
From: Rick Woldenberg
Sent: Fri 1/9/2009 1:43 AM
To: erik.lieberman@mail.house.gov
Cc: Stephen Lamar (slamar@apparelandfootwear.org); Etienne Veber; Michael Gidding (mjpg@brown-gidding.com); Rob Wilson (rob@challengeandfun.com); Patrick Magnuson (patrick.magnuson@mail.house.gov); kathleen@fashion-incubator.com; Nancy Nord (nnord@cpsc.gov); Joe Martyak (jmartyak@cpsc.gov); tmoore@cpsc.gov; cfalvey@cpsc.gov; Mary Toro (MToro@cpsc.gov); Christian Tamotsu Fjeld (Christian.Fjeld@mail.house.gov); Judy Bailey (judith.bailey@mail.house.gov); Robin Appleberry (robin.appleberry@mail.house.gov); bob_adler@unc.edu; Pamela Gilberg (pamelag@cuneolaw.com)
Subject: RE: CPSIA and Small Business

Erik,

It was nice to speak to you today. I am glad to know that you will be working with the House Energy and Commerce Committee on the issues threatening Small Business under the CPSIA. These issues are rather serious for many industries, and frankly, the negative impact is similar for companies of all sizes. If relief is appropriate for Small Business, I urge your committee and the House Energy and Commerce Committee to write a rational set of new rules relating to safety for all companies selling children's products. That's all any of us want - we are just as interested in safe products as Congress. I appreciate your interest in this issue.

I thought you might find the attached letter from Rep. Anthony Weiner interesting. Rep. Weiner makes a number of important observations. He notes the total chaos being created in the clothing marketplace (a good example of the vast reach of this law) where commercial relationships are being actively destroyed and confidence rocked over suspicions of lead content in products well-known to be safe. The problems he cites are typical under this law and are not restricted to the clothing industry. There is NO doubt that the market confusion derives from widespread belief that existing inventory is safe. It is simply ridiculous to contend that companies participating at all levels of the children's products industry are so morally-debased that they would have been consistently fobbing off poisonous products throughout the economy - naturally, the entire supply chain is in shock that these products might become contraband in a few weeks. Rep. Weiner also observes that "the confusion surrounding the implementation of this legislation has encouraged many retailers to develop their own rules interpreting these provisions . . . creating a confusing situation that is intolerable." Rep. Weiner is right. It is definitely happening all over America in many industries with increasing intensity, appears to be utterly unstoppable and is immensely destructive of commercial relations and trade. Rep. Weiner is right that this is an INTOLERABLE situation. Where I might differ from his apparent view is that I do not feel this is the fault of the CPSC. The law itself is fatally flawed and no amount of CPSC FAQs, legal opinions, interpretations or convoluted rules and regulations can fix a law that never made sense in the first place. What will Congress do about the mess it has created? Your committee may be the place where the work begins!

Finally, I hope you will watch this short video: <http://www.youtube.com/watch?v=oqKjJgdUZ3E>. Even allowing for creative license, this video eloquently states the case on the CPSIA. Industry is NOT opposed to safety - but in the real world, we (manufacturers, distributors, consumers, regulators, legislators) need to focus on real, actual safety risks, and not muddy the waters with overly-broad laws that make commerce impossible on the unaccountable justification that we will all be "safer". Let's not let this self-inflicted injury devastate the smooth functioning of our economy - there is still time to take action and FIX this situation.

Please do not hesitate to contact me at any time if I can be helpful.

Sincerely,

Richard Woldenberg
Chairman
Learning Resources, Inc.
rwoldenberg@learningresources.com

From: Rick Woldenberg
Sent: Thu 1/8/2009 12:59 AM
To: erik.lieberman@mail.house.gov
Cc: Stephen Lamar (slamar@apparelantfootwear.org); Etienne Veber; Michael Gidding (mjg@brown-gidding.com); Rob Wilson (rob@challengeandfun.com); Patrick Magnuson (patrick.magnuson@mail.house.gov); kathleen@fashion-incubator.com; Nancy Nord (nnord@cpsc.gov); Joe Martyak (jmartyak@cpsc.gov); tmoore@cpsc.gov; cfalvey@cpsc.gov; Mary Toro (MToro@cpsc.gov); Christian Tamotsu Fjeld (Christian.Fjeld@mail.house.gov); Judy Bailey (judith.bailey@mail.house.gov); Robin Appleberry (robin.appleberry@mail.house.gov)
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,

Richard Woldenberg
Chairman
Learning Resources, Inc.
rwoldenberg@learningresources.com
Tel 847-573-8420