

Subcommittee on Commerce, Manufacturing, and Trade
Committee on Energy & Commerce
U.S. House of Representatives
Washington, D.C. 20515

April 6, 2011

Re: Hearing on Discussion Draft of H.R. ____, a bill that would revise the Consumer Product Safety Improvement Act

Dear Chairman Bono Mack, Ranking Member Butterfield, and Members of the Subcommittee:

Our undersigned groups write to you regarding our serious concerns about the Discussion Draft amending the Consumer Product Safety Improvement Act (CPSIA), which is the subject of a hearing before your Subcommittee tomorrow, April 7th. We have concerns that the approach in this Discussion Draft will undermine the critical public health protections provided by the CPSIA.

The CPSIA was passed with an overwhelming bipartisan majority in 2008. It was crafted over the course of a year of deliberations, and was the congressional response to the recalls of millions of toys and other children's products for excessive lead levels, ingestion hazards, and other health risks. The CPSIA created, for the first time, a requirement that children's products be tested for safety *before* they get to store shelves. It set into place limits on lead in children's products, set safety standards for infant durable products, banned certain phthalates, and created a public database where consumers could report product safety hazards they have experienced. The law revived the Consumer Product Safety Commission (CPSC), an agency that had neither the resources nor the authorities to adequately protect children from the hazardous products.

Since passage of the CPSIA, there have been calls for a modification of some of the law's provisions to address the needs of makers of handmade children's products. The Discussion Draft, however, goes far beyond that and reverses several key components of the CPSIA. Below are just some of the serious concerns that we have about this draft:

- 1) **Undermines safety testing for children's products:** It would reverse the requirement that all children's products be tested for safety, and would confine the requirement of pre-market testing to only a few select categories of products. Other products – such as strollers, high chairs, bath seats, and all toys – would be safety-tested only if the CPSC undertook an extensive series of steps, including a cost benefit analysis that emphasizes the costs of testing while minimizing the benefits to public health and safety. Requiring independent third-party testing of all children's products builds safety into the supply chain early, and prevents costly recalls and unnecessary injury.
- 2) **Undermines lead protections:** It would dramatically weaken the lead limits of the CPSIA by only applying the law's current lead limits to paint on children's products and small parts that could be ingested. It would set a different, subjective standard (risk analysis) for all other children's products, including those that could be mouthed, such as vinyl bibs. We know that even small amounts of lead can cause a drop in children's IQ.

Lead is a known toxin, and we should have a single, strong standard that aims to keep it out of children's products.

- 3) **Undermines which children get the law's protection:** It would presumably lower the age scope of the CPSIA from its current protections for all children's products primarily intended for children age 12 and younger. This is inconsistent with the current ASTM toy safety standard, which covers toys intended for children under age 14, and it ignores the reality of the "shared toy box" – that young kids will, even with close parental supervision – play with the products that belong to their older siblings.
- 4) **Undermines the effectiveness of the new crib safety standard:** It would indefinitely delay, or possibly prevent, the implementation of the bipartisan, strong crib safety testing standards passed by the CPSC in December 2010 for cribs in child care facilities, and makes testing to that new standard uncertain.
- 5) **Undermines the phthalates ban:** It would allow large, undefined exemptions to both the prohibition and interim bans on phthalates in toys and child care articles. It would also, contrary to all other rulemakings in the Discussion Draft, require the CPSC to act within a very tight timeframe if the recommendations of the body assessing the safety of phthalates (the Chronic Health Advisory Panel, or CHAP) are to become law. This requirement is needless since the CPSIA already requires the CPSC to quickly act on a rulemaking; its only effect would be to make it difficult to permanently ban additional phthalates in toys and child care articles.
- 6) **Undermines life-saving tracking information:** It creates potentially large exemptions from the requirement that children's products have tracking labels, which will limit a consumer's ability to know whether their product is the subject of a recall, and to report vital product information to the CPSC database and manufacturers. Tracking labels can help save lives: When Liam Johns died in 2005, his crib, made by Simplicity, but labeled "Graco" went uninvestigated for two years because of confusion resulting from a lack of information on the product. At least two other babies died during this time.
- 7) **Undermines the new, public safety product hazard database:** The brand-new CPSC database for the first time allows consumer complaints about product safety problems to be posted publicly, after a screening process, while also giving manufacturers and private labelers ample opportunity to view and comment upon these reports before they are posted. This database will help consumers research products they are considering purchasing, will help the CPSC more efficiently identify emerging hazard trends, and can help prevent unnecessary deaths and injuries. However, the provisions in this Discussion Draft would place onerous burdens on the person making the complaint, thereby discouraging parties with valuable safety information from reporting. It would also remove the ability of consumer groups to report to the database. These changes would in turn keep valuable safety information out of the hands of parents and caregivers.

We urge you to reject the approach proposed by the Discussion Draft. It goes too far and will not adequately protect children from product safety hazards.

Sincerely,

Breast Cancer Fund

Center for Health Environment and Justice

Citizens' Environmental Coalition

Consumer Federation of America

Consumers Union

Demos

Illinois Public Interest Research Group

Indiana Toxics Action

Kids in Danger

Maryland Public Interest Research Group

National Research Center for Women and Families

Natural Resources Defense Counsel

Partnership for Working Families

Public Citizen

U.S. Public Interest Research Group

Union of Concerned Scientists

Vermont Public Interest Research Group

Women's Voices for the Earth