



January 6, 2010

Thank you for the opportunity to provide input as part of the printing and allied industries' ongoing discussion with Chairman Upton (R-MI) regarding the Consumer Product Safety Improvement Act (CPSIA) as it relates to ordinary children's books and other printed products marketed and sold to children.

Printing Industries of America believe that providing greater overall flexibility to the CPSC, especially as it relates to ordinary children's books and other printed products, is needed so that the Commission can more effectively implement and enforce the Act. As you know, the Commission recently told Congress in its January 15, 2010 "Report to Congress Pursuant to the Statement of Managers Accompanying P.L. 111-117" that it believed it "could better fulfill its mandate under Section 101(a) if it were allowed greater flexibility in granting exclusions from the section 101(a) lead limits," specifically as it relates to "ordinary books."

The CPSC should extend for one year the testing and certification stay set to expire on February 10, 2011. The final testing and certification rule has not been issued and there is a phase in period for the rule and it is going to take time for industry to put in place the appropriate sampling and testing program to meet the requirements of the rule. It is critical that Congress provides bipartisan support for the CPSC to take this action. In addition, the delay will provide necessary time to work on legislative changes that will address the core problems with CPSIA.

Below are recommendations from the printing and allied industry as to how Congress may provide CPSC such requested flexibility. In all of the recommendations below, it is assumed that the CPSC exclusions would be determined on the basis of best-available, objective, scientific evidence.

Recommendations

1. Allow CPSC to exclude a product, component part, or material if the CPSC finds that the lead in the item will not result in the absorption of lead into the human body that would cause adverse health and safety effects.
2. Allow CPSC to exclude a product, component part, or material if the CPSC and an individual industry, through its industry association, agree upon a standardized, reasonable testing program and the manufacturers of the product, component part, or material provide either manufacturers' or vendors' declarations stating that the safety requirements of CPSIA have been met either (a) through such standard, reasonable testing programs, or (b) through third-party testing and certification . To ensure uniformity, CPSC may devise an acceptable format(s) of vendor declarations specifying test methods that would be acceptable to support vendor declarations.
3. Allow CPSC to exclude a product, component part, or material the functional purpose of which would be diminished or the performance of which would fail by including lead in the product, component part, or material.
4. Allow CPSC to exclude a product, component part, or material if the Commission determines on the basis of best-available, objective, scientific evidence that lead in such product will not result in the absorption of lead at levels that would cause an adverse health and safety effects, taking into account normal and reasonably foreseeable use and abuse of such product by a child.
5. Allow CPSC greater flexibility in applying its accessibility standard by allowing it to not only consider frequency of contact by a child, but also to consider the potential risk of exposure to that child.
6. Allow CPSC to exclude product, component part, or material if manufacturer of such product, component part, or material is already subject to other compliance requirements related to usage or disposal of heavy metals, including lead.
7. Allow CPSC to provide the ability for manufacturers and importers to stop testing and certifying products once a historical record has been established either through testing or documented changes in manufacturing processes showing compliance with the lead and phthalate limits.
8. Allow CPSC to exempt certain products from the labeling requirements. If products are exempt from the testing and certification requirements or meet all of the other requirements established by CPSC, products should be exempt from the labeling requirements. In addition, additional guidance needs to be provided that contain better direction as to what types of labeling would be acceptable.

9. Allow CPSC the flexibility to provide exempt products or components from the certification requirement, especially if the products or components pose no risk to children. The certification requirements as currently structured impose a significant administrative burden with little or no benefit. The manufacturer should be allowed to simply maintain the appropriate documentation and be required to produce it when a demand is made by the CPSC.

Additionally, in its January 15, 2010 "Report to Congress..." the Commission noted it "has been mindful of the small business and crafter community in its implementation of the Act" and discussed its efforts at issuing compliance guidance and enforcement policies directed at smaller and home-based businesses. The Commission stated it "will be looking at volume of production, channels of distribution as well as any similar distinctions other federal agencies have made with respect to smaller businesses, as possible ways to structure the testing and certification requirements." This is of great interest to Printing Industries of America and Book Manufacturers' Institute as evolving technology is increasing the number of self-publishers and the ability to produce a limited volume (i.e., small runs – some as low as one – of a title). Additionally, over 80 percent of the printing companies employ fewer than 20 employees. **It is with this in mind that we urge Congress to consider including a provision from H.R. 1465, sponsored by Rep. Ellsworth (D-IN), that calls for requiring CPSC to waive any civil penalty for a first-time violation of CPSIA, provided it is documented that the offender has committed a first-time violation and that it occurred despite a good faith effort to comply with the Act.**

Finally, we would like to reiterate our previous request that any legislative treatment of "older" books (i.e., library collections, used-books market, books printed using outdated manufacturing processes) and "new" books manufactured using modern conventional manufacturing processes demonstrates parity. As we have discussed with the Committee previously, these "older" and "newer" books should not be segmented in applicability to CPSIA.

Again, Printing Industries of America appreciates the opportunity to share these recommendations with you. Please do not hesitate to contact us or representatives of our member companies should you have further questions or points of discussion. Thank you.

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