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Hearing on

**Safety Standard Addressing Blade-Contact Injuries on
Table Saws**

Before the U.S. Consumer Product Safety Commission

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Introduction

Thank you to the Commission for the opportunity to present on the Consumer Product Safety Commission's (CPSC's) proposed performance standards for table saws. We are Sofie E. Miller¹ and Jacob Yarborough² of the George Washington University Regulatory Studies Center.

The Regulatory Studies Center is a non-partisan academic research center focused on improving regulatory policy through research, education, and outreach. The Center is a leading source for applied scholarship on regulatory issues, and provides analyses to the public and regulatory agencies to inform and improve regulatory outcomes. Our remarks today represent only our own views, and do not represent an official position of the Center.³

In our time before the Commission we will be discussing three components of the proposed rule for table saws: 1) the lack of a clear market failure, 2) the effects of the standard on competition, and 3) the uncertainty of the benefits that the Commission expects to result from its standard.

Lack of a Clear Market Failure

Executive Order 12866 establishes the regulatory philosophy that governs executive branch agencies, and instructs them to regulate only when necessitated by law or failure of the private market. Although independent agencies like the CPSC are not required to follow this Executive Order, it would be prudent for the Commission to consider it going forward, as a regulation that does not address a market failure is not likely to produce net regulatory benefits.

The types of market failure that necessitate regulation include externalities, monopoly power, and asymmetric information. In this case, there is no externality for consumers, who trade off price and convenience versus safety when choosing between table saws.

If consumers were choosing less safe table saws because of the existence of a monopoly, or because of an information asymmetry regarding perceived versus actual risks, then an argument could be made that material failures of private markets were responsible for some portion of injuries from table saws. However, as CPSC Commissioner Joseph Mohorovic notes in his

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³ This testimony reflects the views of the authors, and does not represent an official position of the GW Regulatory Studies Center or the George Washington University. The Center's policy on research integrity is available at <http://regulatorystudies.columbian.gwu.edu/policy-research-integrity>.

statement on this rulemaking, consumers are well aware that saw blades pose risks to health and safety.

Moreover, the active injury mitigation (AIM) technology that the CPSC is proposing to mandate has been available in table saws for over a decade, and consumers already have the option to buy these saws. These models are at the high end in price of every table saw type, and the fact that many consumers still opt for other competing products indicates that they don't think that the improvement in safety outweighs the added cost of AIM technology.

The fact that consumers are not already willing to pay for the technology that the CPSC is proposing to mandate indicates that consumers will not view the standard as providing a net benefit. Ironically, if the CPSC finalizes these standards it is more likely to produce a market failure by creating a monopoly than to address an existing one.

Effects on Competition

Competition in the marketplace is the underlying mechanism that has enabled major leaps forward in innovation, quality, choice, and lower prices for products and services. President Obama recognized this when he signed Executive Order 13725, which instructed federal agencies to reduce barriers to entry by engaging in “pro-competitive rulemaking” “and by eliminating regulations that create barriers to or limit competition.”

Competition in the marketplace leads to innovation, improvements in quality, choices that fit individual needs, and lower prices for consumers. If this proposed rule is finalized, it would allow one company—SawStop—to have legally enforced monopoly power over the current U.S. table saw market. This monopolization would greatly reduce the competitiveness of the table saw marketplace and lead to a decline in benefits that competition has produced for table saw consumers in recent decades.

With a mandated monopoly, SawStop would be able to charge competitors whatever licensing fee the market would bear, because all saw manufacturers would be legally required to use their product. While benefit-cost analysis does not treat transfer payments as a net cost, the licensing fees *would* be a cost from the consumer's perspective. Moreover, this rule would force table saw manufacturers to directly fund a competitor.

When added to the retooling, redesign, and material costs, these licensing payments will force some manufacturers out of the market, thereby reducing choices currently available to consumers. The Commission estimates that the proposed rule, if finalized, would reduce consumers' demand for table saws by between 14% and 38%.

In addition to decreased choices for consumers, this rule would reverse the downward trending costs of table saws that competition has been pushing for decades. The increases in costs will inevitably be passed on to consumers, leading to substantially higher prices. The CPSC estimated in the proposed rule that cost would increase by between \$236 and \$536 per bench saw, \$382 to \$926 per contractor saw, and \$412 to \$956 per cabinet saw. These increases in prices will hurt small businesses and contractors who rely on table saws to perform their services.

Not only will this proposed rule reduce consumer choice and hurt their wallets, but it will also reduce users' productivity by almost doubling the weight of jobsite saws used by many small businesses and contractors. This reverses years of technological innovation that has resulted in ultralight and portable saws.

These increases in weight will greatly reduce consumer utility and productivity. On the jobsite, contractors and small businesses may be forced to have two people position a saw, instead of one, which reduces productivity. These heavier saws may also increase the risk of occupational injuries as workers lift and move the heavier saws on the jobsite.

In summary, this proposed rule would roll back benefits that have resulted from marketplace competition by mandating a monopoly in the market. By forcing this product upon consumers and manufacturers, the CPSC is converting a patent on one optional component and turning it into a full monopoly on all table saws. This legally mandated monopoly will drive prices higher, diminish consumer choice, dis-incentivize innovation, and decrease worker productivity.

Uncertain Benefits

In the analysis underpinning the proposed rule, the Commission has defined the benefits as the reduction in societal costs from the annual number of table saw injuries. However, the annual costs due to injury and the benefits that would result from AIM implementation are likely overstated because the CPSC uses jury verdict awards to estimate intangible pain and suffering costs and uses unrealistic risk reduction assumptions.

The commission has relied on an Injury Cost Model regression to estimate pain and suffering, which uses jury awards in product liability cases to estimate non-monetary injury costs. Because these data only apply to cases which were adjudicated in court and in which defendants were held liable, these results should not be extrapolated to cases where user error was the most likely cause for injury and may have been settled out of court.

Jury awards may overstate the benefits that consumers would realize from preventing self-inflicted injuries. Alternative compensation systems, such as no-fault insurance and state workers compensation, often result in lower payments for injuries. The exclusion of cases that were

settled out of court and were solely the fault of the user may lead the commission to overstate the societal costs of table saw injuries.

In addition to overstating these injury costs, the CPSC's risk reduction assumptions from implementing AIM technology are ambitious. The Commission assumes that risks will be reduced by 70% or 90%, where all major injuries are turned into lacerations and all lacerations are turned into no-treatment injuries. This is unrealistic given that many older saws will continue to be in use many years after the rule is implemented and due to price increases many people will continue to use their older, less safe saws for longer. Both factors will still allow for significant major injuries to occur long after the rule has been implemented.

The risk assumptions are still further unrealistic when considering circumstances that require the AIM system to be disabled, such as when cutting conductive material or damp wood.

Although voluntary standards for table saw safety features exist, the CPSC justifies its new standard by citing examples where users remove the blade guards and safety devices. However, this rule will not eliminate the scenarios when guards will need to be removed, or when AIM systems need to be turned off. The combination of older saws being in use for many years after the rule and conditions existing when AIM systems need to be turned off, undermines the Commission's risk reduction assumptions.

In this case, the combination of jury awards to estimate intangible injury costs and unrealistic risk-assumptions may have cause the Commission to estimate unrealistic benefits as a result of its proposed rule.