



Written by [Michael Tennant](#) on July 27, 2012

Facing Extinction at Bureaucrats' Hands, Desk Toy Maker Fights Back

Maxfield and Oberton, manufacturer and distributor of the popular Buckyballs desk toys, has a [message](#) for the Consumer Product Safety Commission (CPSC): "Thank you for trying to drive a \$50 million New York-based consumer product company out of business."

A look at the CPSC's recent actions bears out the company's contention. On Wednesday the agency [filed suit](#) to force Maxfield's Buckyballs, Buckycubes, and other similar products off the market because children occasionally ingest the small, BB-sized magnets that make up the products and become ill, some requiring hospitalization and even surgery as a result.

"Before filing the lawsuit and giving Maxfield and Oberton the opportunity to defend itself and its products, CPSC systematically began contacting its retailers giving them 48 hours to tell the government that they would stop selling Buckyballs and Buckycubes," the company explained on its website. "Some retailers capitulated to this so-called voluntary request for fear of retribution if they did not acquiesce."

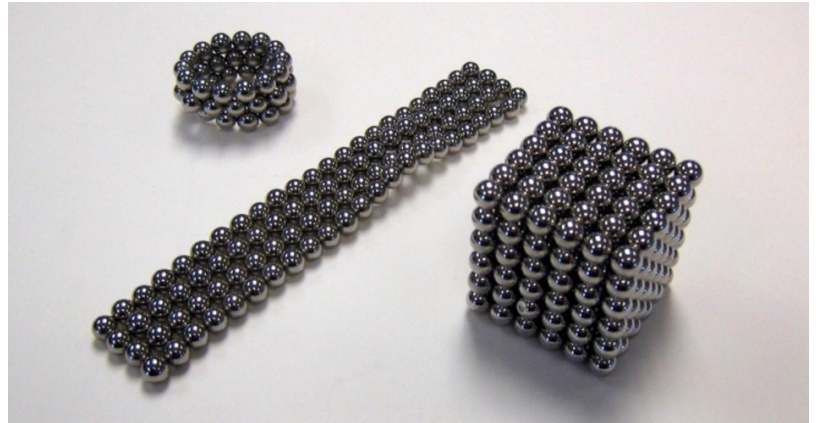
According to the [Washington Post](#), Amazon and Brookstone, among others, caved in to government pressure to stop selling the products, and eBay "agreed to take steps to remove listings of these items."

There is little question that swallowing these small magnets can do harm. Multiple magnets can attach to each other, tearing holes in the stomach and intestines or causing other injuries. The CPSC says it "has learned of more than two dozen ingestion incidents, with at least one dozen involving Buckyballs." As unfortunate as such incidents are, they are still relatively rare: Over two million Buckyball sets and 200,000 Buckycubes — each set containing either 125 or 216 balls or cubes — have been sold since 2009.

"Obviously the bureaucrats see danger everywhere, and those responsible people — like our company who have vigorously promoted safety and appropriate use of our products — gets put out of business by an unfair and arbitrary process," said Craig Zucker, founder and CEO of Maxfield and Oberton. "I don't understand how and why they did this without following their own rules before allowing us to make our case. It almost seems like they simply wanted to put our products and industry out of business."

It is not as if Maxfield has been unwilling to work with the CPSC, unconstitutional and high-handed though it may be, in the past. Writes the *Post*:

In May 2010, the company voluntarily recalled 175,000 Buckyball sets at the commission's request because their labels said products were intended for ages 13 and older. Federal rules prohibit such loose magnets from being sold to kids younger than 14.





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Since the recall, the company has changed its labeling to reflect the older demographic. The company has put warnings in five places on its packaging to notify consumers that its products are not intended for children. And it has set up a Web site devoted to educating doctors, parents and retailers about safe use of its magnets.

Apparently that wasn't good enough for the CPSC, and so it is taking Maxfield to court to force its products off the market. The last time the agency tried this approach was in 2001, when it went after BB guns made by Daisy Manufacturing; it settled for more prominent safety warnings and an educational campaign by the company. Since Maxfield has already done about all it can with warnings and education, it's not farfetched to believe that the agency's latest move is aimed at putting the company out of business.

As should be obvious from the previous quotations from the company's website, Maxfield — unlike the other companies contacted by the CPSC in recent days — isn't taking this lying down. Zucker said the company finds the CPSC's tactics "unfair, unjust and un-American" and "will vigorously fight this action taken by President Obama's hand picked agency." The company asks fans of their products to "comment on Facebook; send a tweet; tell your friends; complain loudly; or just buy a set to stick it to the CPSC."

Maxfield has even seized on an obvious contradiction in the agency's logic. In its lawsuit, the CPSC declares that misuse of the company's products is "inevitable," despite the multiple warnings on the packaging and the company's safety website. "By doing so," says the company, "CPSC has called into question the efficacy of all of the warnings the agency relies upon." It points out that the agency has seen fit to permit products that have caused not just injuries but deaths when misused to remain on the market as long as they have appropriate warning messages. "But for some reason when it comes to an American company that sells Buckyballs exclusively to adults, the CPSC takes a different approach and decides that warnings don't work. The Company believes the CPSC can't have it both ways."

None of this is likely to sway the safety czars at the CPSC, who have nothing to lose by digging Maxfield's grave; but it may help the company immensely in the court of public opinion. Americans who are fed up with officious bureaucrats — and who, along with Zucker, are asking, "How can this happen in America?" — will hopefully rally to the side of a company that refuses to kowtow to the D.C. desk jockeys.

Photo of Maxfield and Oberton's Buckyballs: AP Images



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