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Testimony of

**Robert A. Matthews, Esq.
McKenna, Long & Aldridge
Of Counsel to, and on behalf of,
The Consumer Specialty Products Association**

**Before
The Committee on the Environment and Public Works
and
Subcommittee on Superfund, Toxics and Environmental
Health**

**Joint Legislative Hearing on the Safe Chemicals Act
United States Senate
Washington, D.C.**

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The Consumer Specialty Products Association (CSPA) greatly appreciates the opportunity to provide input at this legislative hearing on behalf of our approximately 235 “consumer-facing” companies who are engaged in the manufacture, formulation, distribution and sales of approximately \$80 billion annually in the U.S. of hundreds of popular brand name formulated products. CSPA members are committed to manufacturing and marketing safe, innovative and sustainable products that provide essential benefits to consumers while protecting human health and the environment.

My name is Bob Matthews, and I serve as counsel to the CSPA. I am an environmental attorney with almost forty years of experience representing clients in counseling and litigation matters across a broad spectrum of international environmental laws and regulations.

The products we represent are in every home and institution around the country. Our company names are on every one of their products. Product safety is the foundation of consumer trust and that the consumer products industry devotes substantial resources to achieving this goal.

Like EPA, ACC and other stakeholders, CSPA has previously introduced principles for TSCA modernization. Some common ground put forth by these diverse groups includes:

- The U.S. needs a modern chemical regulatory law that reflects more than three decades of scientific and technological advances since TSCA was enacted.
- The system needs to be risk-based, and must allow EPA to review and assess the safety of chemicals in commerce through a process of prioritization, with the chemicals of highest concern for immediate agency review.
- The system must include a means by which EPA can obtain reasonable and appropriate use and exposure data from companies like those CSPA represents to better assess safety.
- The system must protect public health and the environment while also protecting confidential business information (CBI), thereby preserving the ability of American companies to drive innovation, grow jobs and compete in the global marketplace.

Establishing a Process for Dialogue

Senate stakeholder discussions

Senator Lautenberg and Senator Inhofe, we want to thank you for initiating the recent series of Senate staff meetings with key stakeholder groups to discuss in detail views on whether and how the TSCA statute should be changed. As one of six trade associations invited to participate in these sessions, CSPA is committed to the process of engaging in

dialogue with all stakeholders to work through questions and issues in an effort to narrow our differences on TSCA issues. We commend the productive and professional approach undertaken both by your staff in organizing and directing these sessions, and by all of the stakeholders whose contributions were substantive and meaningful. Your leadership in this process is greatly appreciated.

Industry dialogue

Senator Lautenberg, you have noted the positive input which has been provided by TSCA-regulated companies, including Procter & Gamble, SC Johnson and others. Notably, P&G and SC Johnson serve as co-chairs of the CSPA Chemical Policy Management Team (CMPT), which operates as a leadership team of member company representatives within the association, and a group with which I am closely engaged as counsel to CSPA, particularly as it relates to our discussions about modernizing TSCA. Also notably, these works groups include representatives from the Downstream Coalition of trade associations that includes the CSPA, American Cleaning Institute (ACI) and Grocery Manufacturers Association (GMA).

Under the guidance of the CMPT, the Downstream Coalition has been working now for more than three years on TSCA modernization issues. Six TSCA work groups that involve a committed group of technical and regulatory experts have taken on the task of reviewing key program issues to, first, understand their impacts on our industry, and second, to develop recommendations on how TSCA might be modernized to better address critical shared concerns in these key areas.

Our approach in these discussions continues to seek a balance to ensure—

- EPA's ability to review and assess chemical safety in the protection of public health and the environment;
- Companies can continue to innovate and that CBI is protected; and
- Consumer confidence in the protection of human health and the environment.

EPA dialogue

CSPA is committed to TSCA modernization. We understand and accept our role in providing use information which may be needed to better inform EPA's prioritization and safety assessment decisions in the years ahead. To this end, the Downstream Coalition is also working with the EPA in an effort to better understand the types of information the agency needs to prioritize chemical review and to evaluate chemical use, exposure and risk. This dialogue will also include looking at how this information can be submitted to the Agency in a timely and meaningful way.

NGO dialogue

Two years ago, CSPA was asked by representatives in the NGO community to meet in an effort to better understand their priority concerns and calls for legislative reform of TSCA. A goal was to reach consensus to try to make progress on some of the challenging areas of TSCA modernization that most impact the downstream formulators.

Over the past six months, CSPA has participated in several meetings with the Safer Chemicals Healthy Families Coalition and Environmental Defense Fund. In these sessions, we have provided ideas and recommendations developed by the TSCA Work Groups. We believe this process has succeeded in narrowing our differences in several critical areas, for example, on the timing, process, and content of reporting use and exposure information.

As we have worked through this process, we have identified some common ground on two key TSCA elements of significance to CSPA: providing a system for EPA to receive more robust information on how chemicals are used for the purposes of both prioritizing and assessing the safety of chemicals; and balancing the need for more information with the need to protect proprietary and confidential business information. Both sides have come to the table with proposed solutions, and while we are not there yet, we are making progress.

The bipartisan approach established by this Committee has served well to motivate that dialogue.

Motivators for TSCA reform

Enhancing consumer confidence on chemical safety

Developing reasonable and necessary revisions to update the TSCA statute is tremendously important for CSPA member companies, who are, in many respects, the public face of the U.S. chemical industry. The products we produce are in every home and institution around the country. Our company names are on every one of their products. Therefore, maintaining a high level of consumer confidence in the safety of the chemicals used in their products is a responsibility that all CSPA member companies take very seriously.

Consistent Regulation of Commerce in All 50 States

Companies in the chemical industry face a multiplicity of regulations at the state level, as legislative and regulatory entities seek to develop and implement their own chemical management programs in the absence of action at the federal level. These various state actions have created a patchwork of requirements for evaluating, assessing and managing chemical use—making it extremely difficult and costly for companies to

market products in all 50 states. Fifteen states have introduced resolutions asking Congress to reform TSCA. A modernized federal TSCA statute will reduce the need for regulation of chemicals by states, while providing assurances and assistance in partnership with state regulators in their efforts to address specific and priority needs in their communities.

Supporting Global Leadership for a Risk-based Approach to Chemical Review and Assessment

Chemical regulation is changing rapidly and significantly around the globe. Many of our member companies operate in the international marketplace—and are facing costly and burdensome requirements to comply with the rigorous hazard-based approach taken under Europe’s REACH regulation. It is essential for the U.S. chemical management system to keep pace with global developments and that our government resume its role as a global leader in chemical regulatory policy on behalf of all U.S. citizens and U.S. industry. The U.S. chemical industry is unified in its support for the adoption of a risk-based system under TSCA—which means the EPA will consider *both* hazard and exposure criteria in its assessment of a chemical’s safety for its intended uses.

Examining the provisions of S. 847

CSPA acknowledged in April that the new bill, S. 847, has started to move in the right direction in several key areas, such as prioritization and minimum data set. CSPA recognizes the need for EPA to obtain additional reasonable and appropriate information on consumer product exposures to refine the categorization of those chemicals for further assessment. Such an approach needs to be based on sound science and must be practical, objective, and predictable in order to quickly and efficiently narrow the large chemical universe to a smaller, more meaningful, subset of chemicals that would receive further assessment.

However, CSPA has serious concerns about sections of the bill, including, but not limited to, provisions that would:

- Significantly expand requirements for Reporting, including through a burdensome Declarations section; and
- Restrict and limit the protection of CBI.

With regard to Reporting and Declarations, it is very important to ensure that information is collected as needed and does not impose an across-the-board requirement for every chemical user to identify every chemical use. We believe that it is neither necessary nor productive to require that the same amount of information be generated for low priority chemicals as that which may be needed for a high priority chemical. We also believe that EPA should focus their limited resources on chemicals

which represent the highest hazards and highest potential for exposure and risk to human health and/or the environment.

Providing Use and Exposure Information in Support of a Risk-based Approach

CSPA recognizes that our companies are in a unique position to provide use and exposure information and are committed to undertaking a new reporting requirement to provide this information. This type of information is needed to better inform EPA's decisions in the prioritization and assessment of chemical safety.

Therefore, CSPA supports the involvement of our chemical users in providing EPA certain use information with which the Agency can make well informed screening-level prioritizations. This reporting would include an indication of use in products intended for children and information about the concentration range of the chemical in the product. Reporting under these provisions can provide EPA with a current understanding of the use and exposure of chemicals in commerce without resorting to an inflexible use registration/declaration requirement for every chemical user to report every chemical use. This reporting must be tied directly into the overall framework of priority setting which will consider existing and available information to screen chemicals to identify chemicals for further review.

Finally, while downstream users are committed to providing use and exposure information as needed by the Agency, it must be recognized that this may include information on chemicals in our products that is proprietary CBI. Intellectual property is a company's most valuable intangible asset, and represents a substantial investment of time and dollars that result more sustainable and innovative products entering the market. It must be carefully safeguarded from competitors. CSPA has indicated our support for revisions under the Safe Chemicals Act to require upfront substantiation of claims and appropriate sharing of CBI with state governments, and other appropriate authorities, but only with assurances of appropriate safeguards.

The updated TSCA, which can only be enacted with bi-partisan support, will touch thousands of companies in the U.S. and around the globe. If done right, a modern TSCA can drive innovation and sustainable products.

Mr. Chairman and Members of the Committee, while there is still much work to be done to reach bipartisan consensus on updating the TSCA law, CSPA is committed to this process. Along with other stakeholders, our industry can help to provide recommendation on these and other issues a part of a modern chemical regulatory framework.

About CSPA

The Consumer Specialty Products Association (CSPA) is the premier trade association representing the interests of companies engaged in the manufacture, formulation, distribution and sale of more than \$80 billion annually in the U.S. of familiar consumer products that help household and institutional customers create cleaner and healthier environments. CSPA member companies employ hundreds of thousands of people globally. Products CSPA represents include disinfectants that kill germs in homes, hospitals and restaurants; candles, and fragrances and air fresheners that eliminate odors; pest management products for home, garden and pets; cleaning products and polishes for use throughout the home and institutions; products used to protect and improve the performance and appearance of automobiles; aerosol products and a host of other products used every day. Through its product stewardship program, Product Care[®], and scientific and business-to-business endeavors, CSPA provides its members a platform to effectively address issues regarding the health, safety and sustainability of their products. For more information, please visit www.cspa.org.