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Sent: Wednesday, December 17, 2008 7:24 PM
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Subject: NAM and the CPSIA

Judy/Christian,

I wanted to be sure you saw the December 17 Petition for Rulemaking under Par. 101 of the CPSIA made by the NAM CPSC Coalition. This petition documents and confirms many of the serious issues raised in my many letters and emails to you and your associates. The issues I have been writing about are not my imagination. I am getting flooded with articles and news clips as the media wakes up the crisis that is the CPSIA. Has the Rush Subcommittee taken note of the mounting opposition to the myriad wasteful provisions of the CPSIA (unrelated to safety)?

They should – before it's too late. We are seeing a rising tide of bankruptcies among toy companies – does this come as a shock? Has our industry suffered enough yet to pay for the "crime" of the 2007 recalls?

The sad reality of the defects in the CPSIA is apparent even in the quotes of "public interest" activists. For instance, Public Citizen seems to struggle to explain the logic of the testing requirements under the CPSIA, and ends up relying on that worn-out old chestnut "we're erring on the side of safety":

David Arkush is director of the [Congress Watch](#) division of Public Citizen, one of the half-dozen or so activist groups that pushed for passage of the CPSIA. Although Arkush says he's only now starting to hear from small, independent manufacturers, he believes the claims about excessive testing costs are the result of poor information from the Consumer Product Safety Commission, if not a deliberate misinformation campaign. "Some of their perceptions of what the costs are going to be are really overblown," Arkush asserts. The CPSC "is not a bunch of jackbooted thugs who are going to come lock people up if they're not complying with the law." Arkush admits some of the mandates may sound absurd at first blush, such as testing wooden toys for phthalates, or testing cotton T-shirts for lead. "But we're erring on the side of safety," he adds, "because this is about lead and other toxic chemicals that are very dangerous to children." [See <http://www.7dvt.com/2008new-safety-law-no-fun-vts-artisan-toymakers>]

We certainly agree with the "erring" part.

And [www.HealthyToys.com](#) apparently thinks that lab tests shouldn't be required because they are too expensive (\$25 per test) – but only if the rule applies just to him. The 50% accuracy of his XRF gun seems to be of no concern:

Still, some consumer groups tend to use the handheld gun only, a practice that has companies and industry trade groups crying foul. . .

. Mr. Schylling said the test, which was conducted only with an XRF gun, was flawed and contradicted results he had from an independent, certified lab showing the product was safe. "It seemed like it was fear mongering," said the president and founder of the Rowley, Mass., company that makes reproductions of antique toys for stores that include major retailers. "I feel like I've really been treated unfairly." After Mr. Schylling called Healthytoys.org to complain and sent copies of lab tests, the group removed the test results of that toy from its Web site pending further assessment, said Healthytoys research director Jeff Gearhart. He said the report cited another Schylling product that was just fine. Mr. Gearhart said there are limitations to every test methodology, including the ones conducted in labs. He said he doesn't send items to labs because "ultimately it's affordability and the ability to rapidly screen products." Lab testing is pricier and more time-consuming than using an XRF scanner gun, which is also costly. Guns sold by one manufacturer, for example, cost between \$25,000 and \$45,000, depending on the model. Once the device is paid for, the cost of testing is labor only, some consumer groups said, while laboratory tests for lead can cost about \$25 each. . . . [W]ith the XRF gun, 500 items were sampled in the same amount of time by another investigator at the port of Los Angeles. Of the 100 items sent to the lab for lead-paint testing, half tested positive for troublesome levels. [See <http://online.wsj.com/article/SB122938878154208997.html>]

I am beginning to wonder if the activists are manipulating us! They couldn't be trying to promote fear – and raise donations for their “good works” – could they??? Would that explain why their websites feature pictures of toddlers sucking on toys – to create the impression of a “crisis” in safety (“aw, babies with duckies in their mouths, who wouldn't want them to be safe”)?

I remain hopeful that Congress will come to its senses, fast. I call on the Rush Subcommittee to hold hearings urgently to hear testimony on the defects in this bill and to craft a revised, improved and logical CPSIA to ensure improved safety without maiming or killing off 60% of the U.S. economy in the process.

Sincerely,

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