

TESTIMONY OF RICHARD WOLDENBERG
Subcommittee on Commerce, Trade, and Consumer Protection
Committee on Energy and Commerce
United States House of Representatives
April 29, 2010

Mr. Chairman, Ranking Member Whitfield and distinguished Members of the Subcommittee, thank you for the opportunity to testify this morning. My name is Richard Woldenberg. I am Chairman of Learning Resources, Inc., a Vernon Hills, Illinois-based manufacturer of educational materials and educational toys. I have administered or supervised our company's safety and regulatory compliance activities since 1990.

We are very proud of our safe products. Having devoted considerable resources to safety over the years, Learning Resources suffered only one recall of 130 pieces in its 25-year history. To put this minor event in perspective, I estimate that we have sold about 1 billion units of our products over the years.

Despite our exemplary safety record, the CPSIA made us feel like Public Enemy Number One. The challenges of the new law have been enormous. While I favor efforts to make children's products safer, this new law has had little impact on safety. Instead, this law has increased manufacturing costs, eliminated jobs and killed off safe products simply because they are no longer economic to produce.

The CPSIA makes the cost of compliance unbearable. From 2006 to 2009, our testing costs have increased more than eight-fold. We estimate that these costs will triple again after the CPSC lifts

its testing stay in 2011. Testing costs are often thousands of dollars per product. Our Quality team has grown from one person to four, including me, plus an outside lawyer on retainer. This staffing is likely to increase just to manage more paperwork.

Despite these heavy costs, our safety record is unlikely to improve. Our products were already proven safe.

Our problems don't end with testing costs or increased staffing. We are being crippled by regulatory complexity. More than 20 months after passage of the CPSIA, we still don't have a comprehensive set of regulations. Please consider how mindboggling the rules have become. Here are the CPSC rules that governed us until 2008. **At only 186 pages**, these rules clearly defined our responsibilities and could be taught to our staff. Compliance with law was a focused, manageable task.

Today, the rules total almost 2500 pages. **And the rules keep changing** and they are still not finished. We are acutely aware that each word in every rule is a potential source of liability now, up to and including jail time. This three-inch 608-page wedge is what the CPSC published in the last month alone. **Can you imagine trying to master** these rules and teach them to your staff while still doing your full-time job? Ironically, the recalls of 2007 and 2008 were never a "rules" problem – those famous recalls were clearly a compliance problem. Imagine what will happen now with a twelve-fold increase in rules.

The confusion from this tangle of rules and regulations hurts us every day. We spend an inordinate amount of time arguing with customers over the rules, often having to call lawyers to resolve disputes. It makes doing business slow, tedious and very expensive. Not to mention unpleasant. Many companies are tiring of the continual fighting – and are dropping products and vendors. Who will be served by the end of commerce in these safe products?

Small businesses are particularly ill-suited to managing these challenges. They lack the skills, resources and the scale to absorb these responsibilities. It is no longer a level playing field for small business making children's products. Consequently, small businesses bear the greatest risk of liability under the law, despite being responsible for almost no injuries from lead in the last decade. The double whammy of massive new regulatory obligations and the prospect of devastating liability are driving small businesses out of our market today.

The CPSIA went off track by taking away the CPSC's authority to assess risk. If the CPSC could again regulate based on risk, safety rules could focus on those few risks with the real potential to cause harm to children.

I recommend several steps to reduce complexity and cost without sacrificing children's product safety: first, restore risk assessment to the CPSC; second, reduce the age limit in the definition of Children's Products to six years of age; third, restrict tracking labels to durable products with the proven potential to do harm and with long product life; and fourth, impose procedural limits to insure fairness in penalty assessment under the CPSIA.

In conclusion, I urge your committee to address the fundamental flaws in the CPSIA to restore order to the children's product market and to protect small businesses from further damage. I appreciate the opportunity to share my views here today and am happy to answer your questions.