

**Consumers Union * Consumer Federation of America * Union of Concerned
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* Public Citizen ***

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**Consumer and Science Groups Set the Record Straight: Landmark
Product Safety Law Makes the Marketplace Safer**

**Organizations Urge President Obama to
Appoint New Leadership at the CPSC**

Statement From A Coalition of Public Interest Organizations

In recent weeks, a number of misleading statements about the testing requirements of an important new product safety law have appeared in the media, on blogs and on other Web sites. While we have urged the Consumer Product Safety Commission (CPSC) to promptly address reasonable concerns that have been raised regarding compliance, and provide better information about the new law, our organizations all agree that the law is fundamentally sound and essential to ensuring a safer marketplace. At the same time, we urge President Obama to appoint new leadership at the CPSC to help implement this important new consumer safety law.

Congress overwhelmingly passed, and President Bush signed, the landmark Consumer Product Safety Improvement Act (CPSIA) last year, because of a dire need to stop the flood of dangerous, often life-threatening, products entering the marketplace. In 2007, there were 473 recalls of children's products, including millions of toys that contained dangerous levels of lead paint and other toxins. In 2008, consumers fared even worse with 563 recalls, including nearly 8 million toys.

In the past two months, the CPSC announced the recall of over 147,000 children's products for excessive levels of lead – including cribs, toys, jewelry, and school supplies. Three of the recalled products involved less than 500 units. These recalls prove that the law's implementation cannot come too soon. In fact, one of its most important provisions requires that children's products be tested for safety before they

are sold. Few would dispute the value of this requirement, which many Americans thought was already the law.

The CPSIA is a strong consumer protection law that already provides safety regulators with the authority they need to ensure the safety of consumer products, especially those designed for children. For example, it has strengthened the agency's scientific integrity by making it easier for employees to anonymously report threats to the agency's science, and encouraging CPSC scientists to publish in peer-reviewed journals. Importantly, it also authorizes the CPSC to address issues voiced on behalf of small businesses – authority that the agency has begun to slowly exercise in some cases.

Unfortunately, heated rhetoric surrounding compliance is clouding the facts. For example, critics cite as “extreme” and “absurd,” the testing for lead of products made purely from wood. In truth, the CPSC has the authority to exempt materials from testing requirements where there is no risk of harm to the public health, and it has already issued a proposed rule to exempt wood and untreated wool and cotton, which we agree is the right thing to do. The CPSC also may permit some businesses to meet the testing requirements by certifying that each component used is certified or exempt. These two simple types of rules – exemptions for materials that inherently do not pose safety risks, and allowing certification of components as free of lead and other toxins – would address nearly all of the concerns raised on behalf of small businesses.

Safety testing may impose costs on small businesses that were not already testing their products, but the testing costs have been exaggerated. Further, testing carries substantial benefits. For the first time, U.S. law will require proper safety testing for all children's products subject to mandatory standards no matter where they are made. That means big corporations can't skimp on safety by manufacturing toys in countries with lower safety standards, such as China. Further, on past occasions, small businesses have manufactured unsafe products that had to be recalled. Pre-market testing will assure consumers that products entering the market are safe. This testing also will help manufacturers avoid the substantial costs – both financial and to reputation – that can result from putting dangerous products on the market.

Critics also have claimed that secondhand retailers will have to test their products or dump their existing inventories. Both claims are incorrect. The new law does not require retailers to test and certify goods. While stores should not sell toys or nursery items that fail to meet safety standards, the responsibility and expense of certifying the safety of a product belongs to manufacturers. The CPSC has said that resellers should focus on checking their inventory for certain riskier product categories, including “recalled children's products, particularly cribs and play yards; children's products that may contain lead, such as children's jewelry and painted wooden or metal toys; flimsily made toys that are easily breakable into small parts; toys that lack the required age warnings; and dolls and stuffed toys that have buttons, eyes, noses or other small parts that are not securely fastened and could present a choking hazard for young children.” The agency also said it will continue to put the most resources into removing high risk items, such as painted toys and children's metal jewelry, from the market.

As these examples demonstrate, the CPSC can provide implementation guidelines and grant exclusions from the testing requirements once businesses show that there is no risk of harm from the materials used. The CPSC is authorized to address most, if not all, the concerns of small business in a way that maintains the integrity of the law while offering relief to independent manufacturers.

Our organizations welcome commonsense, lawful exclusions from the CPSIA that do not diminish safety. Yet we are also cognizant of the fact that the CPSC in recent years repeatedly has put business interests ahead of its mission to protect public safety, and that it has a record of suppressing the research of its own scientists and technical experts if that research failed to deliver or support a particular outcome. Indeed, the CPSC's slow approach to providing guidance and information about the CPSIA has contributed to the growing resentment against the new law among small businesses.

We called on the agency several weeks ago to urge them to offer more guidance. But there are numerous other problems with the agency's implementation of the law. For instance, the Commission has expressly refused to begin work on a database that will make safety information available to consumers. Such actions demonstrate the urgent need for new, committed leadership at the agency.

The continued circulation of misinformation about the new law helps no one. The law offers important and long overdue protections for children, and it includes mechanisms to solve many concerns raised by industry. The CPSC must use its authority effectively and in a timely manner to implement this law as intended. So far, the law's implementation only highlights the need for President Obama to appoint new leadership at the CPSC immediately. At the same time, our organizations urge other stakeholders to focus their energy on joining us in seeking reasonable, readily available answers and solutions already in the law rather than attempt to weaken critical and popular new consumer protections.

To read the coalition fact sheet that sets the record straight on the CPSIA, go to http://www.citizen.org/congress/civjus/prod_liability/articles.cfm?ID=18326.

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