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To: erik.lieberman@mail.house.gov

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Subject: CPSIA and Small Business

Dear Mr. Lieberman,

I am writing to you about the Consumer Product Safety Improvement Act of 2008 (CPSIA) and its implications for Small Business in the United States. I understand from Steve Lamar of the AAFA that the House Small Business Committee has expressed an interest in the impact of this law. I have been very active in opposing the CPSIA since before its passage last August. I am Chairman of an educational products company named Learning Resources, Inc. located in Vernon Hills, Illinois. We are a small/medium-sized business and sell our products to dealers all over the country (and the world). Most of our customers are small businesses (many single location stores) - and they are justifiably mortified by this law. They are asking me whether they can legally buy our products now and have report a huge drop-off in business from skittish customers. These darkly troubling scenarios are all related to the overly-broad and poorly-conceived CPSIA.

First, I would like to address the number one issue that anyone considering the CPSIA confronts right away - what about safety? Is opposing this law tantamount to opposing safety? Certainly not! In fact, I think you would find that the overwhelming majority of children's product companies are very mission-driven, like our company, devoted to children and the quality of their life. These companies have a terrific record for safety, nothing to be embarrassed about. The narrow lead-related issues involved in the 2007 recalls affected a small number of companies and involved (basically) two circumstances, namely lead-in-paint (illegal for decades) and lead jewelry. These issues could have been easily addressed directly - but instead a massive bill emerged which attacked every conceivable way that any theoretical lead risk could possibly impact children, with little apparent consideration of cost/benefit, level of risk or consequence to affected parties (including Small Business). To my knowledge, there was no comprehensive economic impact assessment prepared on the final version of the bill containing all of its complex restrictions. The truth is that the lead risks which are linked with actual injuries (with names, addresses, descriptions) are still the two from the 2007 recalls, not the laundry list found in the law. Thus, being opposed to this law is not same thing as being "against safety" - instead, the objections are purely related to the waste and damaging diversion of limited resources imposed by this overreaching law. No business can afford to pay for prophylactic protection against health risks that simply don't exist.

The CPSIA will have devastating impact on small businesses in the United States. The damage will not be restricted to one industry. No, in fact, it will be dramatic, widespread and seemingly random. The law regulates ALL products intended for use by children up to 12 year of age and sets a new lead standard called "total lead" which has no precedence in American safety law. The scope goes WELL BEYOND known risks, violates a common sense understanding of childhood risk of injury from consumer products, and unfortunately encompasses a mindboggling array of products like footwear, carpets, clothing, bedding, luggage, lamps, toys, books, consumer electronics, school supplies, office supplies, jewelry, housewares, sports equipment, and so on. Think of the breadth of this list - there is hardly a business catering to children 12 years of age or younger that won't be adversely impacted. I estimate that 60% of the economy will be touched by this law. Not exactly an economic stimulus package.

As if to compound the injury, the General Counsel of the CPSC ruled on September 12 that the new lead standards apply retroactively as of February 10, meaning that any existing product in this category is prohibited from sale after February 10 unless it can be demonstrated to be in compliance with the new standards. This is impossible for used products so all second-hand retailers, like charities, second-hand stores and online merchants like Amazon.com and eBay.com will have to stop selling used children's products from that date forward. See, for instance,

<http://www.myfoxchicago.com/myfox/pages/Home/Detail?contentId=8211690&version=1&locale=EN-US&layoutCode=VSTY&pageId=1.1.1> and

http://www.kvue.com/news/top/stories/010609kvue-kids_lead-me.466a87af.html. For many retailers of first line merchandise, the issue is rather the same - their inventory has no lot markings, so it is impossible as a practical matter to make this determination without destroying their inventory. What can they do? This is why we are seeing major disruption in buying patterns. Our small business customers are literally fearing that February 10 will become National Bankruptcy Day.

For your information, we have created a special website devoted to correspondence, blogs and media relating to the CPSIA: www.learningresources.com/CPSIA. You may find a lot of useful information on our website, especially the record of correspondence with the House Subcommittee responsible for this law. The legislation is quite complex and problematic. I cannot go into every possible issue here - because if I did, you wouldn't read my entire email! If you want to talk or meet to discuss at greater depth, please drop me a note or give me a call.

Thank you for considering the serious issues for Small Business under the CPSIA. We need your help!

Sincerely,

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