



Handmade Toy Alliance Testimony for
The U.S. Senate Committee on Commerce, Science, and Transportation –
Consumer Protection, Product Safety, and Insurance Subcommittee

December 2, 2010

Hello. My name is Jill Chuckas and I own a small hand crafted children's accessories business called Crafty Baby. For the last 12 years, I have been crafting children's products from my home based studio in Stamford, CT. When Congress first spoke of toy safety legislation, I applauded your efforts. In December of 2008, though, I began to read the fine print. I became acutely aware that this law, meant to regulate large, multi billion dollar companies that had betrayed the countries trust, could effectively put me out of business. Not because my products are unsafe, but because I simply could not afford the mandatory third party testing and labeling requirements, which disproportionately affect small batch manufacturers and specialty retailers. I quickly joined a rising grass roots effort to amend the CPSIA and took on a leadership role within the newly formed Handmade Toy Alliance.

So today I come before you to speak, not just for myself, but as a Board member of the Handmade Toy Alliance, an organization that owes it very existence to the CPSIA. The HTA now represents 592 member businesses, including specialty retail stores, toymakers and children's product manufacturers from across the United States. I am here today with fellow Board members Kate Glynn of A Child's Garden and Impish in Massachusetts and Randy Hertzler of euroSource in Pennsylvania.

The deadline for third party testing is February 10 of next year – just ten weeks from now. After that point, our member businesses face extinction. Although many of us have already paid for XRF testing of our products, we simply cannot afford to pay for the services of a CPSC-certified lab. Throughout the last two years, we have slowly witnessed many of our members who manufacture products close their businesses, or change their business models as to not include children's products. These equate to lost jobs, not because the company couldn't make safe product, but because the companies couldn't navigate the costly and burdensome regulations the CPSIA puts forth to prove that their products are safe. I have brought with me today a few examples of these businesses.

First, you see before you a wooden toy airplane. This toy, made by our member John Greco in New Jersey, sold for \$110 and is made from Cedar, Oak, Poplar, Birch, and Maple. It is unfinished, so it doesn't need to be tested for lead, but quotes from labs to perform ASTM F963 Use & Abuse testing makes it too costly to continue making. Just one round of testing requires 12 toys to be sent to the lab for destructive testing, resulting in \$1,320 in lost gross sales –and this does not include shipping and lab fees. Rather than continue to make children's products, Mr. Greco decided to close that aspect of his business this past September. As he shared with me, "I was never looking to get rich making wooden toys- I did it because I enjoyed making toys that made kids happy."

Second, you see before you an award winning custom designed fabric toy monster created by Stephanie and Michael Estrin, owners of Curly Q Cuties in Texas. Children and their parents can go on line and design their own personal monster. After much research, Curly Q Cuties found that they could never afford to test each unique design to ASTM standards and decided to close their business at the end of this year. Mrs. Estrin cites the reason for the company's closing due to "a law that does not address our particular manufacturing scenario." Put simply, the fact that this is a one of a kind item, makes it impossible to adhere to all the stipulations within the CPSIA.

Third, my fellow board member Randy Hertzler's family business focuses on often hard to find toys, primarily imported from the European Union. These toys, that represented 44% of his sales in 2006-2007, have disappeared from the US market because of the CPSIA's lack of alignment with European standards. Many quality European toy companies will no longer sell to American retailers like Randy. He fears that he will have to liquidate and close in 2011.

While the HTA has worked closely with the CPSC – submitting comments on pending rules, attending CPSC sponsored workshops, regular email and phone contact with CPSC staff – we feel strongly that the current legislation does not grant the CPSC the flexibility to address our members' specific needs. This was most recently shown by the CPSC definition of a children's product. The final rule was issued in 63 pages of text that we now understand to mean "if it can be construed as a children's product, it is." Our view was that the CPSC could have offered relief to countless small businesses, but the ambiguity of their definition, rather than exempting product categories and providing guidance, has only served to create additional market confusion.

We have offered a number of suggestions that we feel will ensure the safety of children's products, yet amend the CPSIA to be more workable for the businesses we represent. The majority of these ideas were outlined in our January 2010 letter to the CPSC. We are more than happy to further discuss these suggestions throughout this hearing.

Most importantly, Congress should grant the CPSC the authority to use risk analysis to allow flexibility of third party testing requirements and hazardous content limits. High risk items like paint or metal jewelry should be held to higher verification standards than low-risk products like bicycle valve stems and brass zippers on children's garments.

Second, the definition of what is a children's product should be changed to items intended for children 6 years or younger, except where the CPSC identifies a product requiring a higher age limit based on risk analysis.

Third, educational products intended for use in a classroom environment should be excluded from the definition of a children's product.

Fourth, harmonize CPSIA standards with the European Union's EN-71 standards to remove the regulatory trade barrier which the CPSIA created between the US and the EU. This would include changing the lead content standard from an untenable total lead standard to an absorbable lead standard.

Fifth, exempt manufacturers who make less than 10,000 units per year from all third party testing requirements and allow them to comply instead with the 'reasonable testing program' requirements which apply to manufacturers of non-children's products under the CPSA. This would protect small batch manufacturers and specialty product manufacturers, including companies that make adaptive products for children with disabilities. These manufacturers would not be exempted from the standards themselves, only from the third party verification requirements.

Sixth, tracking labels should be voluntary except for durable nursery items and products which are most likely to be passed down to younger siblings or resold where the CPSC's risk analysis determines that tracking labels would be most likely to prevent harm. Manufacturers who choose to implement tracking labels would benefit from a lesser burden in the event of a recall.

Seventh, instruct the CPSC to not lower the lead content limit from 300 parts per million to 100 parts per million, a standard so low that it multiplies the difficulties of compliance.

Over the last two years, we have been told countless times that the CPSIA was never meant to adversely affect my business or the member businesses the HTA represents. We have worked tirelessly, along with many others, to enact common sense change within this legislation, always holding on to the fact that the products we create are safe. On behalf of our members, I thank this committee for addressing this important issue and urge you to quickly pass meaningful reform of the CPSIA, correcting these unintended consequences. Thank you.

A full list of our 592 member businesses can be found at <http://www.handmadetoyalliance.org>.