across the country. They're very popular in Quebec and Ontario, where we've passed legislation like that. It's the same sort of thing here. People want to know so they can make choices. They can look at a cleaning product that has a whole lot of nasty chemicals in it, and they can look at another one, and they can choose that one because they don't need those chemicals; they choose not to have those. They're not asking for them not to be on the shelf, but they choose the alternative because they have the choice, and they have the information.

It's a way to be able to address the fact that we have so many exposures, and to give people some ability to take responsibility themselves and limit those exposures.

Mr. Colin Carrie: Ms. Gue, do you have an amendment you could propose that would improve on the general prohibition and what's already in there? The way I read it, the cumulative effects appear to be already covered in the bill the way it's written. Do you disagree?

Ms. Lisa Gue: I did mention in my comments—and I'd be happy to provide you with a copy of them—that the interpretation section of the bill specifically includes chronic health effects, which I believe is what you're referring to in the definition of “danger to human health or safety”. That's very important and is a clear signal of the intended direction of the bill. The disappointment is that there's no explicit provision for enforcing that intent. If we rely on the general prohibition, we don't have any indication from Health Canada. It's difficult to imagine how that could be effectively implemented to prohibit chronic health risks. It gives the government the tools to require incident reporting, but chronic health risks don't lend themselves to incident reporting, because they occur as a result of an accumulation of exposure.

● (1710)

Mr. Colin Carrie: I agree, but I think this gives us flexibility. We just heard from Ms. Cooper that there really is no way to measure all these cumulative effects. Has your organization looked at the cost to industry that would result if we put something like that in there? Do you have any estimations on what that cost would be? Has anybody looked at the cost to indusy? Who would measure it?Would it be industry's responsibility, or would we have to set up a new government agency? Would we do it through CEPA? What would we do?

Ms. Lisa Gue: I think it's an acknowledgement of those complications that we are proposing a categorical legislative mandate to phase out cancer-causing substances and substances that are toxic to reproduction in consumer products. It would of course be very difficult and expensive to pinpoint exactly where every single exposure occurs. But we know that cumulatively there are devastating health impacts associated with these exposures. We know that to a large extent they don't need to be in products. So it would be a real step forward to signal a whole shift in direction that would move manufacturing away from those risks.

Mr. Colin Carrie: You said that you do know that it causes—

The Chair: Dr. Carrie, I'm so sorry, but our time is up.

I want to thank the witnesses for coming today. There has been some very useful testimony. Are there any closing comments that any of you would like to make?

Ms. Cooper.

Ms. Kathleen Cooper: With respect to that last exchange, cumulative effects are different from chronic toxicity. Cumulative effects are the combined impact of many exposures, which we don't have the methods to determine. Chronic toxicity is the long-term health effect of one substance or a group of substances. That's an important distinction—they aren't the same thing.

The Chair: We want to thank you for coming and for your insightful dialogue this afternoon.

We will now suspend the meeting until 5:30.

● _____ (Pause) _____

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● (1730)

The Chair: Could everybody please take their seats? It's 5:30 and we do have to start.

We would like to welcome our witnesses today. We have the Canada Safety Council, with Emile Therien, past president. Welcome, Emile.

Mr. Emile Therien (Past President, Canada Safety Council): Thank you.

The Chair: We have the Canadian Federation of Independent Business, which is represented by Corinne Pohlmann, vice-president of national affairs. We have the Canadian Consumer Product Safety Coalition, Ralph Suppa, president. We have Keith Mussar, the chair of the food committee, Canadian Association of Importers and Exporters. We have the Consumers' Association of Canada, Mel Fruitman. And we have the United Steelworkers, Andrew King, department leader of health, safety, and environment.

Welcome, everyone.

We're going to have seven-minute presentations, and following the presentations we're going to go into two rounds of questioning. The first one will be seven minutes for questions and answers and the second one will be five minutes for questions and answers.

We will start with the Canada Safety Council, with Emile Therien, past president.

Mr. Emile Therien: Thank you, Madam Chair.

I'm accompanied by Ethel Archard, who also retired from the Canada Safety Council. So you can tell what the council does with their old employees: they keep them busy. Anyway, thank you again for having us.

Globalization and new technologies have led to an influx of products into the Canadian market. The Hazardous Products Act urgently needs to be amended to meet the challenges of the 21st century. But that does not mean we need a brand-new law. The Canada Safety Council recommends that the government build upon the existing act by amending it to address current and future needs. That legislation has been in place for over 40 years, and has served Canadians extremely well—that is, as long as it has been properly resourced and promoted.

In the interest of public health and safety, there is absolutely no need to start from scratch with a new law that may not be fully implemented for many years. The approach that should be taken is to amend the existing Hazardous Products Act. Some of the perceived inadequacies in the act have resulted from the lack of proper enforcement. To be effective, laws must be enforced. This requires the government's commitment to provide resources: financial, human, and otherwise. Effective regulatory oversight is absolutely critical to public safety. I would like to start by noting that when it comes to consumer product safety, imported products are the major offenders.

In early 2007, tainted pet food from China killed thousands of dogs and cats in North America. Later that year, the U.S. recalled 34 million toys and other products made in China due to lead paint and small powerful magnets that children could easily swallow. Based on the U.S. recall, there would have been over three million of the made-in-China products in Canada. Most are likely still in use. Some will find their way into attics and garage sales, and eventually all will end up in landfill sites, at a disastrous cost to our environment. It would make sense to assume that these incidents would have prompted the Canadian government to take action. Obviously, our existing hazardous product laws needed to be enforced with a focus on imports from China. But that is not what happened.

In October 2008, *The Toronto Star* published an investigative report on toxic toys being sold in the greater Toronto area. *The Toronto Star* shopped at 18 stores, large and small, and found high levels of lead in one of every four products purchased. Some of the products were even labelled lead-free. One necklace clasp tested at 150 times above the limit. The investigation in *The Toronto Star* found that there are only 46 inspectors monitoring stores for all of Canada. Of the 13 in Ontario, 11 are in Toronto and two are left to cover the rest of the province.

An importer who travels to Asia four times a year told *The Toronto Star* that he never sees officials spot-checking any imports whatsoever. An investigative reporter found that out. Truly it is a travesty that the government sees fit to have so few inspectors to protect Canadians from danger from hazardous goods. At that time, the then Minister of Health, Tony Clement, promised more would be hired. It would be interesting to see how many more inspectors there are today than there were in October 2008.

In November 2006 Auditor General Sheila Fraser raised concerns that Canada was failing due to the lack of enforcement to protect Canadians from dangerous products. She questioned whether there was enough funding for enforcement and even whether the government had given it any thought whatsoever. I would like to point out that not one Canadian manufacturer was implicated in dangerous products that hit the Canadian marketplace over the last while. By imposing strict new requirements, Bill C-6 may put Canadian manufacturers at a disadvantage when trying to compete with imports.

The import of dangerous products on a large scale with impunity and over such a long period of time indicates a serious problem with the enforcement of existing law. Passing a new law will not solve this problem. Amendments to existing legislation occur on a regular basis. For example, the House of Commons passed changes to the Criminal Code of Canada in April 2008 to combat cruelty to animals. The proposed anti-gang legislation will be made, if it does occur, through amendments to the Criminal Code of Canada, not a brand-new Criminal Code.

The Transportation of Dangerous Goods Act is continually updated through amendments. Bill C-9, an act to amend the Transportation of Dangerous Goods Act of 1992, was introduced on February 16 of this year. It went through the House of Commons and the Senate and received royal assent on May 14, a couple of weeks ago.

A new law can have unintended negative consequences. The most obvious are the time and resources required. What will happen to product safety during this transition period? Lawyers and experts have already expressed concerns that companies will contest the very high fines in the Canada Consumer Product Safety Act. Such challenges would slow the implementation of long-overdue measures to protect Canadians.

● (1735)

The bottom line is, who is responsible for product safety? Retailers cannot test everything they sell; they must rely on the supplier and ultimately the Canadian government to assure the safety of products entering and being sold in this country.

Product recalls make the consumer responsible to return unsafe products, and they do not remove all the offending products from the marketplace. For the kinds of hazardous products covered in the legislation, most consumers are indifferent to recalls—with the possible exception of high-priced items. Imposing new requirements on Canadian manufacturers will not prevent unsafe imported toys from being sold in this country.

The Hazardous Products Act needs to be updated, but a brand-new law is not needed. What is needed is the amendment of the existing act and a serious commitment to promotion and enforcement.

Thank you very much.

The Chair: Thank you very much.

Now we'll go to the Canadian Federation of Independent Business, and Corinne Pohlmann, vice-president.

Ms. Corinne Pohlmann (Vice-President, National Affairs, Canadian Federation of Independent Business): Thank you very much, and thanks for the opportunity to be here today.

I must stress at the outset that I'm not a safety expert, nor do I know the details of all the standards, practices, and regulations of the many thousands of businesses my organization represents. But what I can tell you is how a small-business owner may think and react to Bill C-6.

Let me also state at this time that CFIB and our members support the underlying intent of this bill and that consumer safety is of the utmost importance. We believe that governments, industry, consumers all have a role to play to ensure that products purchased by Canadians are safe for them and their families. I also want to point out that CFIB is a member of the Consumer Product Safety Coalition, which of course is going to be here today, and my colleagues next to me will provide you with some recommendations from that group.

You should have in front of you a document from us. You should have a slide deck, which I'm going to walk you through; a copy of a letter we sent to the minister a few months back on this issue; as well as a member profile of CFIB.

Some of you may know that CFIB is a not-for-profit organization that represents the interests of small and medium-sized companies across Canada. We have over 105,000 privately owned and operated Canadian companies as members who collectively employ approximately one and a quarter million Canadians. Our members represent all sectors of the economy, and they are located in all regions of the country.

You should also have a copy in front of you of CFIB's member profile. It's really there to show you how our members are distributed across the country and how many of them are going to be directly affected by this legislation. For example, we have over 30,000 retailers, 8,000 wholesalers, and more than 13,000 manufacturing firms, among others, who may be impacted by this bill.

Most people know this fundamentally, but it's so important to understand the importance of small and medium-sized businesses in Canada. Ninety-eight percent of businesses in Canada have fewer than 50 employees. They employ 60% of working Canadians, and they are Canada's primary job creators, especially during these more difficult economic times. These same businesses produce almost half of Canada's economic output today. So it's imperative that the government always be mindful of the impacts of new policies, regulations, or legislation on this group.

CFIB is constantly tracking the issues of highest priority for Canada's small and medium-sized businesses, and the next chart shows the results from the most recent data collected in March of 2009 based on more than 10,000 responses. In this you can see that almost two-thirds cited government regulation and paper burden as an issue of high priority. This is not surprising when you realize that complying with government regulations from all levels of government is costing Canadian businesses approximately $33 billion a year.

But even more important than the total amount spent complying is the fact that the smaller the business, the higher the cost for the business to comply, and this is illustrated on slide 5. This is from a report CFIB did back in 2005, and this data has actually been validated by the OECD as well. It is higher for smaller companies partly because relatively speaking they often have to invest more time and energy to figure out all the rules, as they usually have no staff to do this for them, and partly because many regulations are put together with big business in mind and they do not always factor in whether the same rules are workable for smaller companies.

So part of my intent here today really is to highlight the higher cost borne by smaller companies and to ask that you ensure that this legislation be workable for smaller companies because they make up such a significant part of Canada's economy.

When it comes to Bill C-6, we do worry about the additional burden and complexity this will bring to small and medium-sized companies. This is especially concerning to us after the government's success in reducing paper burden by 22% across 13 departments earlier this year. This exercise actually included Health Canada, which had recorded the highest number of obligations and requirements for businesses among those 13 departments. So we don't want to lose this momentum that's been created by this exercise, and we hope this new legislation and its associated regulations and policies will follow the paper burden reduction principles, which were that any policy has to be designed to balance business needs with the need to protect the health and safety of Canadians.

One way to do this more effectively, though, is to require some measurement that will help policy-makers and legislators understand whether the legislation is working as intended or if it's causing unintended consequences. Requiring ongoing measurement and public reporting of those measurements keeps a check and balance of the system, and allows for adjustments as needed along the way.

How else can governments help small businesses to comply? The next slide shows some ideas from SMEs themselves. Clearly communicating new regulations, providing examples of compliance, and improving government customer service are just some of the practical ways SMEs have identified will help them to better comply. SMEs are small and medium-sized enterprises. CFIB has already met with Health Canada several times to provide this kind of feedback, and we have agreed to work with them on implementation as this is when SMEs will experience the greatest impact.

So CFIB has some very general concerns with the legislation. We also have some very specific concerns we'd like to see addressed, and my colleagues in the coalition will touch on these in more detail.

● (1740)

First, we believe that incident reporting and documentation preparation timelines are too short, and it is not very clear when the two-day requirement to report kicks in. This needs to be clarified, as smaller companies may end up sending far too much or not enough information to Health Canada, if this is not better defined.

It's also important to remember that many if not most small companies will not likely have the capacity to carry out an investigation of a consumer complaint or conduct a risk assessment. What would be expected of these types of businesses in such circumstances must be made clear.

Secondly, there needs to be some time limit as to how long a business is required to keep records. Most other departments, including the Canada Revenue Agency, put a limit on how long a business needs to keep records. We would suggest five years.

There also needs to be clarity on what is meant by “prescribed documents”. We suggest that examples be provided to smaller companies so that they better understand what it means. We would also suggest that any such documents be limited to documents already in the possession of a business and not require new forms to be filled out every time a product is produced, imported, or sold.

We also have concerns that the legislation provides inspectors with very broad powers to conduct inspections and impose seizures, stop orders, and recalls. These broad powers must be balanced with some procedural safeguards, so that inspectors are accountable for their actions as well—for example, requiring them to provide advance notification of a seizure or a stop order; providing an opportunity for a business to respond; time limits for a stop order; or a process for recovery of seized items.

In addition, given the magnitude of the mandatory recall order and its possible implications for a company, only the minister should have the authority to issue mandatory recall orders, as is already the case with the Canadian Food Inspection Agency, and this should only be after the business has been given an opportunity to voluntarily recall the product.

Finally, I want to raise the issue of protecting the confidentiality of business information when sharing this information with other countries. We recognize that there may be a need for Health Canada to quickly share information when there is an imminent threat; however, businesses should be given advance notice that their business information is to be shared, and an opportunity to validate and correct that information. This information should also be restricted only to information necessary to protect the health and safety of Canadians.

In conclusion, CFIB supports the underlying objective of this bill to protect Canadian consumers and products that may pose a danger to their safety; however, we all know that the devil is in the details, so it will be imperative for Health Canada to effectively implement and clearly communicate what is required.

I ask that when you're going through the details of this bill you put on the hat of a small-business owner simply trying to run a business in this more difficult economy, attempting to comply with all the various rules and requirements that are out there from all levels of government. Think about how the bill will be workable for them, so that they can be more effective in helping to protect consumers.

Thank you for the opportunity to present.

● (1745)

The Chair: Thank you. Your slide presentation was very clear and very good—you could see it in one glance—and your presentation was extremely good.

We will now go to the Consumer Product Safety Coalition, with Mr. Ralph Suppa, president.

Mr. Ralph Suppa (President, Canadian Institute of Plumbing and Heating, Consumer Product Safety Coalition): Thank you, Madam Chair and members of the committee.

I am the spokesperson for the Canadian Consumer Product Safety Coalition. I also have a full-time job as the president and general manager of the Canadian Institute of Plumbing and Heating.

Consumer safety is a paramount goal for members of the coalition, and we appreciate this opportunity to speak to the committee on Bill C-6. Joining me is Keith Mussar of the Canadian Association of Importers and Exporters. He has a doctorate in biochemistry from the University of Waterloo, and he will assist me in answering members' questions.

This coalition is composed of 13 major national business associations representing total annual sales in the $600-billion range. They are engaged in every aspect of the process that results in products being made available to Canadian consumers. Coalition member companies include domestic manufacturers, importers, distributors, wholesalers, and retailers. Committee members will appreciate that the interests of our coalition members in the provisions of Bill C-6 are acute and all-encompassing. Member companies are located in all parts of Canada. Their ability to generate positive economic activity at the local level is widespread, and a significant percentage of these companies are small and medium-sized enterprises.

Coalition members are responsible corporate citizens and are vitally concerned about product safety. Member companies have increased their investment in product safety throughout the product development and certification process, and actively participate in our national infrastructure system of codes and standards that are health- and safety-based and governed by the Standards Council of Canada.

The coalition supports the government's initiative to update Canada's consumer product safety law. We welcome this continued meaningful opportunity to work with the government and Health Canada to refine Bill C-6. We firmly believe in an industry-government partnership.

There are five areas in which the coalition believes Bill C-6 could be improved: one, reporting of safety related incidents; two, preservation of confidential business information; three, mandatory recall orders; four, orders for stop-sale, testing studies, and information compilation; and five, alignment of international safety standards and procedures.

As to incident reporting obligations, we recognize that genuine safety issues must be reported to the government in a timely manner. At the same time, our members receive and carefully analyze thousands of reports from consumers each year, the vast majority of which do not raise genuine product safety issues. It is important to ensure that the government is promptly notified of safety issues—without creating impossible deadlines and causing industry to flood the government with non-useful reports from consumers around the world. We have discussed this concern with Health Canada and they recognize this need for balance. However, the coalition believes that Bill C-6 itself should provide clearer guidance to better inform Health Canada's implementation of Bill C-6. Specifically, reports of incidents should not be required until there has been an opportunity to determine their validity and relevance to the existence of a possible defect, unreasonable condition, or substantial hazard.

As to preserving confidential business information, Health Canada absolutely must have the power to disclose information as necessary to protect consumers from danger. At the same time, publication of unsubstantiated consumer reports that have not been investigated properly may give rise to false alarms. This could compromise the credibility of Health Canada and create unnecessary anxiety or even panic among consumers. It would also seriously damage responsible companies that have spent years building their reputation. We urge that Bill C-6 be amended to make clearer the scope of commercial information the minister could disclose and to require the government to notify a company and receive its response, if possible, before its company-specific and confidential information is released.

Clause 30 gives inspectors broad authority to issue mandatory recall orders. Because of the gravity and serious implications of this remedy, only the minister should have the authority to issue mandatory recall orders. Moreover, a company should be given every opportunity to recall a product voluntarily. It should be notified and given an opportunity to respond before the minister issues a mandatory recall order. Finally, if a mandatory recall order is issued, there should be an opportunity for review.

Several clauses of the bill call for inspections, testing, and, more important, stop-sale and import orders to be issued without any attempt to notify and receive responses from affected businesses. Certainly, the coalition and any legitimate businesses believe that, if no responsible party can be identified in a timely manner, then the government should have these powers to act in the case of an imminent danger. But in many cases, there is sufficient time for prior notice and some type of response from the affected party. Therefore, a measure of reasonableness and an opportunity for legitimate businesses to respond and work with the government is required.

● (1750)

As to the alignment of international safety standards, coalition members operate in a global marketplace, and an alignment with international safety standards and procedures—which often address the same issues—would benefit regulators, industry, and Canadians in the following manner: it would eliminate the need to duplicate testing, where the tests are only slightly different; it would facilitate trade and reduce costs to consumers; and it would enable closer cooperation and enforcement by Health Canada and its counterparts around the world.

Indeed, increased alignment of international standards is an explicit goal of Health Canada. While there are many different voluntary and mandatory safety standards for consumer products, the coalition and its members urge Canada to take advantage of the experience reflected in standards already adopted by other countries, such as those established by the respected International Organization for Standardization.

Canada, of course, must be free to adopt its own, different standards to the extent necessary to protect all Canadians.

Madam Chair, in summary, the coalition applauds these efforts and supports the principles in Bill C-6. We want to work with the government to continue to refine and improve the bill in three principal areas.

First, we request clarification of reporting obligations. We want to ensure that Health Canada obtains the information it needs to protect consumers while not creating a crippling volume of consumer reports that do not reflect a real, actionable safety issue.

Second, we request that Bill C-6 ensure that confidential business information is released publicly only to the extent necessary to address a genuine, validated safety risk, and that advance notice be provided to the affected businesses.

Finally, we believe that Canadian consumers and companies, as well as the government, would benefit greatly from increased alignment of international safety standards and procedures.

The coalition has submitted a detailed report, including recommendations on the specific clauses of the bill I have referred to in my remarks, and I understand these have been forwarded to the members serving on the committee.

On behalf of our members, I want to thank you, Madam Chair, and the other members of the committee, for the opportunity to speak here today on a matter that is vitally important to all Canadians, the Canadian Consumer Product Safety Coalition, and its member companies.

Thank you.

The Chair: Thank you, Mr. Suppa.

We'll now go to the Consumers' Association of Canada, with Mr. Fruitman, vice-president.

● (1755)

Mr. Mel Fruitman (Vice-President, Consumers' Association of Canada): Thank you, Madam Chair.

The Consumers' Association of Canada is a 62-year-old, independent, not-for-profit, volunteer-based organization, with a national office in Ottawa, and provincial and territorial representatives. Our mandate is to inform and educate consumers on marketplace issues, to advocate for consumers with government and industry, and to work with government and industry to solve marketplace problems in beneficial ways.

Thank you for the opportunity to present our views on Bill C-6. We are pleased to see the introduction of this important piece of consumer legislation, after more than two decades of relative inattention by all levels of government, and we urge you to help hasten its passage.

The current legislation came into being almost 40 years ago during a period when consumer activism reached its peak. It was then that people began to realize that there was a huge imbalance in the marketplace—consumers were entering into transactions with increasingly sophisticated business operators. At that time, legislation was simply playing catch-up with all of the economic, financial, and demographic developments that had occurred since the end of World War II.

In the interval, Canada has seen changes that are just as dramatic, if not more so. We have become a nation of consumers made up of many ethnic backgrounds, living in various economic circumstances and carrying various levels of debt. Where we used to eat mostly locally produced food and buy products that may have been manufactured by our neighbours, we now purchase a huge range of goods of increased complexity, the majority of which come from outside the country. Even many of our services are outsourced. The balance has again tilted dramatically so that Canadian consumers are at a disadvantage in the marketplace. With the proliferation of new products, most Canadians feel that our health and safety has been compromised. This impression has been reinforced by items such as tainted toothpaste, lead paint in toys, tainted seafood, salmonella, and listeriosis outbreaks.

This leads me to two of the most significant provisions in Bill C-6. One is the change from the proscriptive regime of the Hazardous Products Act, in which only listed or designated products were covered, to a results-based regime, which prohibits the supply to consumers of products that pose an unreasonable danger to human health or safety. The results-based regime gives us the flexibility to meet changing market conditions and to react immediately when a threat is identified, rather than having to go through a lengthy regulatory process.

The second provision flows from the first. In the past, when a hazardous product was identified, the minister could do nothing more than, in effect, go cap in hand and ask the supplier to recall the offending item. If the supplier did not voluntarily do so, the minister was powerless to force the action. Thus many products that should not have been offered for sale remained on retailers' shelves. Now the government will be able to remove and recall offending products, without relying on the good conscience of the supplier, and will even be able to cause action to be taken at the supplier's expense, should the response be inadequate or untimely.

This bill also provides for fines and penalties to be brought to bear for non-compliance. This is something that was sorely missing in all previous legislation and is needed to encourage appropriate behaviour. Additionally, the establishment of a mechanism for mandatory reporting of adverse events and incidents will help establish an early-warning system, identifying problems much sooner in their sale cycle.

The Consumers' Association recognizes that there will be a learning process on the part of all participants, and the sooner we get started the better. Given the current economic downturn, sales of consumer goods have declined somewhat. While some may argue that this reduces the urgency for passage of the bill, it is feared that this climate may encourage some suppliers to cut corners in order to retain profitability.

With the passage of Bill C-6, the Canadian government will have taken a big step towards improving consumer protection. Once this has been done, the Consumers' Association of Canada suggests that the government, through this and other appropriate committees, give consideration to raising the status of Canadian consumers and their marketplace needs. Nowhere in Canada, either provincially or federally, is there a cabinet-level department devoted solely to consumer protection. Where there is an agency with this responsibility, it is always combined with some other function, which is often inappropriate. When Consumer and Corporate Affairs Canada was broken up many years ago, many of its functions were hived off to other departments, with a rump group known as the Office of Consumer Affairs establishing itself in Industry Canada. Perhaps most inappropriately, food safety came under the aegis of the Canadian Food Inspection Agency, which reports through the Minister of Agriculture, who is also responsible for promoting the sale of foodstuffs.

● (1800)

That was an aside to make us think about something for the future. But once again, I urge the committee to help effect early passage of Bill C-6 and bring Canadian consumer protection into the 21st century.

I tried to be very brief and highlight some of our main considerations. Thank you for listening. I'll be pleased to try to answer your questions.

The Chair: Thank you very much, Mr. Fruitman.

We'll hear from Mr. Andrew King before we go into the question period. Andrew King is the department leader from the United Steelworkers.

Sir, would you like to give your presentation?

Mr. Andrew King (Department Leader, Health, Safety and Environment, United Steelworkers): Thank you very much for the opportunity to present today.

I have provided a copy of my comments. I apologize to you that they are not also available in French, but I should let you know that I found out yesterday about noon that I would be here this afternoon.

I appreciate the amount of work you've been involved in with regard to this very important legislation and have taken the time to review the comments of people who have come before you.

By way of background, the United Steelworkers is an international union, with members across Canada and the United States. In Canada our union is very diverse, with members in almost every sector of the economy.

As our name implies, we have a long history in mining, steelmaking, metalworking, and manufacturing. From that history, we have a lot of experience with toxic chemicals and the diseases they cause. We were involved in bringing WHMIS, the Workplace Hazardous Materials Information System, into Canada in the 1980s, and to this day we are still dealing with the impacts of chemical exposures on our members and their communities. Recent occupational disease clinics in Sault Ste. Marie and Sudbury attracted hundreds of people. We are supporters of the recent Ontario Toxic Chemicals Reduction Act, currently in third reading, as well as community right to know at the municipal level.

The toxicity of many of the chemicals we are concerned about in the environment and consumer products today was originally demonstrated in the lives of workers and the damage it did to their health. Many of the strategies that speak of controlling exposures, limiting risk instead of advising hazards, and personal protection responsibility were tried and failed in the occupational setting. Years ago we were told there were safe limits of exposures to most chemicals. Since then exposure limits have become lower and lower, as studies continue to show there is no safe level of exposure to toxic chemicals, especially if the exposure is repeated and over a lifetime.

We need to talk about the total burden of chemicals in our bodies from all sources, including the environment. This government's and the Ontario government's investment in green chemistry innovation at Queen's University in Kingston is recognition that we have to find a better way to produce the chemicals we need.

Our membership was deeply moved in 2007 when a wave of toxic toys hit Canada, many of which were contaminated by lead. After a decade of fighting in North America to have lead removed from paints and gasoline, after decades of controlling the exposure in smelters, mills, and other industries, something is wrong when the system allows lead to be used in consumer products.

Some of us still remember that it was the impact of our children originally being exposed to lead in communities in Canada in the 1960s that gave impetus to the regular reform that reduced those exposures and gave us the legislation we're reviewing now.

It did not seem right to us that such a well-known hazard should be allowed back into Canada by trade. Our activists became involved in a Get the Lead Out campaign across Canada and the U.S., adding our voice to others who felt that something had to be done. Product safety must not be left to voluntary systems and the luck of the draw.

I might say in parenthesis here that we were quite astounded at the response we got from our members. We have a long history and involvement in occupational health and safety and activists who are trained to deal with those issues, but it wasn't those activists who responded to the problem of toxic toys. It was the average member, the member who had children, particularly women, who were at the forefront of making this an issue for our organization and making it a key point in a campaign that led us to distributing information and becoming part of what was originally the movement toward Bill C-51 and Bill C-52, and now Bill C-6.

We are also encouraged to be here by our environmental partner, Environmental Defence. Aaron Freeman, the research director, has already addressed you. Our alliance with Environmental Defence focuses on the impacts of toxic chemicals and climate change. Environmental Defence's "Toxic Nation" campaign has shown that the challenge we face is much bigger than we think. It confirms the experiences of workers that the chemicals are in our bodies now. We are here to support their efforts and their position—and of many of the other environmental groups that I note have already spoken to you—that we need to reduce exposures through consumer products.

To quote the title of the book that Environmental Defence's chair and executive director recently co-authored, we must prevent *Death by Rubber Duck,*, a book that I highly recommend to each of you if you have not had a chance to review it.

● (1805)

To the point of our remarks regarding Bill C-6, like many others who have appeared before you, and most of the people here this evening, we support the goal and objectives of the bill. It is important that there be a mandatory reporting system for toxins and hazards in consumer products and a clear system for enforcement. While the bill has a number of these important features, it needs to be strengthened in order to achieve its goals as described in the preamble.

In particular, we support amendments suggested by Environmental Defence. Strengthening the bill now will benefit us all in the long run. The bill provides strong language regarding prohibition, but is weak in identifying the problems proactively and sets the bar for action too high.

The bill needs a proactive system of inspection and verification. In this regard, I note the previous evidence that was given by Mr. Glover on behalf of the government in regard to this bill. He in fact spoke about the bill having a proactive nature to it. I must confess to being surprised that he characterized it that way, because it seems to me the system, with all the improvements proposed, is still fundamentally reactive. Until someone discovers a problem—inadvertently, if something has happened, or if a group of doctors notice it in their patients—nothing is done. There is no system through which to go and get proactive information. And that, particularly when you're dealing with imports, which, as was previously noted, are a key part of this problem, needs to be part of the system.

What is needed is an administrative system to ensure that manufacturers and importers—and I emphasize them in particular—are testing their supply chain to make sure toxic chemicals are not getting into the products. The government needs a system of independent verification through random reviews. A testing protocol is required to protect consumers and to raise the bar for company testing. Without that protection, the legislation is at risk of encouraging "Don't ask, don't tell".

We strongly believe that there needs to be the policing function as outlined in the act. In addition, however, we believe there needs to be an administrative review program to ensure that the highest levels of performance and protection are being followed.

The Chair: You're quite over time, Mr. King. Could you try to wrap up, please?

Mr. Andrew King: Thank you. I have just a couple more points to make.

The standard of proof required for action under Bill C-6 is too restrictive, providing little beyond what the common law provides through the right to sue, and contradicting the preamble of the bill that calls for the application of the precautionary principle. I have quoted the preamble—which I'm sure you're well aware of—and contrasted that to the test of danger to human health and safety to demonstrate the point.

Any hazard without transparency or disclosure is unreasonable. At a minimum, the standards must protect children from chemical assault through the products to which they are exposed. Proof of harm or likelihood of harm is no protection for children. The story of lead here again is cautionary.

The Chair: I'm sorry, Mr. King, but we do have your presentation in front of us. I'm going to give you one more chance to just wrap it up if you would, because we are way over time with your presentation.

Mr. Andrew King: The third point I would leave you with is to emphasize the case that others have made with regard to the importance of labelling to provide that information in advance. In the presentation, I've suggested two examples for how that could be achieved.

Thank you.

The Chair: You certainly gave a wonderful presentation with some very insightful information. I thank you for that.

Now I would ask Ms. Murray to begin the question period.

● (1810)

Ms. Joyce Murray: Thank you, Madam Chair.

Welcome, everybody. Thank you for your interest and for assisting us in having good public policy with this bill.

In the previous panel there was a lot of discussion about whether hazards the public should be protected against should include chronic toxicity and therefore should include carcinogens or compounds that would impact reproductive health. It was pointed out that measures are in place in California, in other places, and in Europe.

I have a question regarding the statment on page 4 of the Canadian Consumer Product Safety Coalition brief. Would it make sense, then, when you're calling for an increased alignment of international safety standards and procedures—something I spoke about directly earlier because I think that's important for small business and large business alike—to include the phase-out of carcinogens and endocrine disruptors in parallel or harmonized with the regimes that do that in different countries, in Europe, or in California?

Mr. Ralph Suppa: Madam Chair, may I refer that to Mr. Mussar?

The Chair: Mr. Mussar, would you like to comment on that?

Mr. Keith Mussar (Chair, Food Committee, Canadian Association of Importers and Exporters, Consumer Product Safety Coalition): Yes.

Thank you very much for the question.

First I'd like to spend a bit of time reminding the members—and I'm sure others have done this—of the Canadian Environmental Protection Act, 1999, and the chemicals management plan, which Canada currently is leading the world in implementing.

Under those provisions are two things we need to keep in mind. First is the fact that under the chemicals management plan and CEPA 1999, Parliament has required that we evaluate the environmental and human health and safety of all the existing substances that are currently in use in Canada. In addition and subsequent to that, there are provisions for the new substances notification process, which is a pre-market approval process in Canada. We are the only jurisdiction in the world that has those.

More importantly, however, the other thing that CEPA 1999 and the chemicals management plan require of government and industry is a mandatory requirement through regulation for risk management procedures to be put in place. That couples two things: the hazard assessment, with industry taking progressive action against that.

Ms. Joyce Murray: Excuse me. I get the gist of your answer. I only have a short amount of time.

I could learn about CEPA, and that's useful, but I presume what you're saying is that no, you don't think this should be part of Bill C-6.

Mr. Keith Mussar: I don't believe it should be part of Bill C-6 because I think there are other regulatory avenues by which we're already achieving that effect.

Ms. Joyce Murray: Could I hear a quick answer from anyone else who has a view? I assume the Steelworkers would say yes, because it supported their health.

Mr. Andrew King: Well, certainly you're right in this particular context. CMP is a different strategy for different purposes.

Ms. Joyce Murray: Okay, thank you.

And Mr. Therien, you have no particular...?

The Chair: Is there anyone else who wants to comment for Ms. Murray?

Ms. Joyce Murray: That's okay. I do have other questions.

The Chair: All right, Ms. Murray would like to continue.

Ms. Joyce Murray: The other thing there has been discussion about, which I'm certainly trying to wrap my head around, is the issue of importing. It seems the onus would be on the government, when something is being imported, to figure out if it's hazardous.

One of the speakers said we need a serious commitment to promotion and enforcement. Other presenters have talked about Bill C-6 proposals being too weak in terms of the importation, and that it should really be the importers who are responsible to certify that their products meet the standards in Canada.

Could somebody comment on that? Is that too onerous? Is that realistic? Who should be responsible—government or the importers—in terms of protecting Canadians and kids from these hazards?

The Chair: Mr. King.

Mr. Andrew King: We suggested a combination of both. There should be a pre-testing requirement or certification from the importer that they have done their due diligence, they have checked out their supply chain, and the product they are importing to Canada does not include things that are prohibited or that will cause ill health, whatever the act ends up with. But there also needs to be some system by which that is checked—not in every case. There are different programs. In occupational health and in other areas strategies are used, which the government, or an independent body supervised by the government, has to be responsible for to make sure that's done. Otherwise, you're left with the results.

● (1815)

Ms. Joyce Murray: So it's inadequate, as written, to have that kind of....

Mr. Andrew King: That's right. That's our position.

Ms. Joyce Murray: Are there any comments from the...?

Ms. Corinne Pohlmann: I was simply going to say that when you think about a small business that imports, there needs to be some assistance from government, perhaps, to say that these are the types of companies that are available to you that do or do not have the right products. I think a combination has to be put in place, because it's very difficult for a smaller company to necessarily get that due diligence in place to understand who it is they're supposed to deal with. It might become so difficult they decide it's not worth it for them and they're not going to go down that road because it's just too difficult for them to understand. And if they do go down that road and it still comes in as lead and they've done their due diligence, what happens to them? It's not worth the risk.

That's where we start getting concerned about what the impact of this bill could be on a smaller company that might be looking at trying to get into a new market or trying to bring products in from a new market and what this bill might prevent them from doing.

Ms. Joyce Murray: So you would support them being responsible, but you see that there would need to be some tools and some guidance provided.

Ms. Corinne Pohlmann: Absolutely. There needs to be much better communication of where they need to go, what standards are expected, how they can go about figuring that out, and if there needs to be testing there's help on where that testing has to be done, such as for lead in a product.

The Chair: Thank you very much.

We'll now go to Monsieur Dufour.

[*Translation*]

Mr. Nicolas Dufour: Thank you very much, Madam Chair. Thanks also to the witnesses for being here.

A little earlier, we received another group of witnesses made up of people from the industry. They were from Consumer Health Products Canada. They talked about confidentiality clauses. Last week, we had Jeff Hurst, representing the Canadian Toy Association. He also talked about confidentiality clauses. I feel that this is extremely important. As I said earlier, there has to be a less extreme position than one that lets the minister make a unilateral decision to publish confidential information without even talking to you.

Ms. Pohlmann, I find it interesting to hear you tell us that SMEs hire about 60% of the workforce in Canada. We talked about companies with credibility and dependability because of the length of time for which they have been doing business, and we also said that they could easily handle a problem arising from the publication of confidential documents. But it could be much more damaging for SMEs just starting up, given their manufacturing techniques or the products they use.

Do you think that companies should be given a certain number of hours so that they can familiarize themselves with the minister's file on their defective components? You have to have time to react and to get ready. Could you tell me what you think about having the time to get ready?

[*English*]

The Chair: Who would like to take that question?

Mr. Suppa.

Mr. Ralph Suppa: I'll try to respond very briefly.

It all goes back to the severity of the hazard. It's difficult to pinpoint the timing based on what's going to be disclosed. As I mentioned, we want to work with the government to disclose confidential information where it is appropriate, but again, we don't want to rise to false alarms that don't make sense and that could compromise the credibility of Health Canada. We want to work with them in that regard, but we need to understand what that trigger point is to appreciate that it can't be hours, because you have to go back to your supplier. You have to understand the timelines. Your staff have to be trained to understand what they need to do. So it isn't as cut and dried as to say, is a couple of hours the right approach? That's something on which we're still dialoguing with Health Canada.

● (1820)

The Chair: Mr. King, go ahead.

Mr. Andrew King: Thank you for the question.

I think part of the problem is in the language we use, because it's hard to understand from my perspective what the confidentiality issue is dealing with this. “Confidentiality” is a broad word.

A trade secret I understand; it is something that's special in a process. From our experience dealing with WHMIS, the workplace hazardous materials information system, we have a device whereby that problem can be addressed. If someone is asserting that there is a trade secret involved or something will be disclosed that will have an impact on their business, there is a vehicle through which that can be addressed, but it has to be demonstrated that's the issue.

To get to your point, before you can cause the minister to back off, there has to be a clear demonstration that there is something secret actually being protected. Is it a secret that you have lead in your paint on a toy? No. So it really does have to be some specific example.

The Chair: Thank you.

Mr. Therien.

Mr. Emile Therien: Thank you.

The question is on the severity of the risk. Technically it becomes a judgment call, and those calls will have to be made, absolutely no question about it. I'm very sensitive about creating standards. We're talking about the majority of Canadians who are really employed by small enterprises. It's no longer government motors and Ford that employ most of the people in this country, so I'm very sensitive to that. There are tremendous onerous requirements for small businesses to comply with municipal regulations, provincial, federal. It goes on and on and on, so let's make it easy on them, but also reasonable. They also have to realize there are requirements for compliance.

The Chair: You have another minute and a half, Mr. Dufour.

[*Translation*]

Mr. Nicolas Dufour: Thank you very much.

A little earlier, we talked about the human and financial resources needed to ensure compliance with the act.

Mr. King, you said something very interesting. You said that nothing had been done in a proactive way and that there should be a system of testing. But the problem arises because there is a critical lack of inspectors. Do you think that we can do something to ease this lack of inspectors?

[*English*]

The Chair: Who'd like to take that question, anybody on the panel?

Mr. King.

Mr. Andrew King: I very strongly concur. As was mentioned earlier, part of the problem is that there are not enough inspectors. There's also not a requirement that there be a strategy to utilize the inspection resources effectively in the mandate of the act. I think it's the two things together. I believe earlier testimony said the number has gone up from 46 to 52, I think you heard on a previous occasion. Clearly, there need to be more resources added.

The Chair: Thank you very much.

Mr. Mussar, would you just like to make a brief comment?

Mr. Keith Mussar: The other thing that might be worth keeping in mind is that there are some other initiatives that might also help in providing some tools to help us work through this, particularly on the import side. Canada Border Services Agency is working on the single-window initiative, which is a communication initiative and risk assessment initiative between them and the other government departments, including Health Canada. There's also the e-manifest initiative, as well as the ACI, the commercial initiative. There are a number of other initiatives that, in conjunction with this, may provide some useful tools that will help the inspectorate.

The Chair: Thank you very much.

We'll now go to Ms. Wasylycia-Leis.

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): Thank you very much.

I apologize for being away, but with Bill C-32, an act to amend the Tobacco Act, being up at the same time, it's a bit of a conflict. I'm sorry I missed all of your presentations.

Let me go to Andrew King first of all, and let me ask you about WHMIS. We had news through our estimates process that in fact the government was cutting $2.6 million over two years out of WHMIS, which I understand kills the national centre through Health Canada. I guess I'd like to know the impact of that in terms of this act and its intentions, especially since the government is trying to suggest that the GHS will pick up the slack, yet at the same time, Health Canada has not moved to reintroduce substances that have been excluded from WHMIS. So in fact we have a watered-down GHS approach and a neutered WHMIS program.

● (1825)

Mr. Andrew King: Wow. I think the response that was given by a previous witness on the question of using GHS as an alternative to putting labelling in the act is well stated. We've been hearing about this for a long time. There have been all sorts of things that have stood in the way. It may not achieve the objectives in terms of consumer protection that we want to achieve with this bill, so that's why this bill needs to have very clear rules with respect to labelling.

The cuts with respect to WHMIS and other problems with the WHMIS are contradictory to the other activities that seem to be going on in the government in terms of chemical management, whether it be CMP or other vehicles to break down WHMIS, which is a core piece of that process and the only one that allows workers to participate in identifying the chemicals they're dealing with. It's truly a shame and something that needs to be addressed. I think to the extent it has relevance to this bill, it reinforces the need to ensure there is clear language here with respect to what will be reported to the public.

Ms. Judy Wasylycia-Leis: So you would be supportive of our intention to introduce an amendment to put back into this bill what was in Bill C-52 before, requiring the minister to report publicly information about any problems pertaining to consumer products?

Mr. Andrew King: Yes.

Ms. Judy Wasylycia-Leis: Is there anyone on the panel who would object to that, the minister's obligation to report to the public?

Mr. Ralph Suppa: Madam Chair, if I may, I think it should be after it has been substantiated and not right when it happens, because you've got to go through the process of making sure it was a legitimate concern. We need to keep that in mind.

Ms. Judy Wasylycia-Leis: Thank you.

Let me go back now to the issue of imports. I'll start with you, Mr. King, and anyone else who would like to answer.

I don't think this bill has satisfactorily dealt with the surveillance of imports. We heard from Mr. Arthur Kazianis, who is with the Canadian Toy Association, that in fact in the United States it's mandatory to have testing done by a third party for any products coming into the country. We don't have that in Canada, and nothing in this bill suggests it, so I'm wondering if we shouldn't be trying, through this bill, to include a requirement to have some obligation, whether it's through a cost-recovery basis or not, for testing of products coming into this country.

Mr. Andrew King: That's the heart of the first of the recommendations that we make, which I tried to make in our presentation. It has already been noted that the biggest challenge for us in Canada has been the imports, and really the only way you can have assurances to try to prevent that in advance, to be proactive, is to have some form of mandatory pre-testing, and some form of certification provided that indeed it has followed through the supply chain, and is not just someone saying they didn't add anything knowingly, but that they've done their due diligence on the supply side. So we would very strongly urge the committee to include within the bill the authority to require that for imports of consumer products.

Ms. Judy Wasylycia-Leis: Does anybody object to some sort of inspection and surveillance of products coming into this country?

Mr. Ralph Suppa: Madam Chair, I think we need to be cautious with this approach, because we already have some industries that are regulated. For example, my industry, the plumbing and heating industry, is regulated through a third party. If you bring in or manufacture products overseas, they must meet Canadian requirements before they can be installed, because if you build a home the inspector will look for that certification mark. If a product doesn't have that mark, they will not allow it to be installed. In some cases, standards may not exist, so it's not a one model fits all. You have to look at where these issues are concerning and then work with that particular industry to see what makes sense.

● (1830)

Ms. Judy Wasylycia-Leis: Fair enough.

I was particularly thinking of the controversy over toys coming in from China, where there are sort of voluntary agreements but there is no testing, and we have had a flood of products on the market that may not be safe.

Mr. Emile Therien: I'm aware that the staff of the Consumer Products Safety Agency, and even the commissioner, was dead against this independent third-party testing agency in the United States. I think one of the recent presidents.... It's a source of controversy, to the point where the Consumer Products Safety Agency used to hire one toy tester, or whatever he's called, and that job has been eliminated. So there is nobody on board who really deals with that issue.

I think another point is that it's important to remember that a lot of products that are imported into this country are certified by either CSA or UL or whatever. The issue there is that some are counterfeit, but most of them I think are very legitimate products. So there is a standard they comply with when they arrive on our shores.

The Chair: Thank you, Mr. Therien.

We'll now go to Ms. McLeod.

Mrs. Cathy McLeod: Thank you, Madam Chair.

I think I'll stick with some of my previous issues in terms of the labelling. We certainly heard from Mr. King clearly how he felt about things. So we've heard from many witnesses wanting us to be emulating California Proposition 65, and there was the example brought forward by the Canadian Environmental Law Association of an extension cord with the notice, “this contains lead, you must wash your hands”. So we need to really be looking at labelling anything that has potentially a carcinogen.

I would really appreciate hearing from the small-business perspective, both from Ms. Pohlmann and Mr. Suppa, and anyone else if there's time. Will that create issues? Are the members you represent comfortable with this kind of approach?

Ms. Corinne Pohlmann: Sure. Labeling would be, I think, a big issue for small and medium-sized companies, simply because it would bring a level of complexity into the system.

Our big issue when it comes to new legislation or regulations or policies is that we need to make sure that we're measuring their effectiveness. When you look at Proposition 65, which I know has been brought up many times, I don't know how much evidence is actually out there that it actually has been effective in helping Californians be safer or have a lower incidence of cancer.

We want to make sure that when you're creating new rules, regulations, or laws, you're doing it in a way that's going to be effective in achieving what you want as an outcome.

Labeling, from the small-business perspective, I think would discourage a lot of small businesses from moving into certain areas and markets. I think it would then likely become the purview of much larger companies. It would have to sort of come under their umbrella, because small companies wouldn't necessarily have the wherewithal to understand all the different things they need to do. It would create a big headache for government to try to find all those companies to figure out what exactly they're labeling correctly.

I think it could cause a lot more problems. I'm not so sure you would necessarily get the benefit you want from doing that.

The Chair: Go ahead, Ms. McLeod.

Mrs. Cathy McLeod: Mr. Mussar would like to answer this.

The Chair: Mr. Mussar.

Mr. Keith Mussar: Thank you very much.

I have just two comments. First of all, from discussions we've had with officials within both Health Canada and Environment Canada, as I alluded to earlier, I know that mandatory labeling is an option that's already available to regulators if they believe that product labeling is an effective risk management option. They already have that authority.

Second, just to comment on Proposition 65, we've heard a lot of discussion about that. We've heard concerns about the fact that perhaps some the labeling may be meaningless. There are examples in California of fishing poles being labelled as containing toxins. Even parking garages in California are labeled.

I think there are some questions as to whether.... Certainly I would ask the question: If California had had available to them what we have in terms of CEPA 99, would they have gone to Proposition 65? I don't know.

Mrs. Cathy McLeod: Mr. Therien, do you have any comments?

Mr. Emile Therien: No, I don't. This is interesting, though.

Mrs. Cathy McLeod: Mr. Fruitman.

● (1835)

Mr. Mel Fruitman: I think that perhaps this issue of labeling has been very much overstated—the requirement for over and above what already exists—as Mr. Mussar has pointed out. The concern about carcinogenic products and other things that are hazardous to our health are covered under the general prohibition. Once it is known that these products do exist or might contain them, products can be banned, taken off the shelves, or whatever.

I think we need to consider labeling in the case of issues that are well known to the public and on which the jury is basically out on whether the item or product or component is or is not harmful. I'm thinking, in particular, of genetically modified foods, a topic I have been involved with. There are many people who believe that GM foods are harmful. There's a lot of other evidence on the other side that it isn't. Nobody really knows for sure. That is a situation in which consumers will very definitely benefit from a label that says that this product is or is not genetically modified, which would give them the information so they can choose what side they want to err on. That's where it is useful.

I think we could run into a situation in which we have too much labeling or we have labeling that's put on by suppliers as a preventative rather than as a necessity. It would be like having a “dry clean only” label when a garment can be washed. Dry cleaning gives them the safety net. It can go overboard and have an undesired result.

Mrs. Cathy McLeod: How's my time?

The Chair: You have another minute or so.

Mrs. Cathy McLeod: I guess you gave us, Ms. Pohlmann, some numbers in terms of the people you represent. How many of those businesses do you think would be impacted by labeling provisions?

Ms. Corinne Pohlmann: We have 13,000 manufacturing firms in Canada. These are Canadian-grown and Canadian-operated companies. I suspect that they would come under the provisions of that type of thing. That's just our membership. There's a much larger population. That's maybe 10% of the manufacturing population right now.

A large number of companies across Canada would come under these provisions, and it would not necessarily be easy for them to implement them overnight.

Mrs. Cathy McLeod: Thank you, Madam Chair.

The Chair: Thank you, Ms. McLeod.

Now we're going to go into round two, which is five minutes for questions and answers.

There's tea and coffee and desserts at the back. If you'd like to help yourselves, that would be just fine.

We'll start with Dr. Duncan.

Ms. Kirsty Duncan: Thank you, Madam Chair.

It's lovely to have you here. I apologize for missing some of your testimony.

I'd like to read you a statement, and I'll ask if there's any disagreement with it. "Well-known toxic chemicals should be phased out of consumer products, particularly children's products, unless there is no viable alternative available." Is there any disagreement there?

The Chair: Maybe we should start with Mr. King.

Mr. Andrew King: None at all.

The Chair: Mr. Fruitman.

Mr. Mel Fruitman: No disagreement, and I think it's allowed for.

The Chair: Mr. Mussar.

Mr. Keith Mussar: I think it's already allowed for.

The Chair: Mr. Suppa.

Mr. Ralph Suppa: Agreed and already allowed for.

The Chair: Mr. Therien.

Mr. Emile Therien: It's the alternative we have.

The Chair: Okay, great.

Ms. Kirsty Duncan: I'll do the same with another statement, if I may. "Consumers should have a right to know if there are toxic chemicals in the products they buy on the shelves." Is there any disagreement with that statement?

The Chair: Mr. Fruitman first, then Ms. Pohlmann.

Mr. Mel Fruitman: Unfortunately, that's a very simplistic statement.

Ms. Kirsty Duncan: [*Inaudible—Editor*]

Mr. Mel Fruitman: When that is stated, how do we...? There is all the other information that is required in the back of it. What is a toxic chemical? How does the consumer know about this? Does that information actually tell them anything, or does it only confuse them?

I can't agree with that statement by itself.

Ms. Kirsty Duncan: Okay, in that case, I'm going to reverse the order.

How do you feel about the minister publishing a list of known hazardous substances? I know that's a challenge. How do you decide what is a hazardous substance? So I'll go in order. Perhaps the IARC chemicals from groups 1, 2A, and 2B.

● (1840)

Mr. Mel Fruitman: Well, I'm a consumer, and I haven't got the faintest idea what you're talking about. I think that's part of the problem right there. The minister could publish a list that may have hundreds of items on it. We cannot reasonably expect shoppers to walk into a store carrying that list with them.

Ms. Kirsty Duncan: Mr. Fruitman, I'm being very kind and generous with you. I would expect the same.

I believe that we would have it in common language. IARC is the cancer group. I'm wondering how you folks feel about that. They're carcinogens.

The Chair: Mr. Suppa.

Mr. Ralph Suppa: I'm not familiar with it. I think if you start talking about those kinds of issues, when you talk about labeling, you also take away from the real issue that consumers need to know —the warranties, the guidelines, and so on. We have to be careful when we go down this road.

I'm sorry, I can't respond intelligently. But we need to look at the real issue of what we think the label may do, but may not necessarily really do.

Ms. Kirsty Duncan: I think right now it's trying to... How would you feel about establishing a list of toxic chemicals?

The Chair: Mr. Mussar.

Mr. Keith Mussar: I think we've already done that. That's part of the requirement out of CEPA.

Ms. Kirsty Duncan: So we agree with CEPA. What about other carcinogens or neurotoxins? Does the list need to be looked at again? After all, new chemicals come on line every few months.

Mr. Keith Mussar: And that's the purpose of the new substance notification process that we have in Canada. The new substance notification process is actually a pre-market approval process. The substances that are evaluated through that are either allowed onto the market because they are safe, or a decision is taken that they are unsafe and therefore they are not allowed on the market, or they are allowed on the market within the context of very specific applications.

Ms. Kirsty Duncan: I think we would agree that over time we learn that some chemicals are not safe, and they're already on the market. That's why you need to review that chemical list, to make sure we get new chemicals on.

Mr. Keith Mussar: Yes, and that is a provision under the CEPA 99. It's actually something that Environment Canada has started to have discussions about with industry.

The Chair: Mr. King, you wanted to make a comment to Dr. Duncan.

Mr. Andrew King: I wanted to encourage you in the direction you're going with your questions, because I think where you're coming from is that in consumer products legislation, shouldn't those products contain labels that provide people with the information there are toxic chemicals in them? What a toxic chemical is could be the subject of a debate—it could be CEPA or IARC, or whatever. That way, it provides more guarantees and makes it a little bit easier for people to accept.

But what you're fundamentally getting at is do consumers have the right to know these things are in the product they're buying? On that, I think we have to give a very strong yes, because that's what being a consumer is about, knowing that and making a decision.

Mr. Emile Therien: I don't disagree with that, but I really think that Canadians—

The Chair: I'm sorry, I'm going to have to interrupt.

Mr. Therien, if you could pay attention to the chair, I'm trying to be very fair. Thank you.

Now we go to Ms. Davidson.

Mrs. Patricia Davidson: Thank you, Madam Chair.

Thanks very much to all of our presenters here today. We've been getting some good information.

I just want to take the discussion back again to imports and labelling. Mr. Suppa, I think you talked about how in your line of business, different items might be CSA or ULC approved, and that the inspectors or authorities look for that certification before they approve those items for use in Canada. So is that required for many products, or is it for electrical products? Your business is heating, is it?

Mr. Ralph Suppa: It affects electrical products—they are also a regulated industry—and plumbing and heating. When a home builder pulls out a permit to build a home, that's the signal that the inspector must inspect the home for the various certification marks that are third-party-certified.

● (1845)

Mrs. Patricia Davidson: Okay.

There's been discussion among different people here on requiring mandatory pre-testing. That suggestion has been made. How does that fit in with the testing and labelling that's already in place on the products you use? Are we talking about two different things, or are we talking about duplication?

Mr. Ralph Suppa: In my industry, if you were asking for that, it would be a duplication of effort. It's already gone through the third-party certification process; it's gone through a stringent testing protocol; and before it can even go into the marketplace, it has to have that approval from that third-party certifier. So if you're asking if we would now have to duplicate something we already do with third-party certifiers with Health Canada, well, there's no benefit to the consumer, and you've added a cost to the manufacturer without any benefit to them.

Mrs. Patricia Davidson: Is the mandatory pre-testing of imports something that could be implemented for other products, such as toys? Then the onus is on the manufacturer to prove to the importer that it meets the requirements. I assume that's how your testing is done in your business. The person who manufactures that has to comply with the CSA guidelines.

Mr. Ralph Suppa: Regarding toys, I would suggest you refer that to them for a response. I'm not competent to speak on their behalf.

Mrs. Patricia Davidson: Is there anybody who could comment on that?

Mr. King.

Mr. Andrew King: The comment I wanted to make was to follow the line of thought that I perceived you were taking, which is that in a situation where the product already has a recognized standard—and electrical products would be a good example—then that's your pre-test. But for those products that don't have that kind of testing, toys for one—and there may be others—then there should be some system put in place to ensure that.

So you bring into the system those you can already rely on, and then you only focus on those that aren't in the system, and you do it strategically.

Mrs. Patricia Davidson: Mr. Fruitman.

Mr. Mel Fruitman: The way I see it is that the act does in fact provide an onus on ensuring that a product is not hazardous to the health of consumers. So imports would be covered by virtue of the fact that the retailer of that product could be liable—and liable for a huge fine if they sold a hazardous product. That then puts the onus on them to ensure the product is safe. So we would hope that results in testing when there is any concern at all, and it would be a cost that is borne by the supply chain, rather than the public through government testing.

Mrs. Patricia Davidson: Mr. Suppa.

Mr. Ralph Suppa: I can speak about my industry on that topic. You must have a mark, for example, on a faucet. It has to have a certification mark. Sometimes you won't see it, because some of them are $1,000 and people want the mark underneath the product. We now have a mechanism within our industry. In the province of Alberta, inspectors have the authority to go into a retail outlet and remove product that doesn't meet that requirement. If it was brought to my attention, I would phone an inspector and tell him that there was a product on the shelf that didn't meet third-party certification. Remember, it's not a hazard—it just doesn't meet the requirement. They have the authority to go in and remove the product from the shelf. We already have regulations that work well within our industry. That's what I was referring to—our national system of codes and standards.

The Chair: Thank you, Mr. Suppa.

We'll now go to Monsieur Dufour.

[*Translation*]

Mr. Nicolas Dufour: Thank you very much, Madam Chair.

If I go by your comments and those from the representatives of other consumer and industry groups, I see once more that the problem is the lack of human and financial resources for inspectors.

Mr. Therien, you said something very interesting earlier, to the effect that no one ever sees an official. I would love you to tell us more about that, but also to finish what you were telling us earlier about the inspectors.

[*English*]

Mr. Emile Therien: I'm an old-timer in this town. I go back many years. Director General of the Product Safety Branch of Health Canada was very high-profile in the public service in this town. I was told by officials at Health Canada that from 1992 until a surge of bad product came in from China in August 2007, not one inspector from Health Canada visited China. There was no oversight of what was going on. It's embarrassing and it's just despicable. No wonder we saw these problems.

A very effective regulatory oversight tool is spot audits, but they don't exist any more. The government has not put in the resources to get the inspectors needed to get the job done. That's the problem we have. In the U.S., the Consumer Product Safety Commission is going through the same trials and tribulations. They've been cut down to nothing. They have 400 inspectors in a country of 310 million people. We have one-tenth of that. Go figure. That's the problem.

● (1850)

[*Translation*]

Mr. Nicolas Dufour: Do you have any other comments?

[*English*]

Mr. Ralph Suppa: I think we have an opportunity to go down the right path and work with Health Canada to help train those inspectors to do what they should be doing. I wouldn't say it's a lost cause. I would say industry is working with government and Health Canada to ensure that something happens. Let's not throw the baby out with the bathwater. We have an opportunity to make some positive changes.

The Chair: Mr. Fruitman.

Mr. Mel Fruitman: I don't think the problems are with the act. Our concern is whether there will be resources to make the act work properly. That's what we're all alluding to. If we don't have those resources, this is not going to have the desired effect.

The Chair: Did you have another question, Mr. Dufour?

[*Translation*]

Mr. Nicolas Dufour: Everyone wants to answer.

[*English*]

The Chair: Mr. King.

Mr. Andrew King: I agree in part with what has been said about the importance of resources. That is a critical thing. I wouldn't agree that the bill as currently proposed provides for the most efficient use of the resources. The requirement for some form of pre-testing or spot-audit process gives tools to the people and ensures that something will be done. If it's left blank, then it's totally a question of government policy. When it comes to government policy, choices have to be made. When you're dealing with consumer products that get into the hands of children, you have to have a more rigorous set of requirements as well as the necessary resources.

The Chair: Thank you, Mr. Dufour.

Ms. McLeod.

Mrs. Cathy McLeod: With respect to paperwork reporting requirements, I think there are some justifications for those pieces being in the bill. If you were asked how to meet the goals that make it as easy as possible for our small-businessmen, what would you advise?

The Chair: Ms. Pohlmann.

Ms. Corinne Pohlmann: I think our members would give you lots of good suggestions on how that can be done. I think looking at what is already in the possession of a business owner would be the start. So is an invoice enough?

If you are going to go to a retailer, for example—many of the folks across the country in our membership are retailers—is it just enough to have the invoice from the supplier to be able to track it back? If it's not, then you have to be very clear on what it is you're looking for, and we would put the onus back on Health Canada to say this is an example of what we mean by compliance.

Small-business owners are asked every day about keeping records on their taxation, on their workers, and on all kinds of different areas from all levels of government. So it needs to be really clearly made to them what it is they need to have in their possession if the inspector comes to their door. That's not going to be an easy task; it's going to be very difficult. If you're talking about Susan who owns a household goods shop in small-town Ontario, for her to know that this is the requirement when the inspector walks in, it has to be made very clear. In fact, we would suggest the first time that it happens there be an opportunity for education. That's the point where you tell the small-business owner that these are the kinds of things that you need to have in place so that we can make sure we're protecting Canadians. This is why we're doing it.

Mrs. Cathy McLeod: Is it your sense that working with Health Canada to set this up can be made reasonably easy?

Ms. Corinne Pohlmann: We've certainly been talking to them and we're certainly providing our ideas. It won't be easy, I can tell you that right now. We know about privacy legislation and needs for policies in certain provinces that have been in place for five years, and we still know a bunch of members don't even know about them.

That's going to be the challenge, getting businesses aware of the fact that they have this requirement to provide this sort of information. They want to do it. They want to comply, don't get me wrong, but they have so many things coming at them, and so often, that for them to know and pull out a piece of paper and understand that this is another thing they are required to do is going to be very difficult to do.

We're going to do our best to make sure that it's put out there clearly and communicated to them. But the best way to make it effective is to make it as simple as possible for them to understand.

● (1855)

The Chair: Mr. Suppa.

Mr. Ralph Suppa: Corinne said yes, Health Canada had been aware of our concerns. We actually had product experts provide them with information on product recall from a global perspective. We want to make sure they get good data, not just data that's dumped from a recall because of an electrical outage or a faucet is not working properly. It has to be meaningful data to the point where they can take the trends they need—not data from all over the world to create a data bank—and also have a person on staff just managing this type of information when small companies can't afford to do that full-time.

The Chair: Would anybody else like to add anything? You have a little more time.

Another minute, Ms. McLeod.

Mrs. Cathy McLeod: So you have to wonder with all the different requirements from the different levels of government if there was some way we could combine them all and make them easier for the business operators.

Ms. Corinne Pohlmann: Absolutely. I think we're already noting here that there are lots of other regulations out there, even federally, with CEPA 1999 and the chemicals management plan, but also provincially. So we need to make sure that we're not duplicating efforts, that we're not asking them to do two things in different ways with really the same outcome. We would strongly encourage working with the provinces and others that have similar types of legislation.

The Chair: Mr. Therien.

Mr. Emile Therien: I could tell you there's a precedent in place in the advisory council on the transportation of dangerous goods.

Corinne mentioned the paper reduction. The members of that are the industrial chemicals businesses. It's incredible how they reduced it and how these members are so much happier today. So there is a precedent there.

The Chair: Mr. Fruitman, were you wanting to make a comment as well?

Mr. Mel Fruitman: No.

The Chair: Okay, thank you very much, Mr. Therien, and thank you, Ms. McLeod.

We will now go to Ms. Murray.

Ms. Joyce Murray: I come from a small and medium business background, with 25 years as a business owner, and I'm very sympathetic to the presentation of the CFIB.

Were your organizations consulted in a meaningful way, as in your input was sought, you saw your input taken into account as Bill C-6 or Bill C-52 were being drafted?

Ms. Corinne Pohlmann: Yes.

Ms. Joyce Murray: So then you presumably don't have too many concerns about the duplication with the provincial and other acts because you had a chance to give input on that already?

Ms. Corinne Pohlmann: It was certainly one of our comments in the letter that you'll see we sent to the minister back in April, and it continues to be. But that's where I lean on folks like Ralph, who are specific to industries that have those types of regulations in place. I bow to them to give me that feedback. But it's something that we try to push all levels of government to think about and make sure they understand they're not duplicating efforts from different levels.

Mr. Ralph Suppa: I can also echo that the consultation process with Health Canada, in my estimation, has been very transparent, meaningful, and productive. They listen to our concerns. You'll see nine recommendations in our submission that still need to be analyzed, and I hope when the committee does clause-by-clause they are referred to. I've gone through this process before, and they've been accessible to listen to our concerns.

Ms. Joyce Murray: I'm going to ask another question of the small-business organization.

When I was part of a small business, one of the things we did was lobby the government for notification of pesticides on the seedlings. Our workers were handling tree seedlings, and there were concerns about the toxicity over time of exposure to those pesticides. As a company, we were not qualified to say whether they were toxic or harmful, but we felt that we and our employees had the right to know. It was a very long and hard-fought battle, but we did win the right to notification of pesticides.

I don't see any disconnect between small business and wanting to make sure the toxic chemicals that may have a chronic health impact or may be carcinogenic or hormone disrupters...that there's notification of those for people in the business handling the goods or for the consumers buying them.

I'm very interested in your answer, Ms. Pohlmann, about the concept of labelling responding to the concept that consumers should have a right to know if there are toxic chemicals in the products they buy and that are on the shelves.

● (1900)

Ms. Corinne Pohlmann: Fundamentally, we agree in principle with this bill. And we do believe we need to do more to protect consumers when it comes to product safety. Whether labelling is the best way to do that is what I question. That's what I've been suggesting as we went through the process, and I think others here suggest the same. That's where it comes from. People have the right to know, and they can certainly get the information, if they need to, in certain ways.

Ms. Joyce Murray: If I may ask, how else could they, given how this is written?

Ms. Corinne Pohlmann: For me, it's whether labelling is really going to get them to understand what the problems are with the product. I'm not going to talk about employees right now, because there's a whole other set of rules around employees. But when it comes to the consumer side of things, I question whether labelling is really the most effective means to help consumers with that particular issue.

Ms. Joyce Murray: If you were buying a string of Christmas lights and you knew that lead was something that could build up and be very harmful to your health and one box was labelled “contains lead on the string” and another box was labelled “does not contain lead on the string”, would that be confusing? Or would that help you make a choice, in terms of the kind of risk you want to take when you're buying something?

Ms. Corinne Pohlmann: It's a tough question to answer. I'm not an expert on all these toxic chemicals, but I do believe that most Canadians probably are not even looking that closely at the packaging. I think there are other ways we can get that information out to them.

Ms. Joyce Murray: I'd be interested in knowing how, because we're trying to create a bill that addresses that question, and a theoretical answer like that isn't really helpful in terms of the task.

If not with a label—so somebody would be able to know whether they wanted to handle lead, and if they did, how they would protect themselves—how else would that be in the bill?

The Chair: Mr. Suppa, we're out of time, but if you'd like to quickly....

Mr. Ralph Suppa: Very quickly, I don't think that's an issue for the bill. Most legitimate retailers and distributors stock reputable products. And consumers know where those reputable products are stocked.

You can't put labels on everything. Sometimes you may be causing a false sense of security. And I think, as Keith mentioned, we've got laws in place. If they need to be enhanced, let's enhance them.

Ms. Joyce Murray: That's what we're trying to do here.

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

Ms. Wasylycia-Leis, please.

Ms. Judy Wasylycia-Leis: Gosh. Where do I start?

Let me start by just saying that I think we run into some problems in this country when we take this kind of hands-off approach. I think if you look at the listeriosis crisis right now and you ask Maple Leaf what they would like to see happen, they would say that they want tough government regulations with proper inspection staff and that they want to make sure that there is that independent oversight for all of their products.

That's all we're asking for with this bill. We're trying to make this bill truly precautionary. It starts off in the preamble saying do no harm. Other than the words “do no harm”, there is nothing in this bill that actually requires that products put on the market be safe beyond a reasonable doubt. We're trying to get there. How do you do that? You do that by having more than simply tough penalties with recalls, because by then the products have already caused death or illness or serious injury. Therefore, you have to turn to what the options are. The options are testing the products coming into this country, having spot audits, having surprise inspections, and having adequate inspection staff. When there are products that have been identified as containing serious carcinogens and causing problems to human health, such as lead or phthalates, you do something about it, like banning them. If you don't have that definitive evidence and you don't have a government that's willing to ban them, then you label them.

I would suggest to all of you that if you're looking at this as a parent and as a consumer, you're going to want to go into a store with the knowledge you've acquired and make a decision based on what is best for the health and well-being of your children. That's all we're asking for with this bill. Does anybody here disagree with testing of products coming into this country? Does anybody disagree with increasing inspection staff so we can do some on-spot audits and check for not the 85% of the retailers who might be doing good business with good ethics but those who don't? You know that there are those who don't do the best they can and who put unethical products on the market. That's why we have bills like this.

Does anybody here disagree with banning products that have been proven to be carcinogenic and dangerous when they build up over a period of time, like lead and phthalates and mercury? Does anybody here think that we shouldn't ensure in this bill that there be something that requires those products that are hot to be banned? Finally, if they're not and if we don't have the definitive science, does anybody disagree that we should have some form of labeling so that you as parents can help make a wise decision for the well-being of your children?

● (1905)

The Chair: Mr. Suppa, would you like to address some of those concerns?

Mr. Ralph Suppa: When we opened our remarks, we opened them with general support of the principles of the bill. If we need to fine-tune down the road—and there's not going to be the opportunity to do so today—and if the labelling is the issue, let's look at what currently exists and see how we can enhance that protocol. We're here saying yes, let's work with you to find what the proper protocol is.

Ms. Judy Wasylycia-Leis: What I just did was list five areas that are really not part of this bill. They are part of a precautionary principle. I'm asking whether you disagree with any of those things, and if you don't, then you're going to agree with our trying to find ways to amend the bill so it will cover those issues and so that we will have a truly precautionary approach when it comes to consumer products.

Mr. Ralph Suppa: I'd have to go through the bill again before I could make a statement to that.

Ms. Judy Wasylycia-Leis: All right. Does anybody else want to answer?

Let me come back to Corinne. I can't believe that you couldn't answer the question about whether you would choose a box that says “there is lead in these lights” or not. I would say to you that there are many people out there who are quite aware of contaminants and are worried about what's going to happen to their kids and worried about health and well-being. They are going to look for advice. They are smart enough to figure it out, and I think our job as government is to provide them with the information to make those choices.

The Chair: Ms. Wasylycia-Leis, I'm sorry to interrupt you, but Ms. Pohlmann has only a very few seconds to answer that question.

Ms. Corinne Pohlmann: Fundamentally, what you're saying nobody here would disagree with. However, it needs to be balanced with what industry is capable of delivering and what else is already out there to make sure that we are not duplicating efforts.

The Chair: Thank you so much.

We'll now go to Dr. Carrie.

Mr. Colin Carrie: Thank you, Madam Chair.

One of the contentious issues we're dealing with is this whole issue of labelling. We had the David Suzuki organization in and I asked if they had any evidence that Californians are more healthy since Proposition 65. It has been going on since the 1980s, and I wasn't able to get a clear answer there. Do you guys have any information?

What we're trying to do is make a law that everybody here is going to agree on. We want Canadians to be healthy and well informed, but we have an experiment in the States that has been going on for 25 years. Do we have any data that you guys are aware of, one way or the other? I noticed Mr. Suppa.

Mr. Ralph Suppa: I don't.

Mr. Colin Carrie: Anybody else? Nothing?

The Chair: Mr. King.

Mr. Andrew King: The challenge you pose is that it's hard enough getting the resources, as has been raised in this committee, to enforce the legislation in the first place. To then get the money for surveillance to ensure you can actually draw some connection between the two is even more difficult, especially since there are a number of other exposures that contribute. So actually attributing it is a huge challenge, not that we shouldn't be trying to do it. I note that for the first time in history Canada is beginning to develop an environmental and occupational exposure surveillance, and we've been having this problem for much longer. So I think that's part of the problem.

The other part of the problem is that consumer protection is more of a rights-based approach driven by concern for health but feeding into the rights of people to make a decision, which is fundamental to a free market economy.

Mr. Colin Carrie: I agree with that, but what I was trying to establish was that it has been going on for 25 years, so I wondered if we had any hard data. I do appreciate the input there.

I'm struggling with this idea of cumulative risk and chronic exposure. Could you give us any comments on the idea of cumulative risk?

We've had people come in and say they can define these toxic substances down to a nanoparticle, which is extremely small. There could be an exposure to pens or to ink, if I stick a pen in my mouth or draw on my hands. Could you give us an idea on maybe dose versus risk and what you think about that comment? Does anybody have a comment on that?

● (1910)

Mr. Keith Mussar: Thank you very much. That's a great question.

The whole principle behind the chemical management plan and CEPA and the evaluation that's actively going on and has been going on for a number of years already is to look at both acute risk and, where we have scientific information, chronic risk. We're currently doing that. I'm not going to preclude that it's an easy thing to do. I think others that have testified today have also said that assessing chronic risk is a difficult thing to do. But within the context of the science that's out there, that is currently what Environment Canada and Health Canada are doing to the best of their ability.

Mr. Colin Carrie: So basically CEPA—what's there right now—is already doing a lot of that work or attempting to do some of that work. We did hear earlier that it's very difficult to figure this one out, because what are you talking about when you're talking about chronic exposure or cumulative exposure? Is it the same chemical over and over again, or a mixture of a bunch of chemicals? It is, I can see, a very difficult scientific fact. If you're going to mandate this, then who pays for it? Do we have industry pay for it? Do we have any ideas on the cost with that? Does CFIB have any idea of what the cost to members would be if you implemented something like that?

Ms. Corinne Pohlmann: No, I'm sorry.

Mr. Colin Carrie: In your data, you were saying, though, the smaller the business, the more expensive it is usually.

Ms. Corinne Pohlmann: Correct. We looked at regulations in general, and this has been validated by the OECD as well. The smaller the company, the higher the cost to comply with regulations.

Mr. Colin Carrie: Do we have definitions in Canada about how we define “toxic” and all these different levels?

Mr. Keith Mussar: There is a definition for toxic in the Canadian Environmental Protection Act. It really has two principles to it. First of all, is it toxic to our environment? Secondly, and what's really germane to our discussion today, is it toxic to human health?

Mr. Colin Carrie: What's the difference, though? We heard about these foams or formaldehydes, or something.

Mr. Keith Mussar: Let me give you an example.

Road salt has been identified as and deemed to be CEPA toxic. As a result, it has been designated to be put on schedule 1. One of the things you look at is the condition under which road salt can be used. Under CEPA, there is an environmental component and there is a human health component. Certainly when you get road salt close to a freshwater environment and make it saline, that is going to be injurious to the freshwater environment and those animals occupying it, where it may not be injurious to human health. So what we have in the opportunity around the Canadian Environmental Protection Act and the risk assessment that is founded in regulation is that it puts in place, with the knowledge from science of where it is a risk, management strategies that industry is obligated to adhere to in order to minimize the risk that it will get put into, in this case, a freshwater environment.

Mr. Colin Carrie: Are those already in the chemical management programs?

The Chair: Dr. Carrie, I'm sorry, but Mr. King has been trying to put in a couple of words here.

Mr. King, would you like to just wrap it up?

Mr. Andrew King: You've opened a huge area, but I'll try to get really focused, to the point.

Again, I think the experience we've had historically with children and exposure to lead in communities is illustrative of the problems of trying to achieve what you're talking about, and there's also the need for a strategy that doesn't rely on getting to the end of the process when people are actually getting sick and you can actually measure the decrements.

There are some studies that have tried to do that in Canada. It's always on a big scale because you're dealing with a huge range. In one study in 2001, I think, looking at environmental exposures on diabetes, Parkinson's disease, neuro-development effects, and hypothyroidism, they looked at costs of $46 billion to $52 billion to the Canadian economy. But that's big-picture stuff. What we do know, and the evidence is in Massachusetts and their toxics use reduction strategy that they've had since the 1980s, is that if you mandate the progressive removal of the chemical, you will save costs in the long run and you will reduce the impact of those substances on human health because they're not there.

● (1915)

Mr. Colin Carrie: Could you provide that study to the committee?

Mr. Andrew King: It was the Toxics Use Reduction Institute's studies on the Massachusetts program, so certainly that information will be provided. That's the closest we have.

The Chair: Mr. King, if you could provide the committee with those studies, I'd very much appreciate that. Just send it to the clerk and we'll distribute it to all the committee members.

Mr. Andrew King: Certainly.

The Chair: We have reached the end of our rounds, and we've reached the end of what we have set out to do today. We do have a bit of committee business that we need to wrap up before 7:30.

I would thank all our witnesses for coming today. You were excellent, and we appreciate that very much.

I would ask all witnesses and people attached to the witnesses to please excuse us, and we'll just go in camera. I will suspend for one minute.

[*Proceedings continue in camera*]

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