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Congress of the United States
House of Representatives
Washington, DC 20515–2107

October 23, 2008

The Honorable Andrew C. von Eschenbach, M.D.
Commissioner
Food and Drug Administration
5600 Fishers Lane
Rockville, MD 20857

Dear Commissioner von Eschenbach:

In a recent announcement, the Canadian government reported it will immediately proceed with drafting regulations to prohibit the importation, sale and advertising of baby bottles that contain bishpenol-A (BPA). After reviewing 150 worldwide scientific studies demonstrating the harmful effects of this chemical, the Canadian Minister of Health stated, "We have immediately taken action on bisphenol-A because we believe it is our responsibility to ensure families, Canadians and our environment are not exposed to a potentially harmful chemical."

The FDA's ongoing assessment of BPA's safety has continued to raise serious questions. The FDA's interim finding that BPA is safe was made despite hundreds of studies to the contrary. A recent investigation conducted by the Milwaukee Journal Sentinel reported that a scientific center directed by the chairman of the FDA panel responsible for assessing the safety of BPA received a $5 million donation from a known opponent of BPA regulation who believes BPA is "perfectly safe", a concern I raised in my October 14th correspondence with you. Canada's latest announcement of a BPA ban in baby bottles stands in sharp contrast to FDA's statements to date downplaying the health risks of this pervasive chemical.

The official announcement of the ban from the Government of Canada explained that "...due to uncertainty raised in some studies relating to the potential effects of low levels of BPA, the Government of Canada is taking action to enhance the protection of infants and young children." Canada's response is a startling divergence from FDA's response to BPA concerns thus far. Accordingly, I would appreciate FDA's responses to the following questions.

1. Has the FDA analyzed the same studies that influenced the Canadian government's decision to ban BPA from baby bottles? If so, why has the FDA not taken similar actions to those taken by Canada?

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2. The Government of Canada has decided to take action regarding BPA because it has determined that uncertainties surrounding the chemical's safety pose enough of a risk to human health to justify a ban in baby bottles. Does the FDA consider a different level of risk acceptable for American consumers, including infants, than the Canadian government is willing to accept for its consumers? If so, what is the difference in risk assumption and why is the difference appropriate?

3. Will this latest information and decision from Canada factor into FDA's upcoming final decision of the FDA panel on the safety of BPA? If so, how will this decision be factored in? If this decision will not factor into FDA's decision, why not?

I remain concerned that American consumers, including our most vulnerable infant population, are not receiving the necessary level of protection from BPA. In light of the recent actions by Canada to ban BPA from baby bottles available in that country, I urge the FDA to consider Canada's findings in its assessment of BPA's safety. As recognized by Canada, the objective scientific evidence indicates the potential harmful effects of BPA even in low-doses. As the FDA panel's BPA determination is expected shortly, I appreciate a prompt response to these questions. If you have questions about these inquiries, please have a member of your staff contact Mark Bayer or Angela Coggins of my staff at 202-225-2836.

Sincerely,

Edward J. Markey

Edward Markey