

United States Senate

WASHINGTON, DC 20510

July 8, 2015

Mr. David A. Brandon, Chief Executive Officer
Toys “R” Us, Inc.
One Geoffrey Way
Wayne, NJ 07470-2030

Dear Mr. Brandon:

We are deeply concerned by the reportⁱ issued by the Environmental Working Group showing two independent laboratories found the presence of asbestos in children’s products, specifically crayons and toy fingerprint analysis kits. We are writing to you because your company sells one or more of the children’s products described in the report as containing asbestos. In light of the consumer safety concerns raised by this report, we write to encourage you to voluntarily remove these items from your shelves out of an abundance of caution to protect American children from the serious health risks of asbestos exposure.

Asbestos are fibrous minerals occurring in nature that have been used commercially in a wide variety of products, including building materials, automotive parts, art materials, household appliances, and more.ⁱⁱ While mining of asbestos in the United States stopped in 2002, asbestos and asbestos-containing materials continue to be importedⁱⁱⁱ and consumer products containing asbestos or asbestos-containing materials are present in homes, schools, offices, and elsewhere.^{iv}

Asbestos was recognized as a hazardous air pollutant in 1971.^v Asbestos becomes a health danger when fibers are inhaled or ingested. Exposure to asbestos can cause lung cancer, mesothelioma, and asbestosis.^{vi} These diseases have long latency periods, and the negative health effects may continue even after the exposure to asbestos has stopped. The U.S. Surgeon General, Dr. Vivek H. Murthy, recently issued a statement warning Americans of the health dangers of exposure to asbestos.^{vii}

The EWG Report issued on July 8, 2015 describes an investigation in which imported children’s crayons and children’s toys forensic and fingerprinting kits contained asbestos. The crayons were products made in China and purchased from two national retail bricks-and-mortars stores, Party City and Dollar Tree. The crime scene kits were also made in China but purchased online through Amazon.com and ToysRUs.com.

The presence of asbestos in crayons – 15 years after the problem was first investigated by the Consumer Product Safety Commission^{viii} – serves as a serious reminder that asbestos can be found where we least expect it. The discovery of asbestos in this popular children’s toy also is not a first-time occurrence. In 2007 similar products sold as CSI: Crime Scene Investigation™ Fingerprint Analysis Kits were found to have asbestos, retailers voluntarily recalled the products,^{ix} and the kits’ manufacturer filed for Chapter 7 bankruptcy protection.^x Customer comments on Amazon.com,^{xi} for example, illustrate the confusion and indicate that even consumers aware of the problems in 2007 may have mistakenly assumed that the product, if offered for sale today, “[P]robably is safe by this point. They must’ve released a version

without one of the deadliest forms of asbestos...^{xii} This most recent finding of asbestos should serve as a wakeup call that we all need to do more to keep our children safe from toys and other products containing asbestos.

The dangers of children inhaling or ingesting asbestos dust – such as that found in these toys – are undeniable. If you carry these products, we urge you to stop selling them, remove any remaining stock from your shelves voluntarily, and allow your customers to return these items if they have already been purchased. We believe that such a step would demonstrate your company’s commitment to the health and well-being of your customers.

We appreciate your prompt attention to this consumer safety issue and hope that you will take steps available to you to remove these items from commerce until their safety can be assured. Thank you for consideration of this request. We respectfully request you respond to this request in writing by July 22, 2015 and indicate whether your company is willing to undertake such voluntary actions, and if so, what measures have you or do you plan to take, and on what date they have or will go into effect. If your company is unwilling to take such actions, we request that you explain why not. If you have any questions or concerns, you may contact Dr. Michal Freedhoff on Senator Markey’s staff at 202-224-2742 or Dan Swanson on Senator Durbin’s staff at 202-224-2152.

Sincerely,

Edward J. Markey
United States Senator

Richard Durbin
United States Senator

ⁱ Bill Walker and Sonya Lunder. “EWG Action Fund Tests Find Asbestos in Kids’ Crayons, Crime Scene Kits: Even trace exposures to lethal asbestos fibers can cause cancer, other diseases.” July 8, 2015. Available at <http://www.asbestosnation.org/facts/tests-find-asbestos-in-kids-crayons-crime-scene-kits/>

ⁱⁱ E.g., Environmental Protection Agency, Learn about Asbestos, <http://www2.epa.gov/asbestos/learn-about-asbestos#asbestos>

ⁱⁱⁱ Robert L. Virta. USGS 2013 Minerals Survey: Asbestos. October 2014. Available at <http://minerals.usgs.gov/minerals/pubs/commodity/asbestos/myb1-2013-asbes.pdf>

^{iv} See, e.g., Environmental Protection Agency. Where Can I find Asbestos? <http://www2.epa.gov/asbestos/learn-about-asbestos#find> and Agency for Toxic Substances & Disease Registry. Types of Asbestos Exposure http://www.atsdr.cdc.gov/asbestos/asbestos/types_of_exposure/

^v 36 FR 3031 (Mar 31, 1971)

^{vi} E.g., National Cancer Institute, Asbestos Exposure and Cancer Risk, <http://www.cancer.gov/about-cancer/causes-prevention/risk/substances/asbestos/asbestos-fact-sheet>

^{vii} Statement by the U.S. Surgeon General Dr. Vivek H. Murthy on National Asbestos Awareness Week 2015. Apr. 2, 2015. Available at <http://www.surgeongeneral.gov/news/2015/03/pr20150402.html>

^{viii} U.S. Consumer Product Safety Commission. CPSC Staff Report on Asbestos Fibers in Children's Crayons. August 2000 Available at <http://www.cpsc.gov/pagefiles/108033/crayons.pdf> and CPSC Releases Test Results on Crayons, Industry to Reformulate. June 13, 2000. Available at <http://www.cpsc.gov/en/newsroom/news-releases/2000/cpsc-releases-test-results-on-crayons/>

^{ix} Environmental Working Group. Major U.S. Retailers to Pull Asbestos Tainted Toy from Shelves. December 21, 2007. <http://www.ewg.org/news/news-releases/2007/12/21/major-us-retailers-pull-asbestos-tainted-toy-shelves>

^x See, e.g., AP. Fingerprint Toy Kit May Contain Asbestos. CBS News. December 22, 2007. <http://www.cbsnews.com/news/fingerprint-toy-kit-may-contain-asbestos/>; Public Justice Foundation. Proposed Settlement with CBS and Toy Retailers to Give Refunds for 'CSI' Toy Fingerprint Kits That May Contain Asbestos. July 1, 2009. <http://publicjustice.net/content/proposed-settlement-cbs-and-toy-retailers-give-refunds-csi-toy-fingerprint-kits-may-contain->

^{xi} See comments at http://www.amazon.com/CSI-Scene-Investigation-Fingerprint-Analysis/forum/Fx2W4W6QGX2HHU0/-/1/ref=cm_cd_al_af_ql?encoding=UTF8&asin=B00187Y528 ("Hmmm as far as I know it is [safe]. My 6 year old has played with it and hasn't had any issues"; "...can you certify this is asbestos free?")

^{xii} Comment posted September 6, 2014 http://www.amazon.com/CSI-Fingerprint-Examination-Kit-recalled-/forum/Fx2W4W6QGX2HHU0/Tx2A1X162NDUQ5N/1/ref=cm_cd_ql_tlc_al?encoding=UTF8&asin=B00187Y528