



September 8, 2009

The Honorable Henry Waxman, Chairman
The Honorable Bobby Rush, Subcommittee Chairman
House Energy and Commerce Committee
2125 Rayburn House Office Building,, Washington, DC 20515

The Honorable Joe Barton, Ranking Member
The Honorable George Radanovich, Subcommittee Ranking Member
House Energy and Commerce Committee
2322A Rayburn House Office Building, Washington, DC 20515

Dear Chairmen and Ranking Members:

We have just learned that only one speaker — the Hon. Inez Tenenbaum, Chairman of the U.S. Consumer Product Safety Commission (CPSC), is scheduled to testify at the Committee hearing being held on September 10, 2009 on the implementation of the Consumer Product Safety Improvement Act (CPSIA). We are very disappointed that no small businesses impacted by the new law have been invited to share their experiences in testimony before the Committee. The business community has been actively calling for hearings since the passage of the CPSIA because of the harsh effects of the new law.

NSSEA represents 1,500 companies in the children's product marketplace. These educational product manufacturers and retailers care deeply about the safety of children; however, we have grave concerns about the insurmountable burden the CPSIA places on small businesses in the educational products marketplace. It is our hope that your Committee hearing will lead to prompt action to correct the excessive reach of this law and its devastating consequences on the small businesses within the educational products industry.

Here are some specific areas of concern:

1) The definition of children's product is too broad.

The CPSIA imposes a regulatory burden on the children's product industry unrelated to risk. Many of these items, have never presented any risk of injury and therefore will have no effect on improving safety. Both the lead and phthalates bans need to be carefully constrained to avoid unnecessary harm to commerce. The safety concerns covered by the CPSIA mainly pertain to products aimed at young children. We recommend the age limit for the definition of "children's products" be reduced to eight years and that the CPSC have the discretion to lower the age limit for certain groups of products for which the risk of harm from lead or phthalate exposure is remote to non-existent (for example, children's books, even those published prior to 1985, ATVs and bicycles).

2) The deadlines are not practicable and the economic impact is severe.

The children's product industry is not prepared for the sudden imposition of heavy regulatory burdens. Children's products are typically priced low in a very competitive marketplace. The overhead and infrastructure needed to comply with the CPSIA are unreasonable for small manufacturers, single location stores or even small retail chains and will accelerate mass consolidation in the channel. These changes will lead to businesses closing and continued job elimination.

National School Supply and Equipment Association

3) The penalties are excessive.

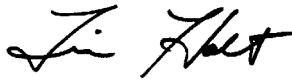
The economic impact is overwhelming. In an effort to address every possible danger, the new law exposes businesses to excessive testing costs and record-keeping expenses and enforces its new rules with penalties of up to \$100,000 per violation. We urge you to sharply restrict the use of heavy penalties in the CPSIA particularly for inadvertent violations and for small businesses. The current law provides broad discretion to the CPSC to impose excessive fines, criminal charges and even asset forfeiture. Our members care deeply about safety and have a proven record of providing safe products.

4) Commission needs more leeway to make risk-based decisions for banned products containing lead.

The mere presence of lead in many materials does not mean there is a risk of injury. For example, older children are far less susceptible to lead poisoning and engage in less of the mouthing behavior that can cause lead ingestion. Further, small amounts of lead bound in plastic or other materials may never be biologically available to a child, and lead transfer from certain types of products is highly unlikely given the nature of certain products (examples classroom items, bicycle valves, ATVs, motorbikes). The Commission should have the discretion to set limits on the lead ban that take these factors into account, including excluding certain age groups, products, and materials based on a risk based analysis. This would result in the high level of consumer protection anticipated by the Congress without imposing the kinds of costs for testing and compliance that are putting our members and many other consumer product firms in jeopardy.

On behalf of the members of the National School Supply and Equipment Association, we urge Congress to give business a seat at the table in its efforts to implement reasonable and common sense amendments to the CPSIA to fix its many serious flaws. As the impact of the CPSIA has already caused damage to many companies, there is a great deal of urgency to listen to the businesses in this marketplace in order to act both sensibly and quickly.

Cordially,



Tim Holt
President/CEO
National School Supply and Equipment Association

Cc: The Honorable Inez Tenenbaum, Chairman

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