

# Toy Recall

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HumWhstl is a small toy that fits into the mouth and allows one to hum and whistle at the same time. Introduced in Japan, it became a fad, and Atmis, a Los Angeles distributor, leaped at the chance to introduce it to the US. Atmis chose to forego TV advertising and to roll out HumWhstl using word of mouth and social media. Atmis retained HighGear Communications to develop a launch plan.

HighGear's CEO, Carol Sospirando, took a box of HumWhstls to her son's grade school and handed them out to see how children would play with them. The 6<sup>th</sup> grade boys took to them immediately and began using them to make sound effects, such as air planes, rockets and bombs falling. One boy used the HumWhstl to accompany throws of a football in the schoolyard. Girls "humwhistled" tunes for awhile then moved onto other things. Sospirando concluded that the initial pitch should be to boys.

In the publicity plan, HighGear called for a multimedia attack beginning locally in Los Angeles then radiating market by market across the US. High Gear would produce a HumWhstl web page with 30 ways to "humwhistle." These would be 20-second clips of 11- and 12-year-old boys humwhistling while playing video games, doing homework, watching TV, eating, pretending to sleep, standing on their heads, practicing the piano and more. The firm would produce three two-minute videos of a 12-year-old boy humwhistling moves while skateboarding, another humwhistling while juggling and still another humwhistling while on his BMX bike. All videos would go on YouTube on the HumWhstl channel.

HighGear would launch a HumWhstl Facebook page and invite photos of HumWhstlrs to be posted on it. The Facebook page would introduce a contest for the most creative video of humwhistling. HighGear would seed the market with HumWhstls through demonstrating them at skateboarding parks and handing out samples. The firm would pay a prominent young skateboarder to post on his Facebook page a photo of himself humwhistling. It would distribute HumWhstls to BMX and skateboard competitors at X games and video them playing with them. HighGear would approach community newspapers with a HumWhstl media kit and sample of the toy to generate local publicity photos and stories about the new craze. The firm would have HumWhstl youth choirs in robes perform in major local malls and pitch their performances to local TV. They would escalate the HumWhstl craze to the pages of *The Los Angeles Times* and other daily newspapers in the Los Angeles region. Publicity generated about HumWhstls would seed the next major market and that publicity in markets beyond. When sales reached 100,000 units a month, HighGear would turn to reinforcing the fad through continued development of the web page, Facebook page, YouTube channel and the launch of a Twitter channel and HumWhstl blog.

The plan left room for opportunistic publicity stunts to spotlight the HumWhstl and the potential of a celebrity clown who would serve as the HumWhstl spokesperson on local radio and TV.

While the first three months of the roll-out were slow, momentum began to shift in August and September when school started. News that HumWhstls were banned in classrooms gave HighGear a chance to write press releases expressing outrage on behalf of the young that their self-expression was snuffed out. HighGear also was instrumental in filing a First Amendment suit against the school districts that instituted the ban. This made both local and national media and spurred the sales of HumWhstls.

Volume had reached nearly 50,000 units a month when the first story broke of a child being choked by a HumWhstl. The youth was playing soccer and a ball to his face drove the HumWhstl into his throat. The boy survived, but HighGear warned Atmis that the program might have to change focus if there were other incidents of choking. There were. A boy skateboarding fell face-first during a frontside ollie 180, turning into another choking incident. In a terrifying incident a five-year-old trying his big brother's HumWhstl lodged the toy in his throat. An emergency surgery extracted it but not before the five-year-old had turned blue and undergone a tracheotomy. News of this incident sparked a press release from the Consumer Product Safety Commission that it was investigating the HumWhstl because of safety concerns.

Sospirando met with the CEO of Atmis and his legal team to discuss what to do. The CEO did not want to slow the growth of the product sales and advocated a warning on the Web page and packaging to use HumWhstl safely. This would be a line of type on the front of the blister pack that held the toy. Sospirando wasn't sure that was going to be enough. The general counsel agreed with her.

"There is going to be a problem," he said.

"But, we have a million units out there and three incidents. That's not enough for the CPSC to act."

"It has acted on less." The general counsel recited incidences of CPSC actions – dolls cited as strangulation hazards, bicycle components as fall hazards, warnings of baby drownings in bath tubs, bath seats and buckets; recalls of resistance training cords due to injury potential. "There are three documented instances of choking with the HumWhstl. Undoubtedly there will be more."

"We're shipping 55,000 units next month and 60,000 the month after that. I'm not going to do anything that slows us down."

Sospirando suggested that Atmis write a press release showing concern for those who were injured and urging youngsters and their parents to make sure they use the HumWhstl safely. She further suggested that videos be removed from the web page, YouTube and Facebook pages that showed the HumWhstl being used in potential choking activities.

“That’s 80 percent of the videos,” the CEO said in exasperation. “You were the one who mounted them.” His tone was accusatory.

“I wasn’t aware of a choking hazard when we launched the program,” Sospirando said. “It’s better to deal with the situation now than to wait.”

“I’m not withdrawing the product.”

“No one is suggesting that Atmis halt sales of HumWhstl. Can we redesign it to make choking less likely?”

“Not easily.”

“How many units do we have in stock?”

“400,000. There’s no telling how much larger we would have to make it to avoid a choking hazard. I’m not going to second-guess the CPSC.”

“There’s a gauge for that,” said the general counsel.

“That’s for babies.”

The CEO decided to post a warning line on the blister pack, on the web and on Facebook pages to use the HumWhstl safely. Packaging would be changed immediately and warnings would reach the market in two months as inventory worked through the system.

Sales rose to 70,000 units a month with no further incidents. The CPSC delayed action but kept the HumWhstl under observation.

Suddenly, there was a spate of choking incidents. Two boys practicing BMX freestyle had face-planted and driven the toy into the backs of their throats. A six-year-old ran into a door while humwhistling. An 18-year-old zip lining had met head-on with a tree. The CPSC renewed its investigation and warned Atmis that it might be subject to recall.

The CEO of Atmis called another emergency meeting.

“What do we have to do to satisfy the CPSC?” He was impatient.

“We need to show that we have taken precautions to prevent choking,” said the general counsel.

“We can mold a flange on it so it impacts the teeth rather than traveling farther in.”

“I’m not sure that will be enough. We may have to recall what’s out there.”

“There’s 300,000 units on the shelves.” The CEO was exasperated.

Sospirando was about to support the general counsel but stopped. A recall would kill the fad and HumWhistl as a toy. Atmis would take a loss. The CEO had a point. They needed an alternative solution that was satisfactory to the CPSC and allowed the fad to play out.

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Questions to discuss:

1. What should Atmis and HighGear do now?
2. Are the CEO and Sospirando worried more about the product than the safety of the public? How do they avoid that charge?
3. Was it HighGear’s responsibility to think about the safety issue?
4. As the CEO of HighGear, what would you have done before launching HumWhistl?