

# Exhibit G

Letter from Richard Blumenthal, Connecticut Attorney General, to  
Nancy A. Nord, Acting Chair, Consumer Product Safety Commission  
(Nov. 28, 2008)

# State of Connecticut

RICHARD BLUMENTHAL  
ATTORNEY GENERAL



Hartford  
November 28, 2008

The Honorable Nancy A. Nord, Acting Chair  
Consumer Product Safety Commission  
4330 East West Highway  
Bethesda, Maryland 20814

Dear Chair Nord:

I am writing to request the Commission's explicit determination that, effective February 10, 2009, no retailer may sell any children's toy or child care article that contains phthalates in concentrations exceeding the legal limits established in section 108 of the Consumer Products Safety Improvement Act of 2008 (Public Law 110-314). This determination is necessary to clarify any misconceptions as to commission policy as a result of a November 17, 2008 letter by the Commission General Counsel to certain toy industry representatives.

Section 108 of Public Law 110-314 provides:

Beginning on the date that is 180 days after the date of enactment of this Act, it shall be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States any children's toy or child care article that contains concentrations of more than 0.1 percent of di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP).

The clear language of the federal law prohibits any action to "offer for sale" or "distribute in commerce" children's toys and articles that exceed these phthalate levels. The effective date of the section is February 10, 2009. Consumers would expect that any children's toy or child care article sold after that date would not contain any harmful levels of these phthalates.

Incredibly, your general counsel has issued an opinion to industry representatives -- without any public comment or notice -- that ignores the plain language of the federal law, stating that it would only be illegal to manufacture these children's toys and child care articles after February 10, 2009. The opinion states that a retailer may sell such products as long as they are manufactured prior to February 10, 2009.

This legal opinion is legally unfounded and illogical. Congress banned four distinct actions -- the "manufacture for sale," the "offer for sale," the "distribute in commerce" and the "import" of these products -- all as of the effective date of the act. The general counsel's interpretation would give legal effect on February 10, 2009 to one of these four acts, while rendering a nullity the other three acts. This bizarre result could simply not be the intent of Congress.

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As Congress clearly recognized, consumer products with these listed phthalates pose a serious, immediate health hazard to children. Exposure to these dangerous chemicals must be stopped now, not some indefinite point in the future when toxic products no longer remain on store shelves or in inventory. Congress could not have intended to allow these products to be sold months -- even years -- after the effective date of the law.

For support of this bizarre interpretation, the general counsel relies on Section (d) of section 108 which states: "Subsections (a) and (b)(1) and any rule promulgated under subsection (b)(3) shall be considered consumer product safety standards under the Consumer Product Safety Act. Nothing in this section or the Consumer Product Safety Act (15 U.S.C. 2051, et seq.) shall be construed to preempt or otherwise affect any State requirement with respect to any phthalate alternative not specifically regulated in a consumer product safety standard under the Consumer Product Safety Act." The general counsel notes that a consumer product safety standard generally cannot apply to consumer products manufactured before the effective date of the standard. 15 U.S.C. §2058(g)

The general counsel's citation is accurate but inapplicable. That limitation was set by Congress on any standard promulgated by the Consumer Product Safety Commission. This Congressional restriction is clearly superseded by the plain language of a later enacted statute -- the Consumer Products Safety Improvement Act of 2008 which bans the sale of such products after February 10, 2009. Further, section 108(d) directly conflicts with section 108(b)(3) which provides that any product that is subject of a CPSC rule prohibiting children's toys and articles containing certain other phthalates besides di(2-ethylhexyl) phthalate (DEHP), dibutyl phthalate (DBP), or benzyl butyl phthalate (BBP) shall be considered a banned hazardous substance, which the general counsel acknowledges applies to all such products regardless of the date of manufacture.

Finally, under the general counsel's interpretation, a retailer seeking to comply would have to determine whether a particular toy was manufactured before or after February 10, 2009. This requirement defies commonsense and practical understanding.

The general counsel's opinion states that it has not been "reviewed or approved by the Commission" and may be "superseded at any time by the Commission".

I urge you to supercede it immediately -- protecting the health of our children by issuing a clear, unequivocal statement that implements the plain language of the phthalate ban and the logical intent of Congress banning any children's toy or child care article that contains more than 0.1 percent of DEHP, DBP and BBP.

Very truly yours,

  
RICHARD BLUMENTHAL