



U.S. CONSUMER PRODUCT SAFETY COMMISSION
4330 EAST WEST HIGHWAY
BETHESDA, MD 20814

STATEMENT OF COMMISSIONER NANCY NORD
ON THE REQUEST FROM LEARNING CURVE BRANDS INC. FOR EXCLUSION FROM
SECTION 101(b)(1) OF THE CPSIA
November 4, 2009

The Commission has denied, by a 3 to 2 vote, a petition by Learning Curve Brands for an exclusion from the lead provisions of the Consumer Product Safety Improvements Act ("CPSIA") for brass and other mechanical components of replica and toy die-cast items. The agency also voted down a motion I offered to grant a stay of enforcement so that Congress might reconsider the reach of Section 101, the lead provisions of the CPSIA.

This case presents yet another example of the unintended consequences of the CPSIA. No one believes that this product presents a risk of lead poisoning to children. The result of not granting an exclusion is to remove from consumers' hands products that, in their current state, do not present a real risk. A substitute collar for the axle, for example made of plastic, could prove a greater safety concern if it could more easily break, posing a choking hazard for small children. This result imposes burdens on both consumers and businesses without any net increase in consumer safety, and indeed a potential decrease in consumer safety.

In this case, certain things are clear:

- Our staff report indicates that there is no real risk of harmful lead exposure associated with the brass collar components of die-cast toys.
- If brass is prohibited in children's products under the CPSIA, the impact could be far reaching throughout our economy. The implications of this decision for other children's products, not only those in the home, but also in our schools – such as desk hinges, locker handles, and coat hooks – are significant and should be considered by Congress.
- There will be significant economic injury not only to Learning Curve Brands, but also to other companies making children's products with brass in them.
- These losses are exacerbated by the retroactive effect of the law which extends the ban to inventory, including items sold in thrift stores.

Instead of being able to craft something that works for both consumers and product sellers, the Commission's decision does not advance consumer safety and restricts consumer choice. As exclusion requests continue, the ability for the Commission to grant exclusions remains slim, because of the inflexible nature of the law. I urge Congress to give us the clear ability to address these issues based on our scientific expertise.