Dear Chairman Kaye:

The American Chemistry Council (ACC) supports the role of the U.S. Consumer Product Safety Commission (CPSC) in developing standards for the use of regulated chemicals in consumer products.

ACC and its member companies continue to have serious concerns; however, about the lack of transparency, the methods used to assess risk, and the veracity and relevance of the data used to develop the Chronic Hazard Advisory Panel (CHAP) report and the resulting proposed "Prohibition of Children's Toys and Child Care Articles Containing Specified Phthalates," published in the Federal Register on December 30, 2014.

We are disappointed that the CPSC has not addressed our previous comments related to these issues. As the comment period nears close, I feel obligated to again state our concerns and emphasize the irresponsible and scientifically unsound precedent that is being established for future chemical safety assessments and related rulemakings.

**CPSC has not conducted a transparent public process.** CPSC used the CHAP report as the basis for the proposed rule on phthalates, despite the fact that the CHAP report was not subject to an open, public comment period in accordance with guidelines set forth in the OMB Information Quality Bulletin for Peer Review (2005), and was only subject to a closed peer review. The failure to adhere to OMB guidelines for the peer review of a highly influential scientific assessment, such as the CHAP report, sets an extremely concerning precedent for federal chemical assessment, especially one that will have federal interagency impact. Absent an appropriate process that ensures objective and transparent science-based regulatory decisions, neither our member companies nor consumers, public health advocates and the scientific community, can have confidence in the CPSC's rulemaking process. At a minimum, CPSC should share the legal guidance memo referenced in the December 17th Commission meeting with Congress.

**The CPSC is relying on an unproven approach.** CPSC's rulemaking marks the first time that a federal agency has made a regulatory decision to ban a chemical used in consumer products on the basis of a cumulative risk assessment – a regulatory tool that is novel and unproven. CPSC requirements for chemical safety determinations require an assessment of both the potential of a
hazard and exposure to that hazard. Instead of following these requirements, CPSC adopted the CHAP’s recommendations to ban a chemical that could contribute in any “degree” toward the likelihood of a cumulative risk.

The Commission relied on questionable and outdated data. CPSC issued its proposed phthalate rulemaking, in accordance with the Consumer Product Safety Improvement Act (CPSIA), to ban one of the most widely-used phthalate plasticizers, diisononyl phthalate (DINP), in certain products – despite the fact that DINP has been reviewed by multiple scientific and regulatory bodies around the world, all of which found no evidence that the very low levels to which people are typically exposed cause health effects. In addition, CPSC’s evaluation and proposed regulation is based on exposure data that is outdated and appears to be selectively chosen, which produces an inaccurate picture of people’s current exposure to phthalates. The Centers for Disease Control and Prevention NHANES data used by the CHAP was from 2005-2006, prior to the enactment of CPSIA. Three additional NHANES data sets produced since that time show a marked decrease in overall phthalate exposure, compared to the outdated data used by the CHAP to develop the proposed rule. CPSC has agreed to review the latest exposure data sets to determine if it warrants a ban on certain phthalates, but CPSC must also publish their analysis of the new data in the docket for public review and comment.

We support rules and regulations to protect human health and the environment when they are developed through open and transparent processes using the best-available science. The final rule on phthalates can still be developed in a way that enhances the credibility and quality of government science documents. Therefore, we request that CPSC extend the comment period by 60 days to allow adequate time for CPSC to consider all these concerns, as well as time for CPSC to publish its analysis with the most-recently available data and hold a public review and comment period on that analysis.

Sincerely,

Cal Dooley

cc: Docket No. CPSC-2014-0033 (via www.regulations.gov)